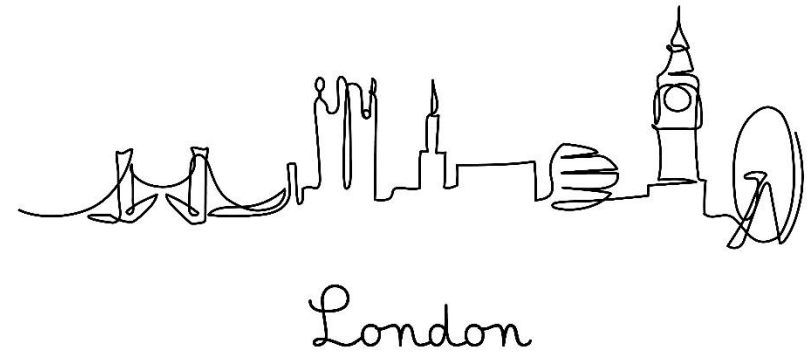
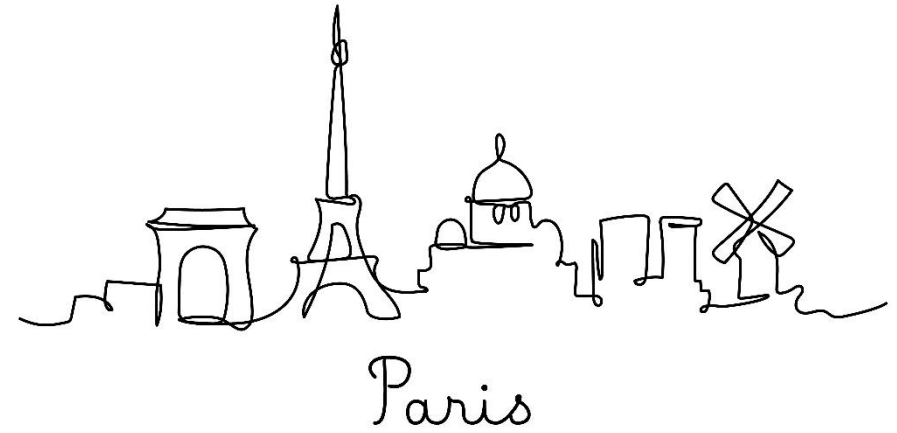




MAZARS INTERNATIONAL TAX CONFERENCE 2018

4 October 2018





KING'S
College
LONDON



Programme

MORNING SESSION:

- 08:00–09:00 | Registration and breakfast
- 09:00–09:10 | Anita de Casparis – Global Head of Tax, Mazars
Welcoming and opening remarks
- 09:10–13:00 | Panel discussion ①
Panel discussion ②
- 13:00–14:00 | Lunch break

AFTERNOON SESSION:

- 14:00–16:45 | Break-out sessions
- The evolving tax landscape in Europe
 - The evolving tax landscape in the Asia-Pacific Region
 - The evolving tax landscape in Africa
 - The evolving tax landscape in the North and South America
 - Financial Services – How to face recent changes and what is next

Each session will last 75 minutes with a 15 minute break and will be repeated to allow delegates to attend two different sessions. The second session starts at 15:30.

- 16:45–17:45 | Closing remarks and champagne reception

Panel discussions

- ① How digital tax and technology will embrace and evolve in the future, what we need to know in order to be one step ahead and get ready for the changes?

Christer Tønder Bell – Lego

Vice President, Global Strategic Tax & Customs

Georg Geberth – Siemens

Director, Global Tax Policy

Caroline Malcolm – OECD

Tax and Digitalisation

Tim Power – HMRC

HMT Deputy Director, Corporate Tax

- ② Tax challenges around the Globe, what is next?

Clive Baxter – Maersk Group

Global Head of Tax Governance and Policy

Cory Hillier – International Monetary Fund

Counsel, Tax Law, Legal Department, Financial and Fiscal Law Unit

Jonathan Schwarz – King's College London

Dickson Poon School of Law, International Tax Law LLM Programme

There will be a coffee break at 10:45 during this session.





TAX CHALLENGES AROUND THE GLOBE, WHAT IS NEXT?

PANELISTS



- Cory Hillier – International Monetary Fund
 - Counsel, Tax Law, Legal Department, Financial and Fiscal Law Unit



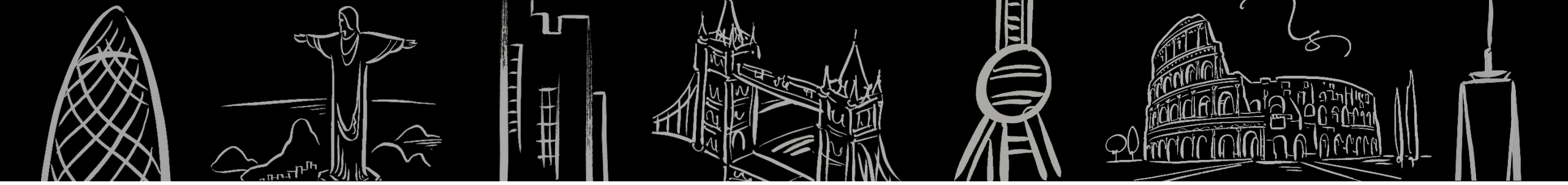
- Professor Jonathan Schwarz – King's College London
 - Barrister at Temple Tax Chambers



- Clive Baxter – A.P. Moller - Maersk Group
 - Head of Tax Governance and Policy



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PANEL CHAIR

- Clive Baxter – A.P. Moller - Maersk Group
 - Head of Tax Governance and Policy



PROGRAMME

- Tax challenges around the globe – a business perspective, Clive Baxter
- Future trends in dispute resolution and some recent decisions in international tax, Professor Jonathan Schwarz
- IMF and its role in the international tax agenda, Cory Hillier



TAX CHALLENGES AROUND THE GLOBE – A BUSINESS PERSPECTIVE

- The Invasion of the Acronyms
- BEPS implementation
- Pressure points
- The MLI timetable



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THE INVASION OF THE ACRONYMS – WINTER IS COMING



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BEPS IMPLEMENTATION ISSUES – A STORM OF SWORDS

- Pre-implementation of BEPs measures – domestic/unilateral measures
- Enhanced domestic implementation of BEPS measures in the EU etc
- Fragmentation of international tax policy?
- Capacity Building and developing countries – are we trying to take them from basic electrics to advanced theoretical physics too quickly?



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PRESSURE POINTS – A DANCE WITH DRAGONS

- Transfer Pricing and PEs – moving from art and science to philosophy
- GAAR's – will they lead to arbitrary taxation?
- What is going to come out of CBCR?
- Fair taxation as an operative principle
- Arbitration – will it ever materialise?



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THE MLI TIMETABLE – A DREAM OF SPRING

“In November 2016, over 100 jurisdictions concluded negotiations on the ..Multilateral Instrument" or "MLI“.... that will swiftly implement a series of tax treaty measures to update .. The MLI already covers over 75 jurisdictions and will enter into force on 1st July 2018. Signatories include jurisdictions from all continents and all levels of development.”

<http://www.oecd.org/tax/treaties/multilateral-convention-to-implement-tax-treaty-related-measures-to-prevent-beps.htm>



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THE MLI TIMETABLE – A GAME OF THRONES?

