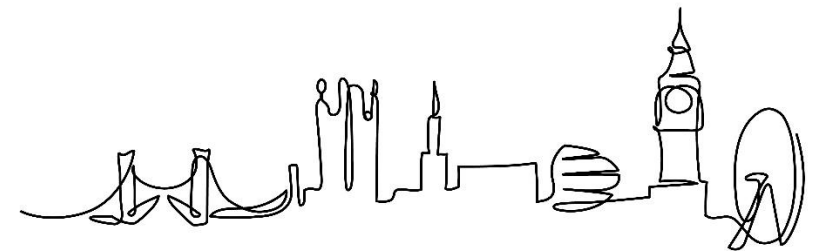


MAZARS INTERNATIONAL TAX CONFERENCE 2019

 3 October 2019, London



London





Mazars North America Alliance is an agreement between Mazars and five leading firms in the United States and Canada – BKD, Dixon Hughes Goodman, Moss Adams, Plante Moran (U.S. firms) and MNP (Canadian firm). This is a unique and dedicated solution for Mazars to serve international clients into North America.





PROGRAMME & SPEAKERS


MORNING SESSION (SHAW THEATRE)

08.00 – 09.00	Registration and breakfast (Nobel Suite)
09.00 – 09.10	Welcome, Anita de Casparis, Global Head of Tax, Mazars
09.10 – 10.45	Panel discussion with Q&A session, speakers: <ul style="list-style-type: none"> • Chairman: Michael Lennard, Chief, International Tax Cooperation, Financing for Sustainable Development Office of the United Nations • Ken Chan, Global Head of Tax, TransferWise • Charlotte Redcliffe, Head of Tax, Centrica • Cory Hillier, Senior Counsel (Tax Law), International Monetary Fund • Professor Jonathan Schwarz, King's College London, Dickson Poon School of Law and Barrister, Temple Tax Chambers
10.45 – 11.15	Coffee break and networking opportunities
11.15 – 13.00	Panel discussion with Q&A session, speakers: <ul style="list-style-type: none"> • Chairman: Michael Lennard, Chief, International Tax Cooperation, Financing for Sustainable Development Office of the United Nations • Ken Chan, Global Head of Tax, TransferWise • Charlotte Redcliffe, Head of Tax, Centrica • Cory Hillier, Senior Counsel (Tax Law), International Monetary Fund • Professor Jonathan Schwarz, King's College London, Dickson Poon School of Law and Barrister, Temple Tax Chambers
13.00 – 14.00	Lunch break

AFTERNOON SESSION

14.00 – 15.15	Break-out session 1	Meeting room
	Tax in the banking, insurance and asset management industry Erik Stroeve, Tax Partner, Mazars Netherlands	Shaw Theatre
	Real Estate : the life-cycle of real estate investments Ronald Plat, Tax Partner, Mazars Netherlands	Hyde Park 1
	Automotive and Tax: how to survive disruption? Birgit Jürgensmann, Tax Partner, Mazars Germany	Hyde Park 2
	M&A in a post BEPS world Iosif Cozea, Tax Lawyer, Mazars Société D'Avocats France	Hyde Park 6&7
	Hiring for the next decade Alexander Rasink, Tax Partner, Mazars Netherlands	Regents Park 3
	Global Tax Solutions Stephen Fuller, Tax Partner, Mazars United Kingdom	Regents Park 5&6&7
15.15 – 15.30	Coffee break and networking opportunities	
15.30 – 16.45	Break-out session 2	
	Tax in the banking, insurance and asset management industry Erik Stroeve, Tax Partner, Mazars Netherlands	Shaw Theatre
	Real Estate : the life-cycle of real estate investments Ronald Plat, Tax Partner, Mazars Netherlands	Hyde Park 1
	Automotive and Tax: how to survive disruption? Birgit Jürgensmann, Tax Partner, Mazars Germany	Hyde Park 2
	M&A in a post BEPS world Iosif Cozea, Tax Lawyer, Mazars Société D'Avocats France	Hyde Park 6&7
	Hiring for the next decade Alexander Rasink, Tax Partner, Mazars Netherlands	Regents Park 3
	Global Tax Solutions Stephen Fuller, Tax Partner, Mazars United Kingdom	Regents Park 5&6&7
16.45 – 17.45	Closing remarks and cocktail reception	

MAZARS INTERNATIONAL TAX CONFERENCE 2019

 Michael Lennard, Chief, International Tax Cooperation, Financing for Sustainable Development Office of the United Nations

BEYOND THE TWO PILLARS – THE ARCHITECTURE OF INTERNATIONAL TAXATION

CHIEF, INTERNATIONAL TAX COOPERATION,
FINANCING FOR SUSTAINABLE DEVELOPMENT OFFICE
DESA, UNITED NATIONS

LENNARD@UN.ORG



MULTILATERALISM AND ITS [DIS]CONTENTS

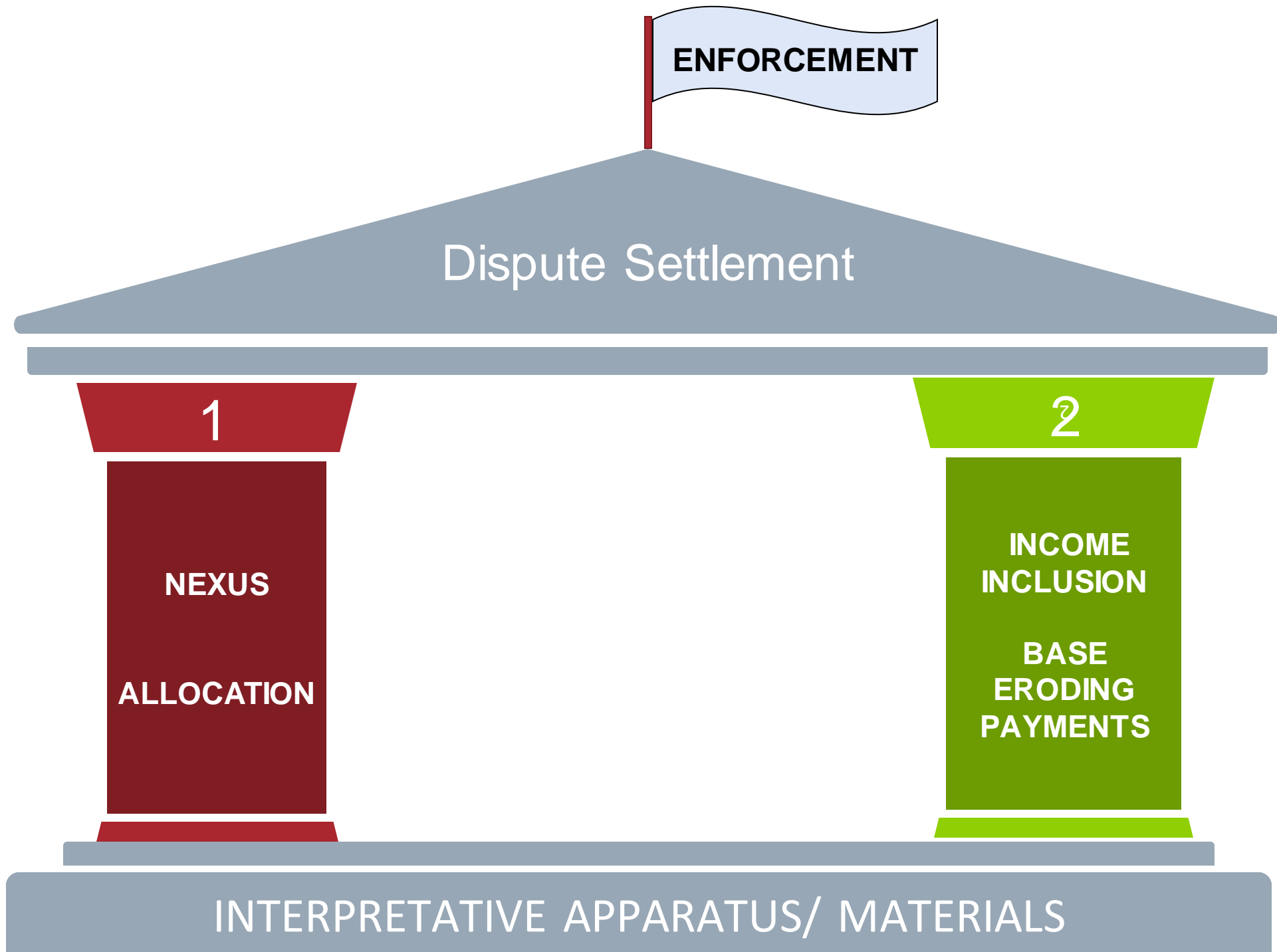
- Tax is becoming increasingly multilateralised.
- ... but outbreaks of “unilateralism” – dangerous?
- ... not to mention old-fashioned bilateralism.
- How do they compare?