- Gap between “spin” and reality
- MLI signed November 2016
- MLI entry into force July 2017
- MLI only enters into force for each country after ratification – a couple of examples:
 - Luxembourg ratified the 1969 Vienna Convention in 2003, Peru in 2000
- We are looking at anything up to 30 years for all countries to ratify!



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SLIDO QUESTION 1

A BUSINESS PERSPECTIVE

1. Do you think that BEPS will make a difference to the behaviour of multinational enterprises?
 - Yes
 - No



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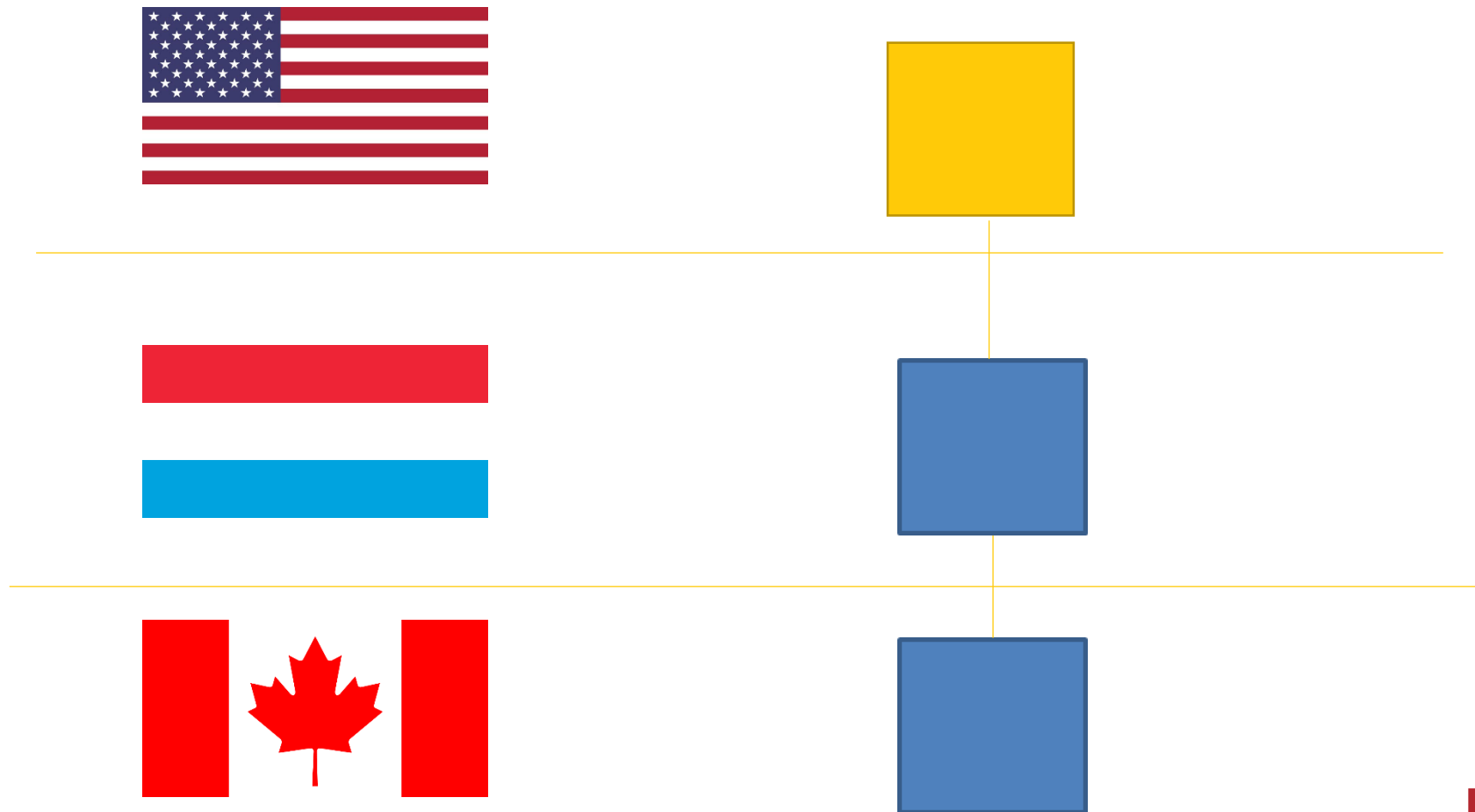
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CURRENT INTERNATIONAL TAX CASES