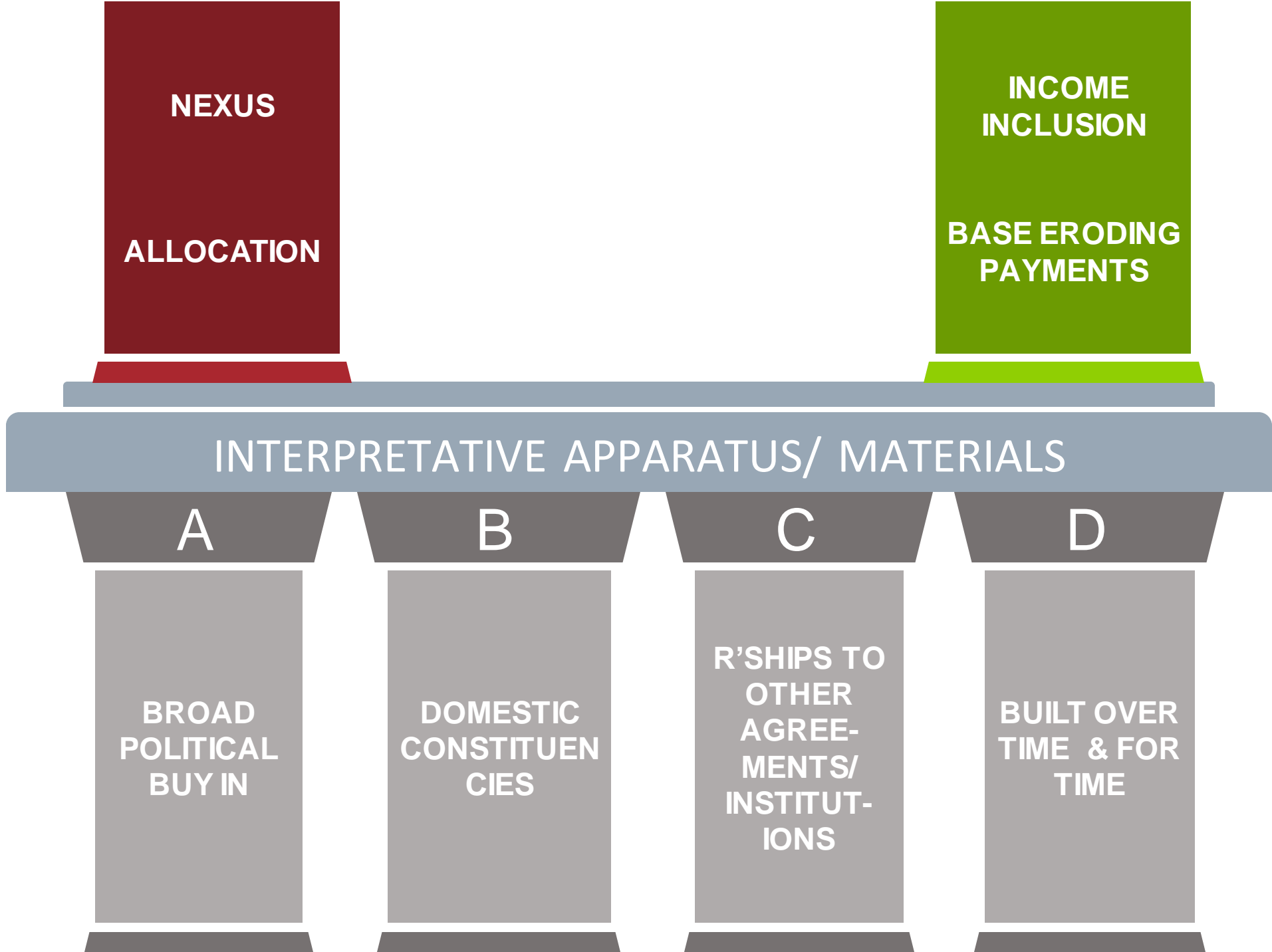


MULTILATERALISM AND ITS [DIS]CONTENTS

- What makes a good multilateral agreement?
- The political dimension?
- The technical dimension?
- The apparatus of interpretation?
- The final decision-makers?
- Enforcement?










SOME POSSIBLE FUTURES

- More source taxation or less?
- Hint: don't just compare to the OECD Model.
- More chaos or less?
- More tax or less?
- More inclusiveness or less?
- More disputes or less?
- Who are the winners and losers?
- Role of the UN?

MAZARS INTERNATIONAL TAX CONFERENCE 2019

 Ken Chan, Global Head of Tax, TransferWise

CHALLENGES FOR NON-TRADITIONAL MULTINATIONAL ENTERPRISES



KEN CHAN, GLOBAL HEAD OF TAX, TRANSFERWISE



- A mission-driven start-up.
- Tax as an autonomous team.
- Technology and tax.

A photograph of two men standing on a city street. The man on the left has light brown hair and is wearing a dark blue t-shirt with a white graphic of three arrows pointing upwards. The man on the right has dark hair and a beard, wearing a light green polo shirt with a small orange logo on the chest. The background shows a city street with buildings and a car. Overlaid on the image is the text "WE'RE SOLVING A REAL PROBLEM." in white, bold, sans-serif font. The word "PROBLEM." has a small blue square at the end of the period.

**WE'RE SOLVING A REAL
PROBLEM.**

Instant, convenient, transparent,
and **eventually free**.

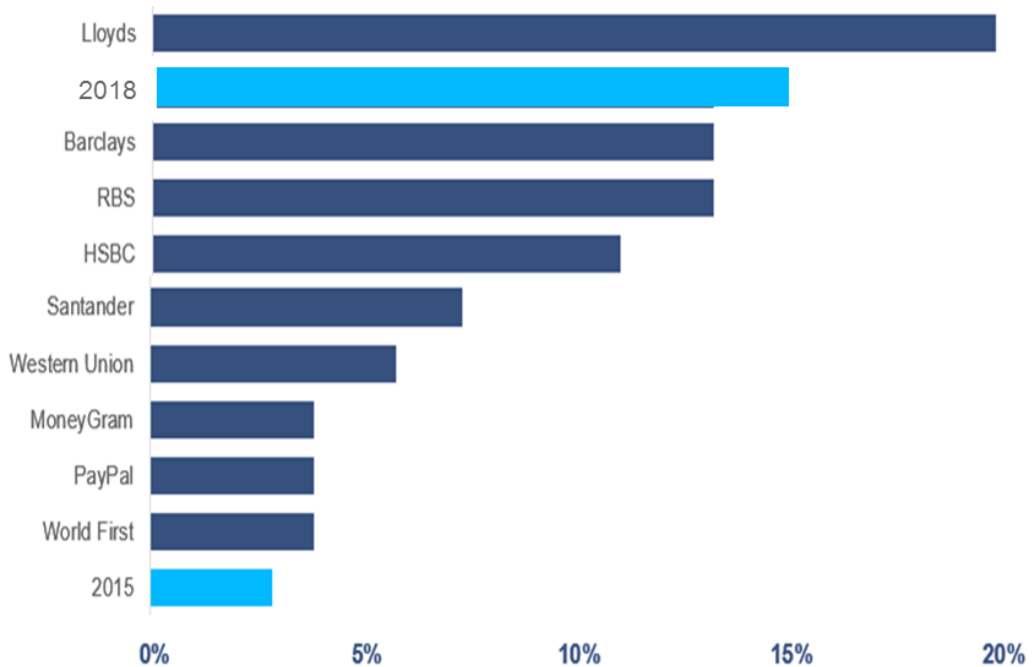
TRANSFERWISE TODAY

- 6 million
Customers around the world
- £4 billion
Moved for customers every month
- £3 million
Saved for our customers every day
- £1 billion
Deposits on our borderless account
- \$3.5 billion
Valuation



TransferWise today.

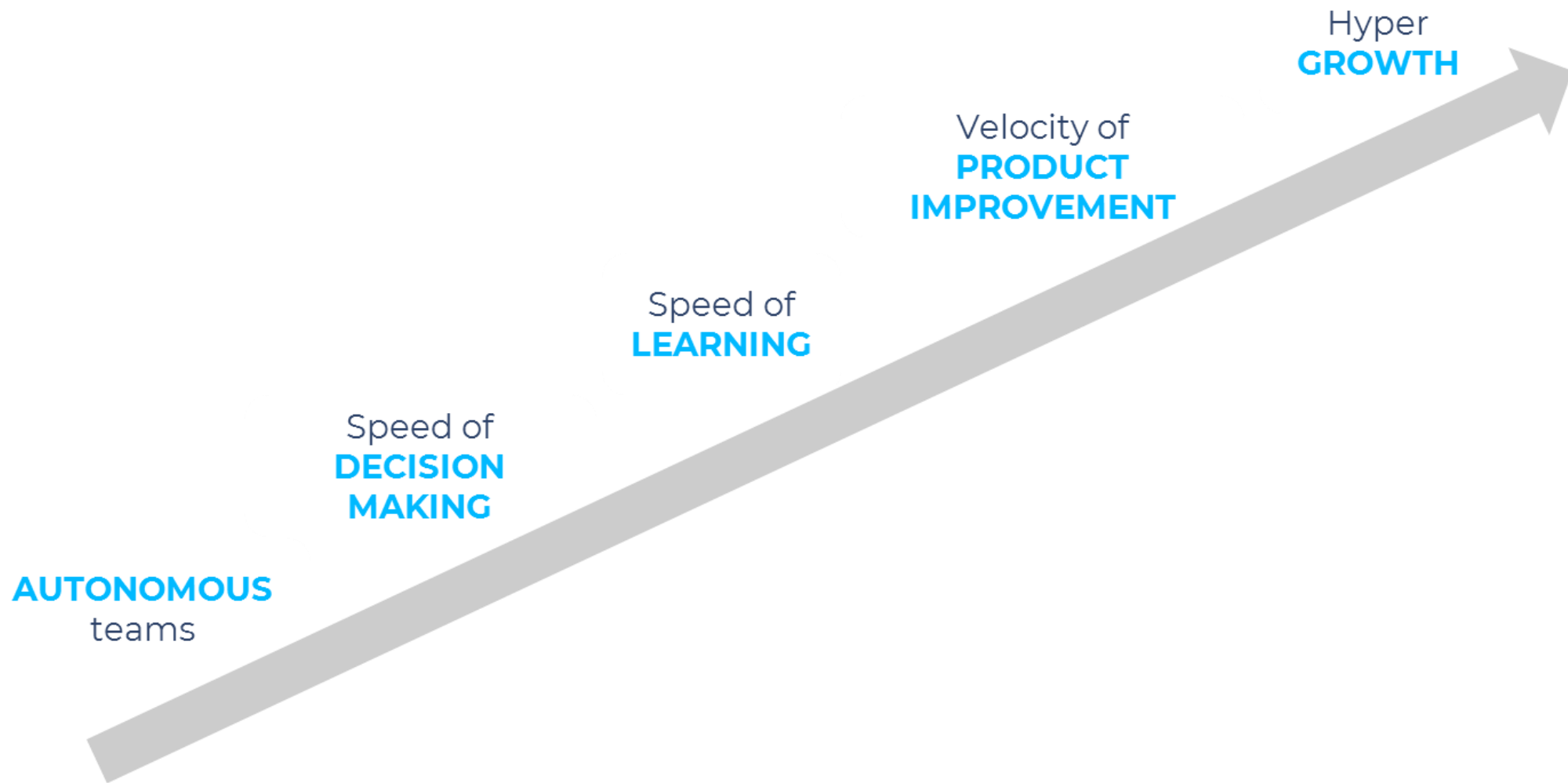




Hyper growth



HOW DO YOU ACHIEVE 50%+ YOY REVENUE GROWTH?



But... an autonomous tax team?

The **challenges** and how we **resolve** them

- Public planning.
- Embed into tribes.
- Be human.




**Finally, let's talk
about technology.**





MAZARS INTERNATIONAL TAX CONFERENCE 2019

 Charlotte Redcliffe, Head of Tax, Centrica

THE IN-HOUSE TAX DEPARTMENT OF THE FUTURE

How will in-house tax departments adapt to challenges in the tax environment?

Charlotte Redcliffe, Head of Tax, Centrica





GROWTH OF DIGITALISATION



FROM PEOPLE TO PROCESS

- Move to focus on the 'front line'
- Volume vs complexity
- Outsource and offshore