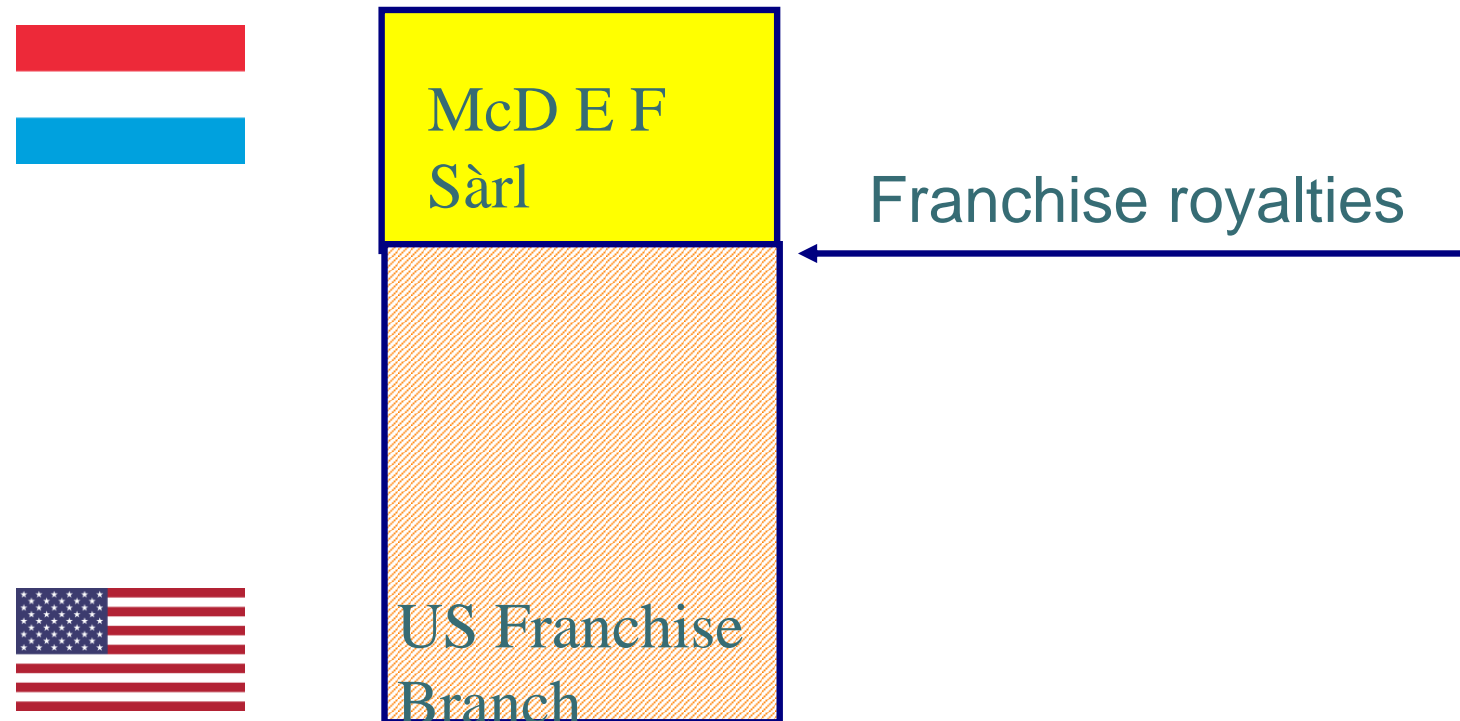
Jonathan Schwarz

www.taxbarristers.com

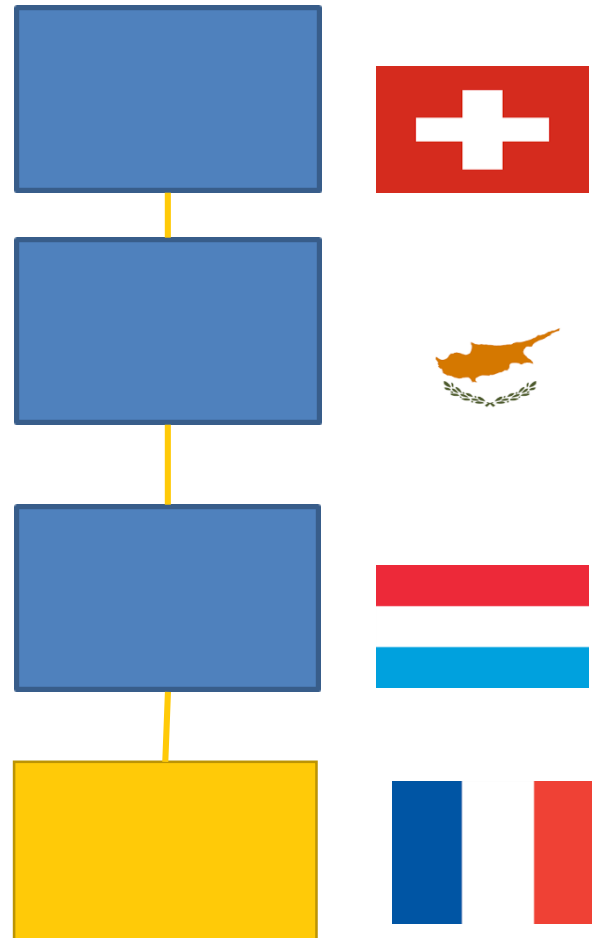
ALTA ENERGY LUXEMBOURG S.A.R.L. V. THE QUEEN, 2018 TCC 152



MCDONALDS EUROPE FRANCHISING, S.À.R.L.



EQIOM SAS AND ENKA SA V. MINISTRE DES FINANCES ET DES COMPTES PUBLIC (CASE C-6/16)

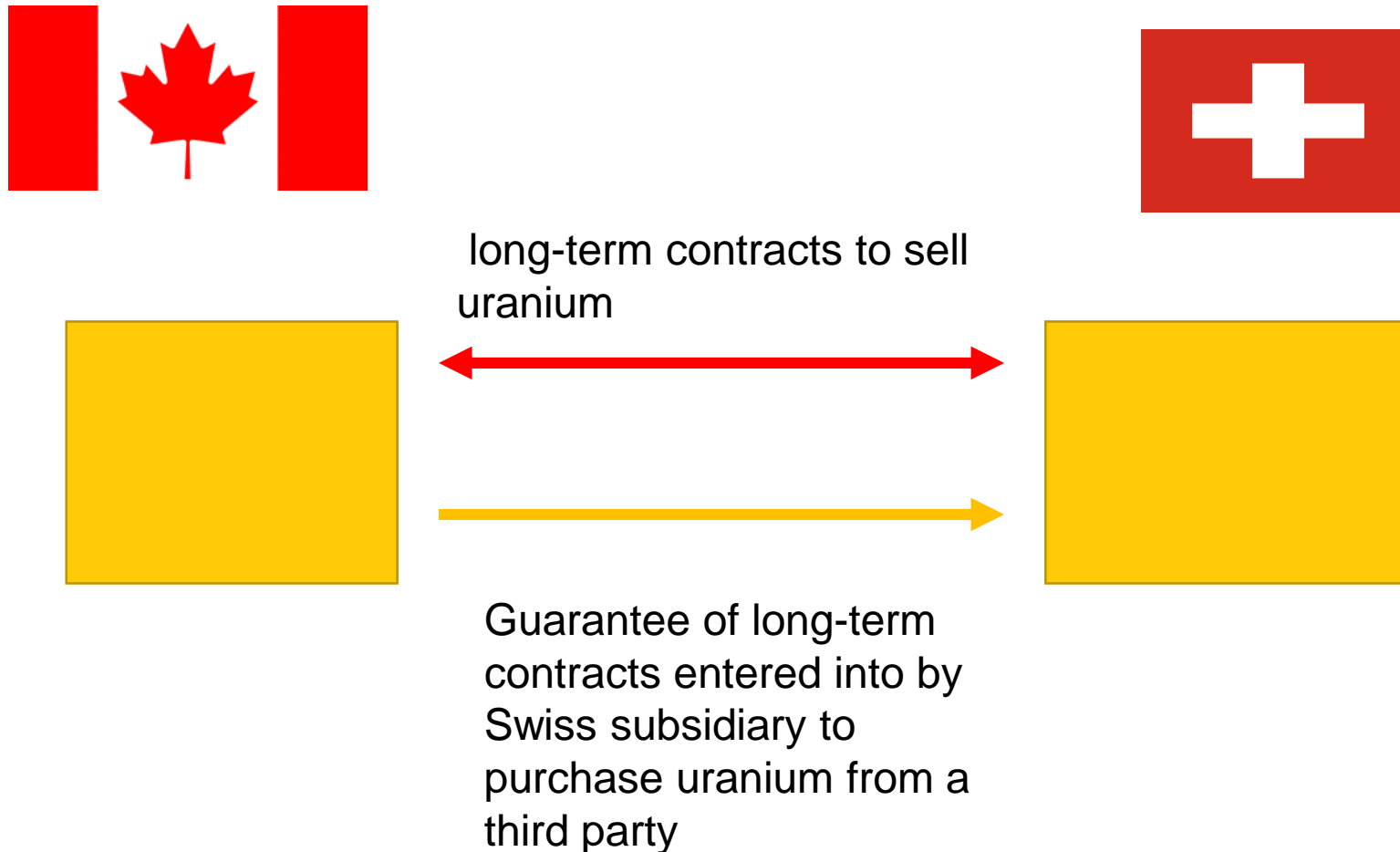


Parent-Subsidiary Directive:

- No withholding tax on dividends to EU parent co
- Directive shall not preclude the application of domestic or agreement-based provisions required for the prevention of fraud or abuse

CAMECO CORPORATION V. THE QUEEN

2018 TCC 195



FURTHER INFORMATION

Jonathan Schwarz:

Schwarz on Tax Treaties (5th Ed)

<http://bit.ly/2BCMZbr>

Blog: Kluwer International Tax

<http://bit.ly/1Dm2hcZ>

Twitter

[@SchwarzTax](https://twitter.com/SchwarzTax)

SLIDO QUESTION 2

FUTURE TRENDS IN DISPUTE RESOLUTION

1. How do you think that future cross border tax disputes will be solved?
 - Litigation
 - MAPs and arbitration
 - Double or triple taxation



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QUESTIONS: FUTURE TRENDS IN DISPUTE RESOLUTION

- Are we seeing a different perspective to that of the politicians and tax administrations in judicial decisions?
- Should we expect different decisions when the BEPS rules apply? Has the line for what is legal taxpayer behaviour really moved?
- Tax controversy – where is it going? Are ADR and Arbitration going to replace litigation?
- What will be the role of the taxpayer in country to country arbitration?