MULTINATIONAL CORPORATIONS UNDER SCRUTINY

Change in behaviour vs change in environment
Taking control of the narrative




lwc 17525276 Barewalls

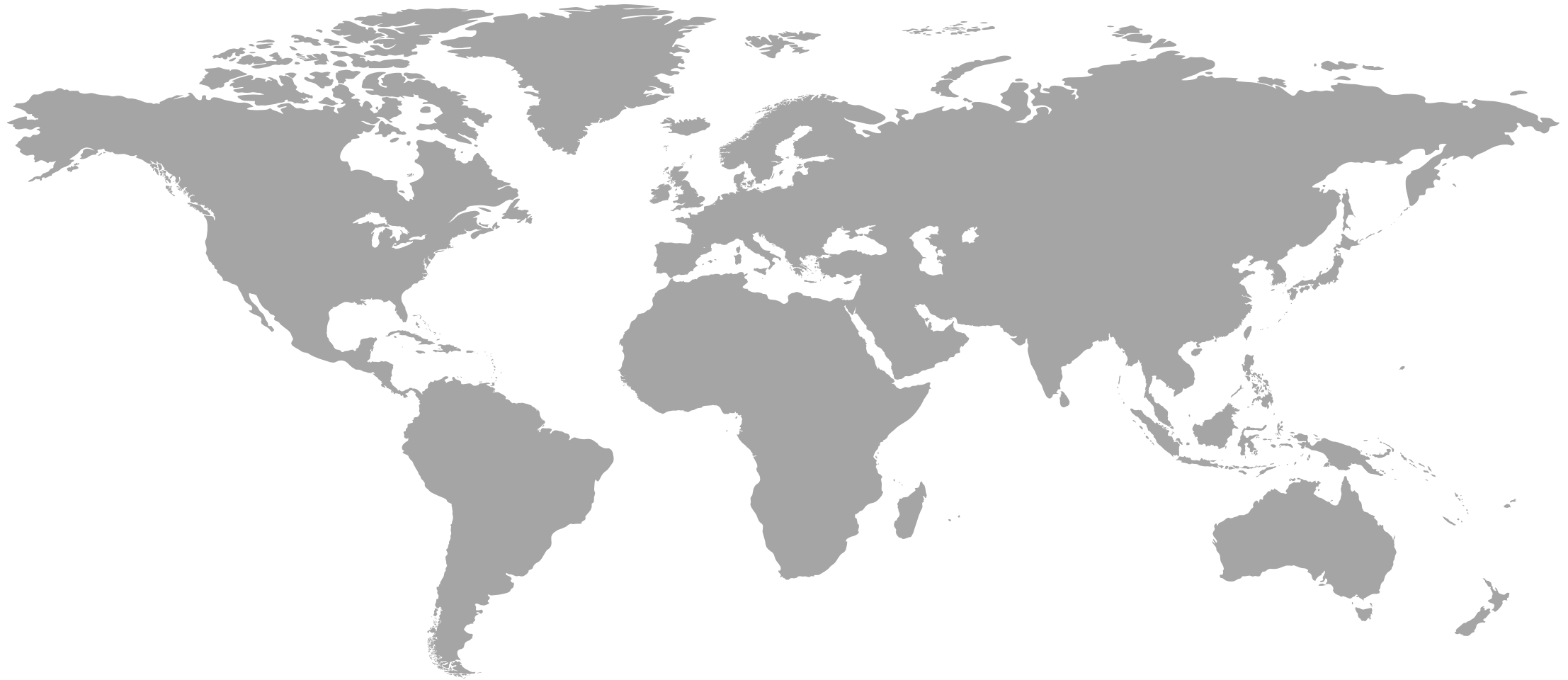


CROSS BORDER COOPERATION AND CONGRUITY

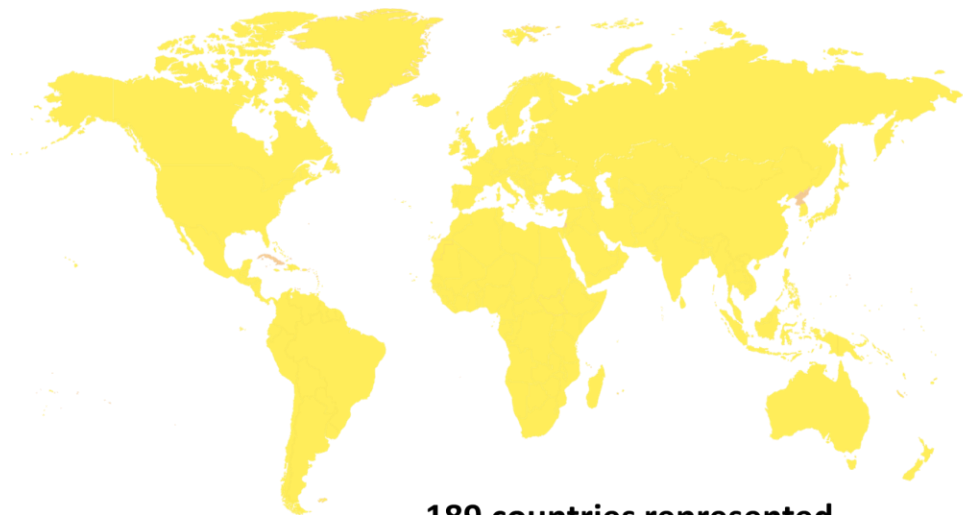
- International trends towards homogeneity.
- Fiscal cooperation meets protectionism; how to read the future
- Green taxes and levies, plus investment tax incentives, add layers of complexity

MAZARS INTERNATIONAL TAX CONFERENCE 2019

 Cory Hillier, Senior Counsel (Tax Law), International Monetary Fund



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



189 countries represented

Non-members include: Cuba, North Korea, Andorra, Monaco, Liechtenstein



- **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 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, including on TP) – also provides feedback loop to standard setters (OECD and UN)
- **IMF undertakes analytical work and develops policy papers** (e.g. recent IMF Policy Paper: Corporate Taxation in the Global Economy discussing tax system challenges and reform options)
- **IMF initiatives 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, including on TP)