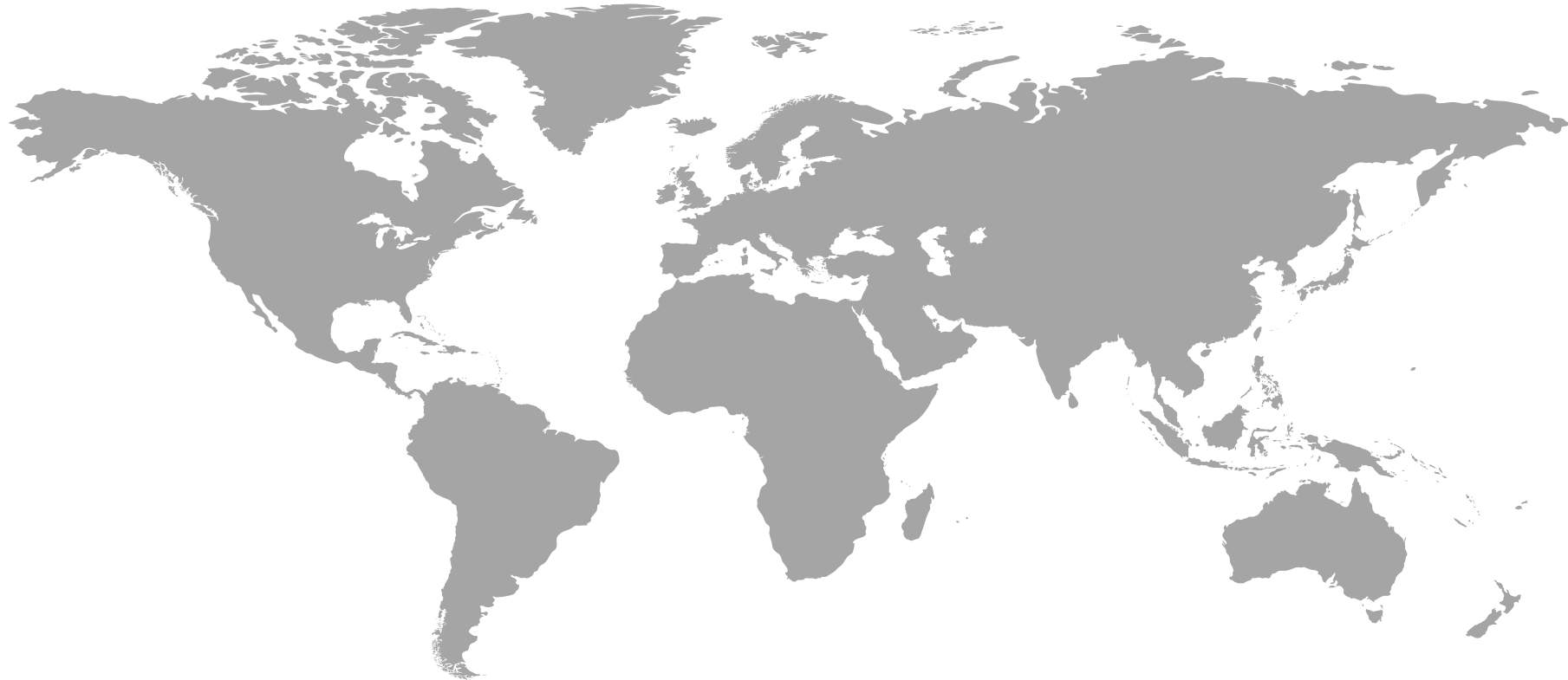
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Mazars/King's College London International Tax Conference 2018

Cory Hillier, Counsel – Tax Law, Legal Department, IMF



The views expressed herein are those of the author and should not be attributed to the IMF, its Executive Board, or its management.

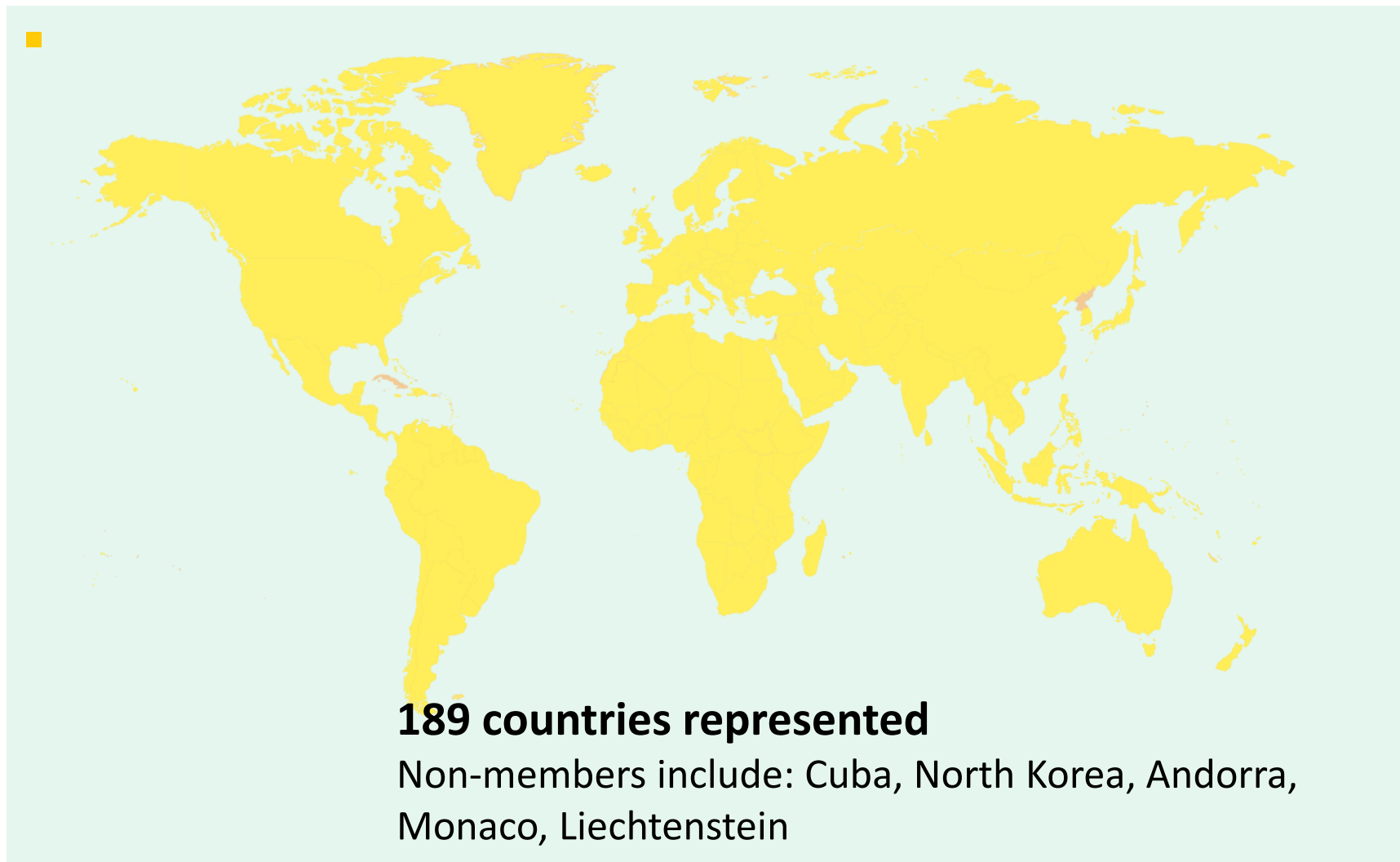


OUTLINE

1. **IMF - background**
2. **IMF and its role in the international tax agenda**
3. **BEPS/domestic revenue mobilization (DRM)** – current international tax policy issues and tax law design responses – with a focus on those relating to:
 - Indirect transfer of assets;
 - Tax incentives;
 - Cross-border service arrangements, including challenges presented by the digital economy;
 - Tax treaty shopping;
 - Combatting debt bias; and
 - Transfer pricing and other profit shifting arrangements.