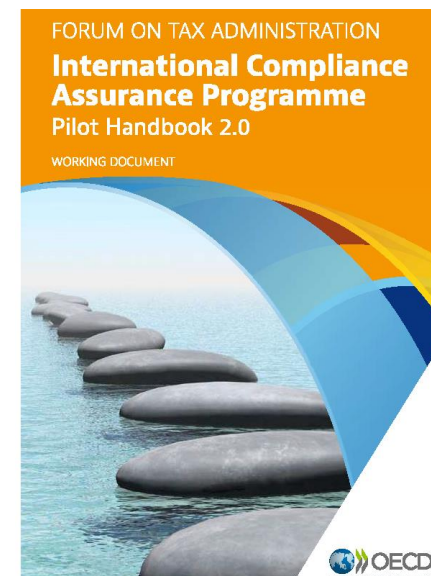
- **Concerns about uncertainty in tax matters:** Negative impacts on cross-border trade and investment
 - - G20 call in September 2016
 - - Report in March 2017 for G20
 - - Update in 2018, including focus on tax certainty in developing countries
- **Progress report to G20 in June 2019**



- **Multilateral solutions are necessary for a sustainable international tax system.** G20/G7 endorsement of IF/OECD work program to develop consensus (by 2020) – two-pillar approach derived from various country/sponsor proposals
- **Recent IF meetings seek to build support for a unified approach** – needed to break deadlocks and meet tight consensus timeframes
- **Reform directions can be assessed against criteria of:**
 - Vulnerability to profit shifting
 - Impact on (harmful) tax competition
 - Ease of administration and compliance
 - Legal obstacles to implementation
 - Suitability for developing countries

Dispute resolution and prevention

- Country-by-Country (CbC) reporting
- International Compliance Assurance Programme (ICAP)
- Mutual Agreement Procedure (MAP) and Arbitration



Improving integrity, efficiency and accountability of tax administration

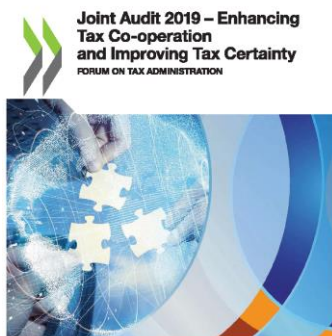
- Joint Audit, TADAT, impact of corruption

Ensuring clear and administrable tax rules

- Transfer Pricing Developments

Tax Certainty and Developing Countries

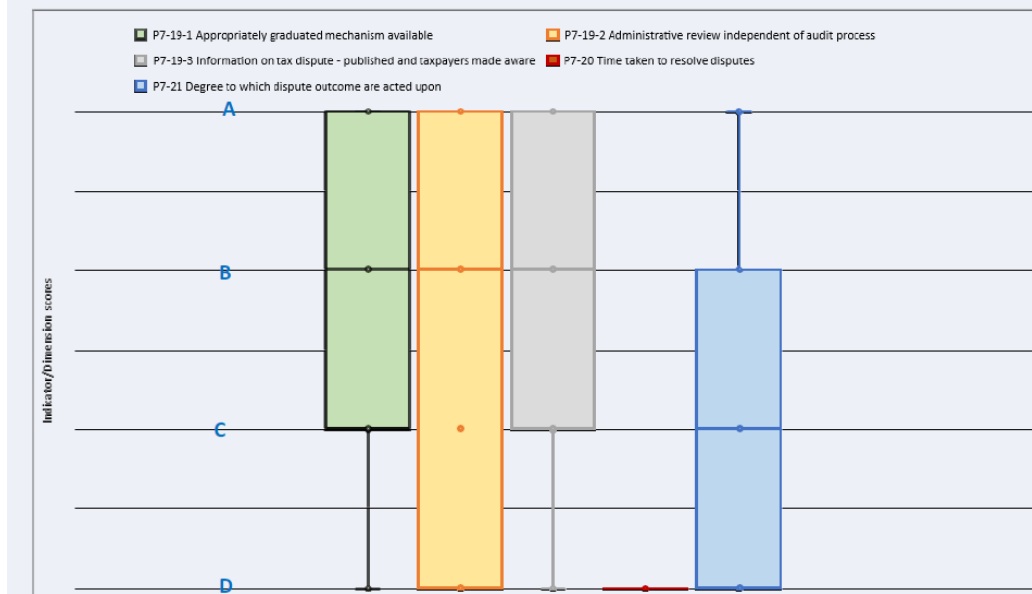
- Tax Morale, business conduct, capacity building



- **Evaluation of tax dispute resolution systems** - New assessments for 13 countries since 2018 Update (now covers 65 countries). Same broad conclusions:
 - good systems in place, but
 - implementation challenges continue (e.g. delays in resolving cases)
- **Preliminary results from new TADAT survey (May 2019):**
 - TADAT framework being used to implement reforms
 - TADAT improved information flows within and outside tax authority (confirmed by 83% of respondents)



Box 3. TADAT – Updated Dispute Resolution Scores, for 65 countries



- **Corruption closely linked with tax certainty**
- **High correlation noted in 2017 Report - Devereux (2016)**
- ***Framework for Enhanced IMF Engagement in Governance (2018):***
 - stepped up dialogue with member countries
- ***IMF Fiscal Monitor (April 2019):***
 - estimated loss of tax revenue of approximately 4% of GDP
 - reduced vulnerability to corruption in tax policy and administration enhances tax certainty and revenue mobilization
 - sets out features of good governance in revenue administration to support capacity development

- **Central to tax certainty agenda**
- **Quality of tax system important (not just revenue levels):**
 - minimize economic distortions
 - ensure predictability, fairness and simplicity
- **Expansion of support to strengthen tax systems in developing countries** (IMF - ↑28% LICs, ↑27% EMs, ↑41 FSs)
- **Update on available diagnostic and analytical tools** (e.g. TADAT, RA-GAP, RA-FIT/ISORA, FARI etc.)
- **MTRS support provided to 10 countries** (e.g. PNG, Uganda and Indonesia)