IMF – GLOBAL MEMBERSHIP





IMF PURPOSE



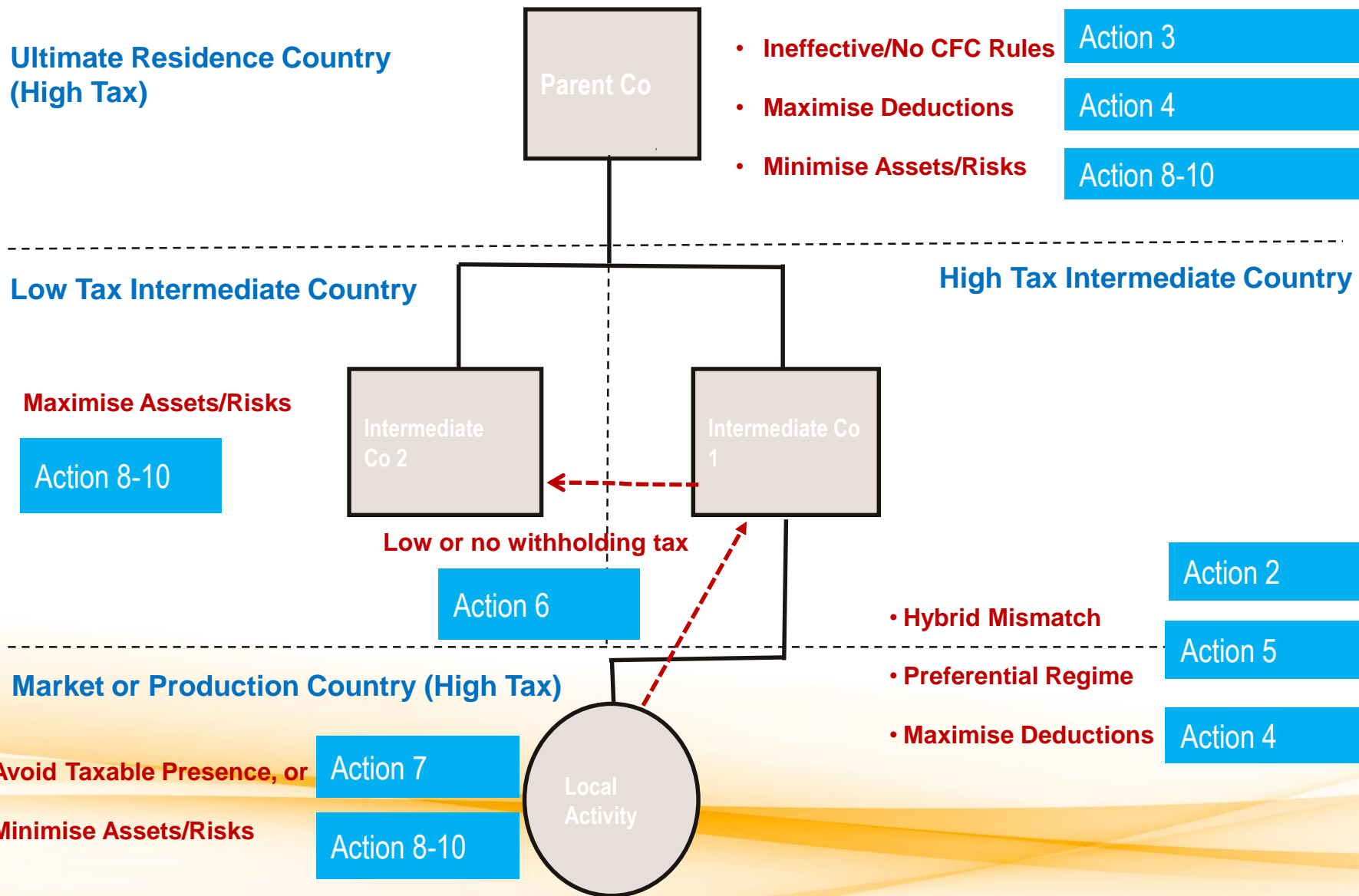
- **Mandate:** Global economic and financial stability
- **Surveillance:** Review of countries' policies and national, regional, and global economic and financial developments
- **Technical assistance:** Provision of assistance and training to help member countries strengthen their capacity to design and implement effective policies, including in the area of tax policy and tax law frameworks
- **Financial assistance (lending):** IMF financing to correct balance of payment problems



IMF AND ITS ROLE IN THE INTERNATIONAL TAX AGENDA

- **IMF has provided technical assistance (TA) to its member countries on fiscal/tax matters for over 50 years**
- **IMF has an extensive TA program** (e.g. has directly resulted in the drafting/enactment of some 200+ laws)
- **IMF Initiative to Support Developing Countries in Strengthening Tax Systems** (e.g. coverage of DRM and international tax issues in Article IV consultations)
- **Platform for Collaboration on Tax established by IMF, OECD, UN and WBG** (e.g. toolkits)

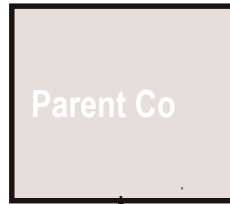
BEPS



[Slide based on an OECD presentation given by the Head of the BEPS Project on 19 October 2015, available at: <http://www.slideshare.net/OECD/overview-of-the-oecdq20-beps-project>]

BEPS VS DRM

Ultimate Residence Country
(High Tax)



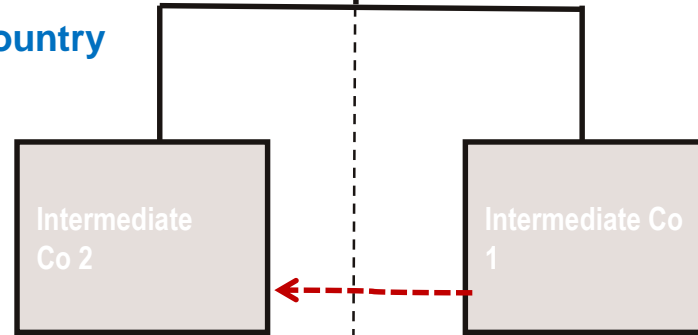
- Ineffective/No CFC Rules
- Maximise Deductions
- Minimise Assets/Risks

Action 3

Action 4

Action 8-10

Low Tax Intermediate Country



High Tax Intermediate Country

Maximise Assets/Risks

Action 8-10

Low or no withholding tax

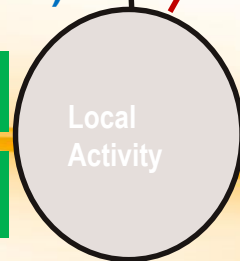
Action 6

Action 2

Action 5

Action 4

Market or Production Country (High Tax)