MAZARS INTERNATIONAL TAX CONFERENCE 2019

 Professor Jonathan Schwarz, King's College London, Dickson Poon School
of Law and Barrister, Temple Tax Chambers

BEPS MULTILATERAL CONVENTION

Professor Jonathan Schwarz, King's College London, Dickson Poon School of Law and Barrister, Temple Tax Chambers

www.taxbarristers.com



MINIMUM PROTECTION AGAINST TREATY SHOPPING

- Action 15 Final Report
- express common intention to eliminate double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance, including through treaty shopping arrangements.
- implement in treaties:
 - combined LOB and PPT
 - PPT rule alone, or
 - LOB supplemented by anti-conduit financing
- if not already in treaties

PURPOSE OF COVERED TAX AGREEMENTS

- MLI Art 6(1) Preventing double taxation without opportunities for non or reduced taxation through avoidance or evasion
- MLI Art 6(3) Optional purpose of economic relations and tax cooperation

7(1) Notwithstanding any provisions of a CTA, *a benefit under the CTA shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of the CTA.*

HMRC v Smallwood [2010] EWCA Civ 778.

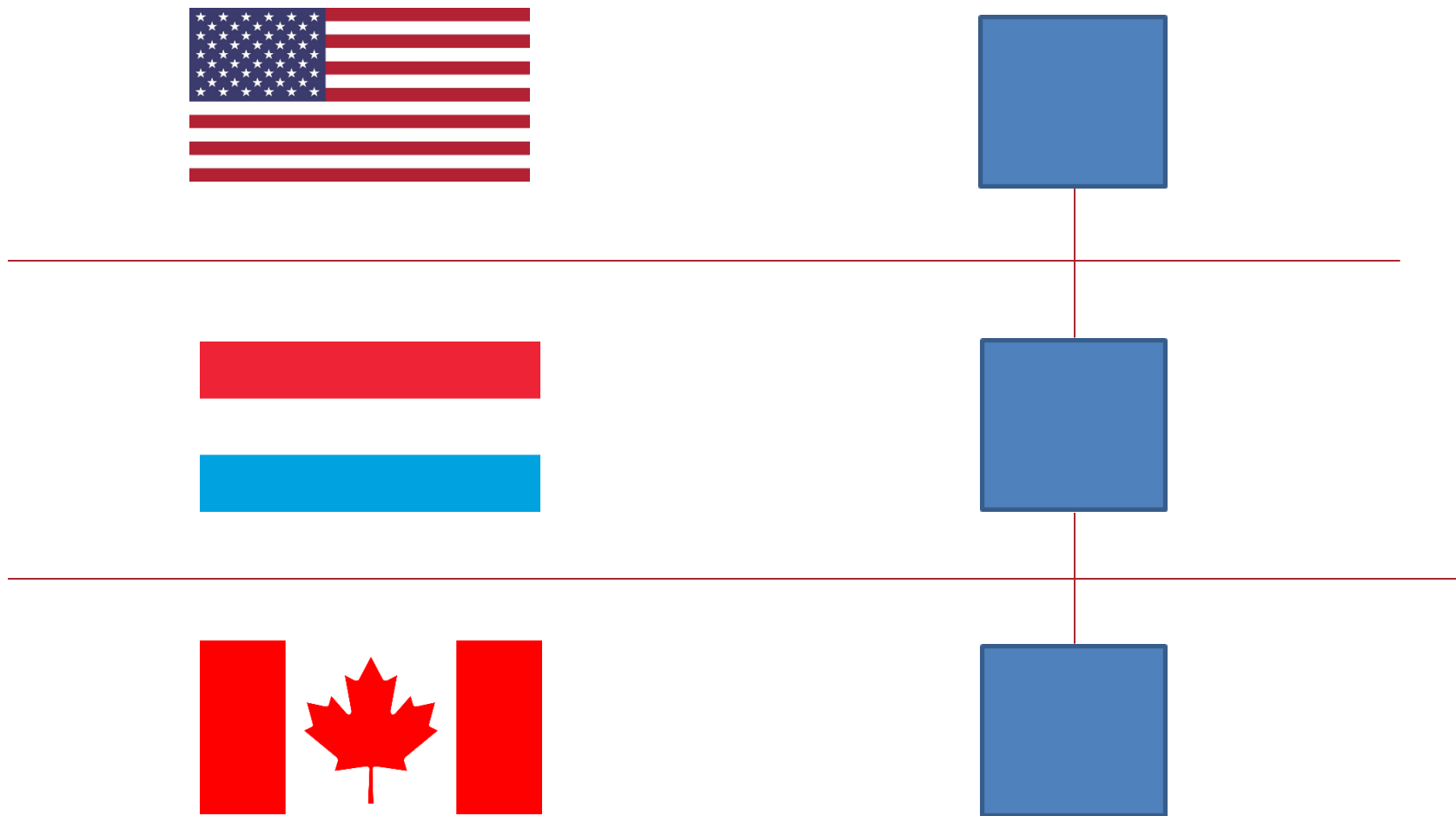
[23] ‘HMRC ...submits that the purpose of the DTA was to grant relief against double taxation. It was specifically not its purpose to facilitate the avoidance of tax in both jurisdictions. This is made clear by the pre-ambles to the UK Statutory Instrument which refers to the purpose of the DTA as being the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on capital gains. It therefore requires to be construed purposively with that primary object in mind.’