• Avoid Taxable Presence, or

Action 7

• Minimise Assets/Risks

Action 8-10

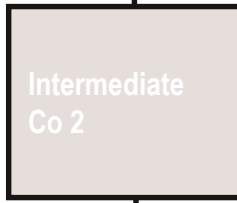
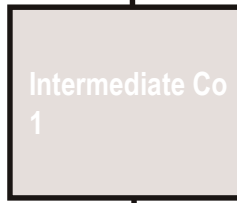
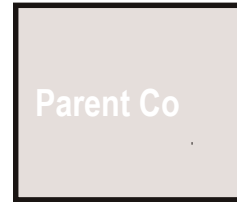
DRM – FOCUS ON DEVELOPING COUNTRIES

Ultimate Residence Country
(High Tax)

Intermediate Country (Low
Tax)

Intermediate Country (Low
Tax)

Source Country



- Indirect transfer of assets
- Treaty shopping (e.g. dependent on existence of Art 13(4))

Platform

- Maximise Assets/Risks
- Treaty shopping (e.g. LOB rule)

Action 8-10

Action 6

- Tax incentives

G-20 DWG

- Avoid taxable presence (e.g. strengthen PE definition)

Action 7

- Maximise deductions (e.g. exploit debt bias)

Action 4

- Low or no withholding tax (e.g. cross border service fees)

IMF/UN

- Minimise Assets/Risks

Action 8-10



2014 PAPER



IMF POLICY PAPER

SPILOVERS IN INTERNATIONAL CORPORATE TAXATION

May 9, 2014

IMF staff regularly produces papers proposing new IMF policies, exploring options for reform, or reviewing existing IMF policies and operations. The following document(s) have been released and are included in this package:

- The **Staff Report** on Spillovers on International Corporate Taxation prepared by IMF staff and completed on May 9, 2014 to brief the Executive Board on May 23, 2014.

The Executive Directors met in an informal session, and no decisions were taken at this meeting.

The policy considerations in this paper should be attributed to IMF staff and not to the IMF or its Executive Board. The analysis was prepared by the staff of the Fiscal Affairs Department and has benefited from comments and suggestions by staff from other IMF departments, as well as by Executive Directors following their discussion of the report on May 23, 2014.

The policy of publication of staff reports and other documents allows for the deletion of market-sensitive information.

Electronic copies of IMF Policy Papers
are available to the public from
<http://www.imf.org/external/pp/ppindex.aspx>

International Monetary Fund
Washington, D.C.

- **Characterization of international tax architecture**

- **Analysis of spillovers**

Base (real & financial)

Strategic (tax competition)

- **Specifics on developing countries**

Where issues matter more

- **Rethinking international tax architecture itself**

- **Follow-up paper (February 2019)**

Modern economy

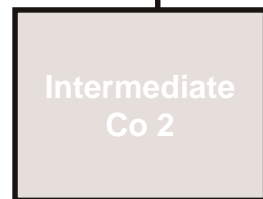
BEPS VS DRM

Ultimate Residence Country
(High Tax)



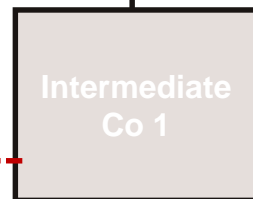
- Low residence based taxation or tax deferral

Low Tax Intermediate Country



- High profits (non-routine)
- Maximise Assets/Risks

High Tax Intermediate Country



Market or Production Country (High Tax)



- No Taxable Presence (or otherwise limited taxing rights), or

- Where Taxable Presence, low routine profits - Minimise Assets/Risks

- Maximise Deductions

QUESTIONS: IMF AND ITS ROLE IN THE INTERNATIONAL TAX AGENDA

- What is the nature of the cooperation between the UN, World Bank, IMF and OECD on tax policy – Platform for Collaboration on Tax?
- Who are the other actors on the international stage of tax policy development?
- Some say that the World Bank, IMF and OECD have not looked after the interests of developing countries in the past. Who is looking out for them now?
- Is anyone interested in the views of business: BIAC, ICC?



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US INTERNATIONAL TAX REFORM

GILTI

Uses proxy for above-normal return (10% return on tangible assets)

Adopts minimum tax (if foreign rate < 13.125%)

Has some formulary elements (taxing 50% of consolidated foreign profit)

FDII

Uses proxy for above-normal return (10% return on tangible assets)

Introduces element of 'destination' through export focus

BEAT

Minimum tax when avoidance-prone payments (interest, fees ...) large



PLATFORM FOR COLLABORATION ON TAX (PCT)

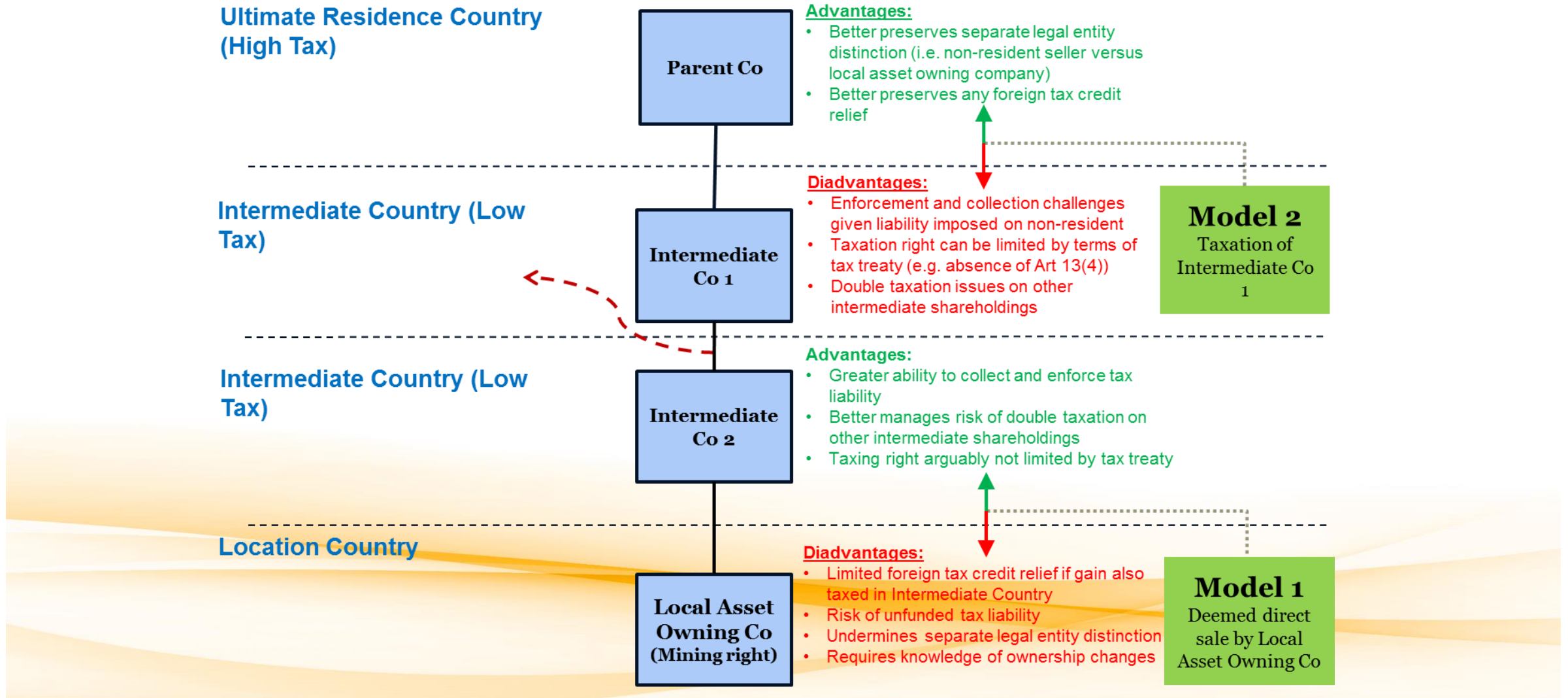
- **Aim:** The PCT is intended to deepen collaboration and cooperation of the IMF, OECD, UN and World Bank, complementing other initiatives.
- **Objectives:**
 - Produce concrete joint outputs on issues in domestic and international taxation.
 - Strengthen interactions between standard-setting, capacity building and technical assistance.
 - Share information on activities to facilitate collaboration.