Bayfine UK v Revenue and Customs Commissioners [2011] EWCA Civ 304

‘[16] In this case, the preamble to the Treaty is very brief and states simply that the parties are:

‘Desiring to conclude a new Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains;’

[17] These words, however, make it clear that the primary purposes of the Treaty are, on the one hand, to eliminate double taxation and, on the other hand, to prevent the avoidance of taxation. In seeking a purposive interpretation, both these principles have to be borne in mind. Moreover, the latter principle, in my judgment, means that the Treaty should be interpreted to avoid the grant of double relief as well as to confer relief against double taxation.’



- Taxpayer accepted
 - tax benefit was from restructuring
 - restructuring not primarily for a bona fide purpose other than to obtain a tax benefit.
- Restructuring thus an “avoidance transaction”
- was it “abusive”-Does restructuring frustrate object of a treaty provision?

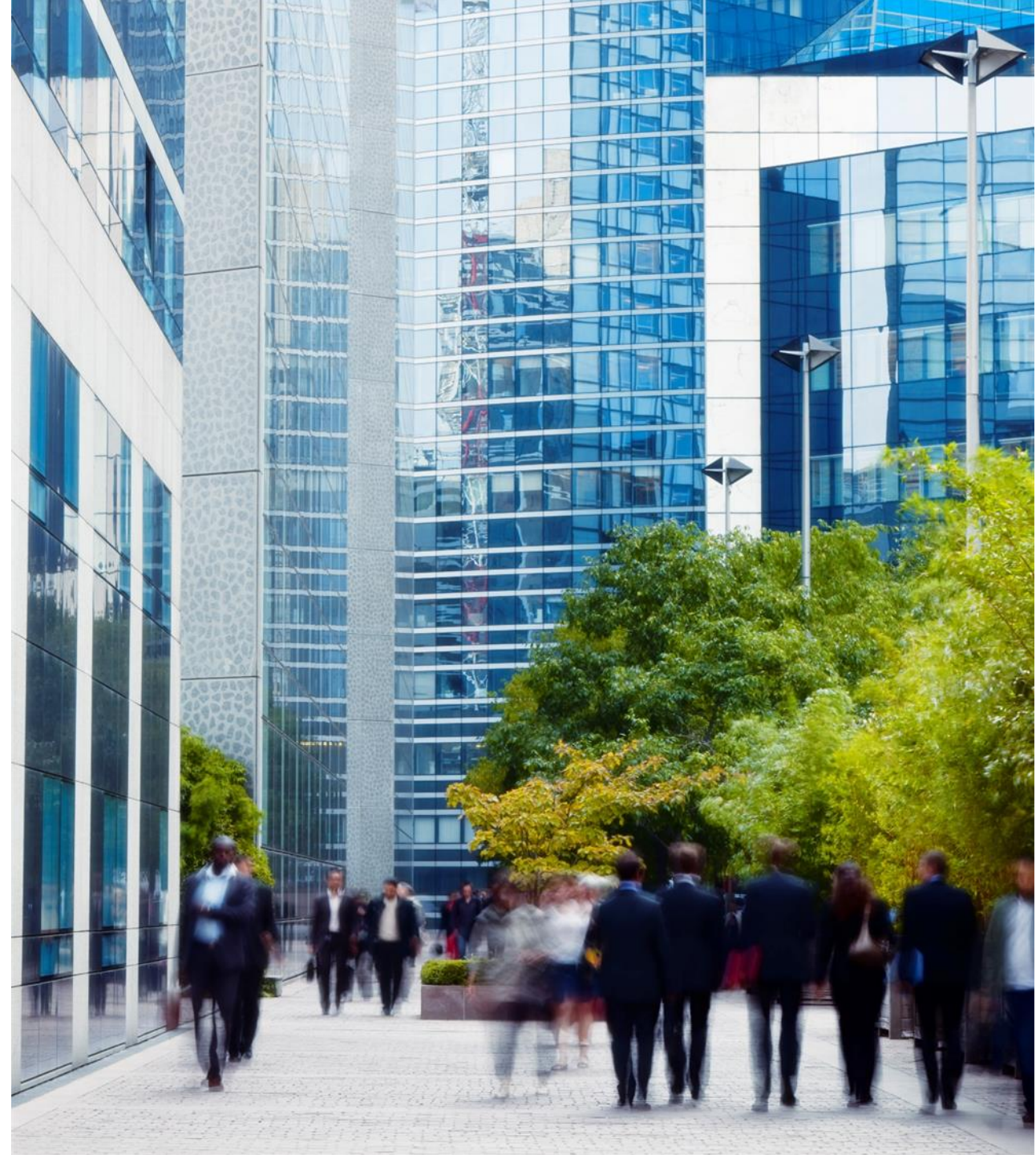
- Preamble: indicative of general purpose of the treaty, but vague regarding the application of specific articles.
- GAAR analysis: must identify the rationale underlying Article 1, 4 and 13, not a vague policy supporting a general approach to the interpretation of the treaty as a whole

BEPS ACTION 14-MAKE DISPUTE RESOLUTION MECHANISMS MORE EFFECTIVE

- MLI Minimum standard Art 16(1) –(3)
 - Incorporates OECD Model art 25(1)-(3)
 - Case may be presented in either state
- MLI Options
 - Art 17(1) incorporates OECD Model art 9(2) corresponding adjustments
 - Part VI Mandatory binding arbitration

ACTION 15 MINIMUM STANDARD

- Best practices
 - Access to MAP
 - MAP process
 - Implementation
- FTA Peer review
 - Taxpayer input



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)