PLATFORM FOR COLLABORATION ON TAX (PCT)

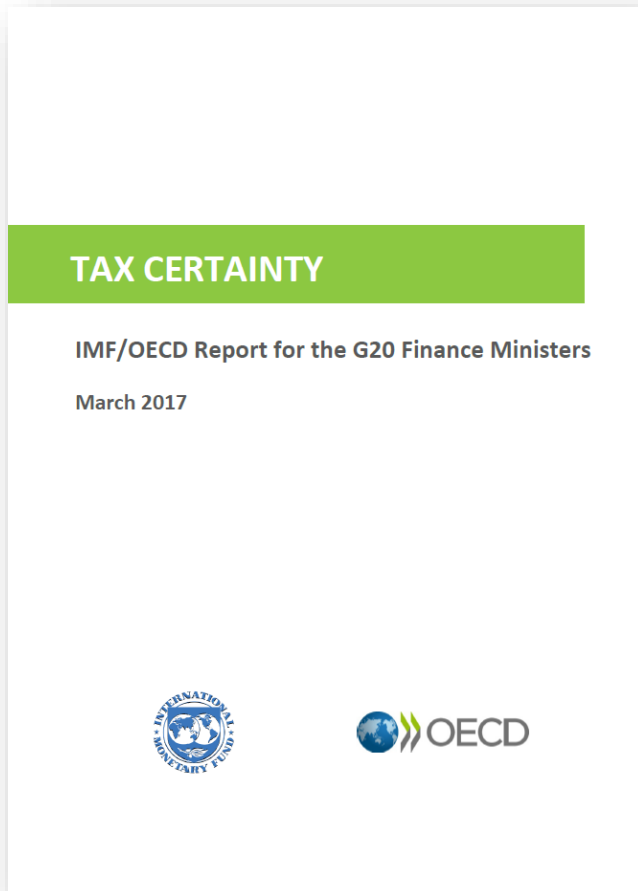
■ Previous outputs:

- Paper on efficient and effective use of tax incentives in low income countries delivered to G20 in 2015.
- Report on enhancing effectiveness of external support in building tax capacity delivered to G20 in July 2016.
- ‘Toolkits’ for BEPS implementation and on other international tax issues:
 - - one completed on use of comparables in transfer pricing;
 - - revised version posted for comment on offshore indirect transfers; and
 - - others progressing (e.g. TP documentation and tax treaties).





TAX CERTAINTY REPORT TO G20



- **Report on 'Tax Certainty'** originally prepared for G20 Finance Ministers by OECD and IMF, under German presidency (March 2017).
- **Deals with legislative and other issues giving rise to tax uncertainty**, as well as a practical tools section to enhance tax certainty.
- **Update prepared by IMF/OECD in July 2018**, which outlines initiatives to enhance tax certainty, including in developing countries.



QUESTIONS/COMMENTS

- **Cory Hillier | Counsel (Tax Law)**
- **International Monetary Fund | Legal Department**
- Washington DC, 20431
- E: chillier@imf.org



SLIDO QUESTION 3

IMF AND ITS ROLE IN THE INTERNATIONAL TAX AGENDA

1. Do you think that the interests of developing countries are being adequately taken into account in the development of international tax policy?
 - Yes
 - No



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QUESTIONS: THE INTERNATIONAL TAX AGENDA

- MLI - what has been achieved?
- How you see the next steps on BEPS? Who will be driving this? Will the Inclusive Framework continue?
- Is the adoption of the Indian view of gains on indirect transfers a departure from the familiar principles of international tax law marking the demise of the corporate veil or just a logical consequence of the BEPS approach?
- Allocation of Taxing Rights – do the new PE and Transfer Pricing developments and Transfer Pricing give a clear answer or just open the barn door for fragmented interpretation?
- Can the allocation of profits methodology survive without the support of the USA?



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BREAK



THE DIGITAL ECONOMY & TAXATION

PANEL SPEAKERS

Panel Chair

- **Georg Geberth** – Siemens, Director, Global Tax Policy

Panel Speakers:

- **George Barnes** – HMT Deputy Director, Corporate Tax
- **Cory Hillier** – International Monetary Fund, Counsel, Tax Law, Legal Department, Financial and Fiscal Law Unit
- **Christer Tønder Bell** – Lego, Vice President, Global Strategic Tax & Customs



BRAZIL

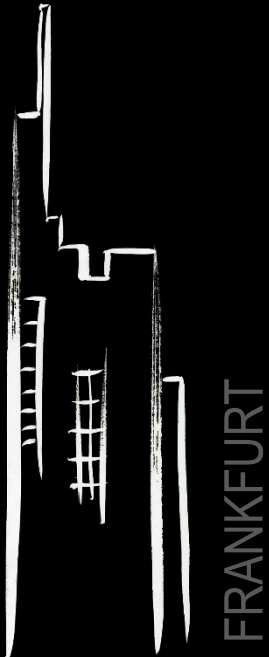


ROME

GEORGE BARNES PANEL PRESENTATION 1

GEORGE BARNES - PANEL PRESENTATION 1

- What the UK sees as the challenge
- How the UK thinks that challenge could be addressed through reform of the MTC
- How that fits with the discussions taking place at OECD level
- The UK's assessment of revenue-based taxes and of the EU's specific proposal

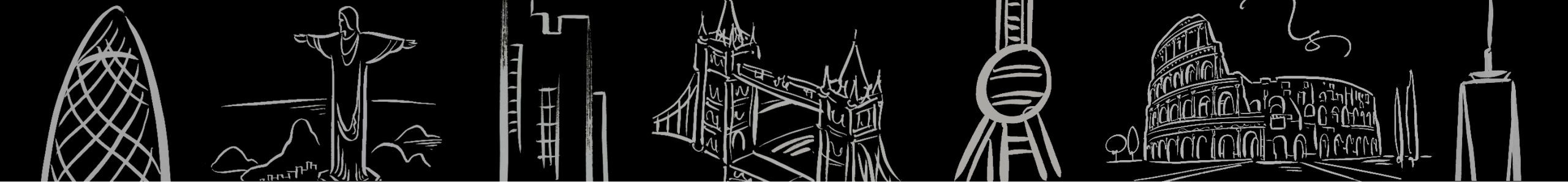




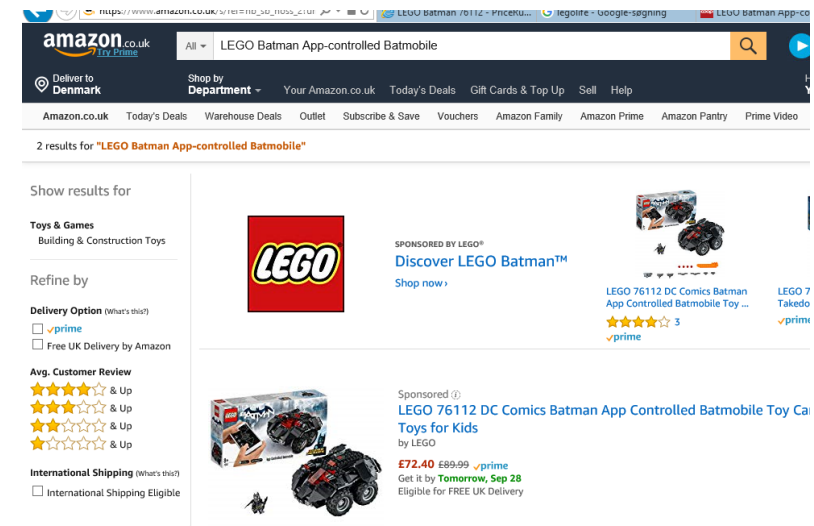
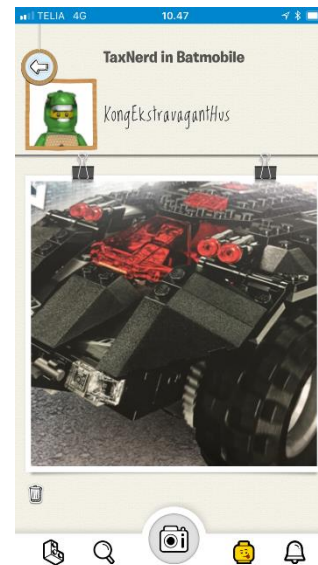
ROME

CHRISTER TØNDER BELL

PANEL PRESENTATION 2



•How traditional businesses face this challenge





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CORY HILLIER

PANEL PRESENTATION 3

BEPS VS DRM

Ultimate Residence Country (High Tax)

- Low residence based taxation or tax deferral

General Issues:

- (1) Large profits from digitalization?
- (2) Intensive use of intangible assets?
- (3) Sales without physical presence
- (4) User-generated value

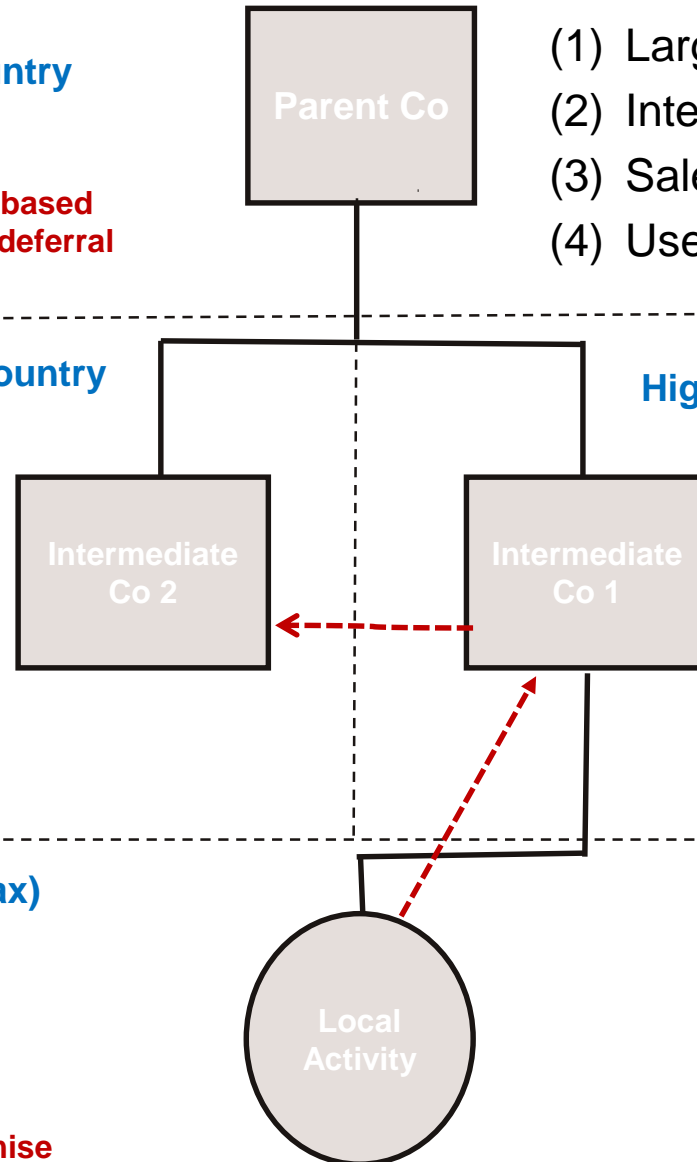
Low Tax Intermediate Country

- High profits (non-routine) - Maximise Assets/Risks

High Tax Intermediate Country

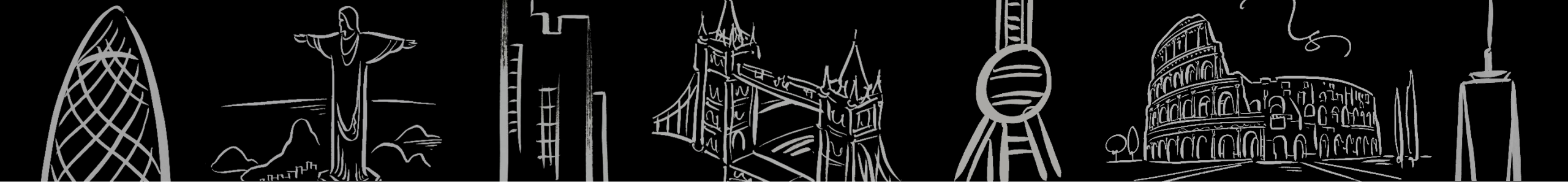
Market Country (High Tax)

- No Taxable Presence (or otherwise limited taxing rights), or
- Low routine profits - Minimise Assets/Risks

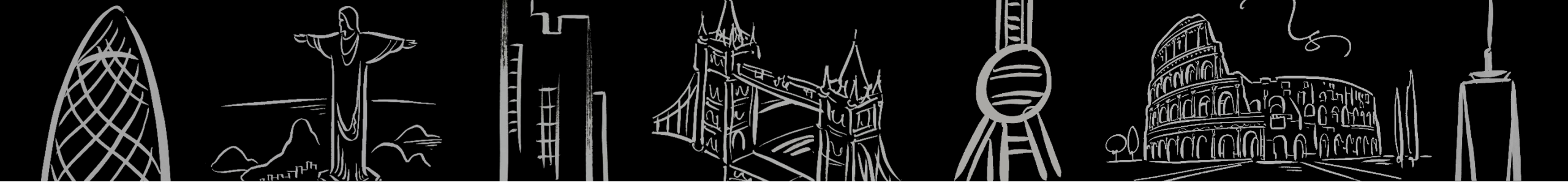


Solutions:

- Interim?
- Medium term?
- Long term?



PANEL DISCUSSIONS



**THANK YOU FOR YOUR ATTENTION
AND
QUESTIONS**