

GLOBAL IFA TRAVELLING LECTURESHIP PROGRAMME 2024

INTERNATIONAL TAX DISPUTE RESOLUTION



JEAN-BLAISE ECKERT
LENZ & STAEHELIN, PARTNER
Global IFA Secretary General



ROBERT DANON
DANON, PARTNER
Chairman of IFA's PSC



LUTANDO MVOVO
VODACOM GROUP,
EXECUTIVE HEAD: INTERNATIONAL TAX
Travelling Lecturer



DAPO LADIMEJI
LADIMEJI & CO, PRINCIPAL
IFA Africa Region, Chair



ZACCH ADEDEJI
EXECUTIVE CHAIRMAN,
FEDERAL INLAND REVENUE SERVICE

GLOBAL SPONSOR

Barilla

The Italian Food Company. Since 1877.

Opening by Jean-Blaise Eckert

Secretary-General Global IFA

and

Dapo Ladimeji (IFA Nigeria President, Chair

of Africa Region)

DETAILS AND REGISTRATION:

ifa2024capetown.com

The 76th Congress of the International Fiscal Association: 27-31 October 2024, Cape Town.

The first IFA Congress to be held on the African continent.

To encourage participation from African countries, we offer **more than a 40% registration fee discount** to those living and working in Africa.

Discount is available until **July 15, 2024**.





Introduction scientific program

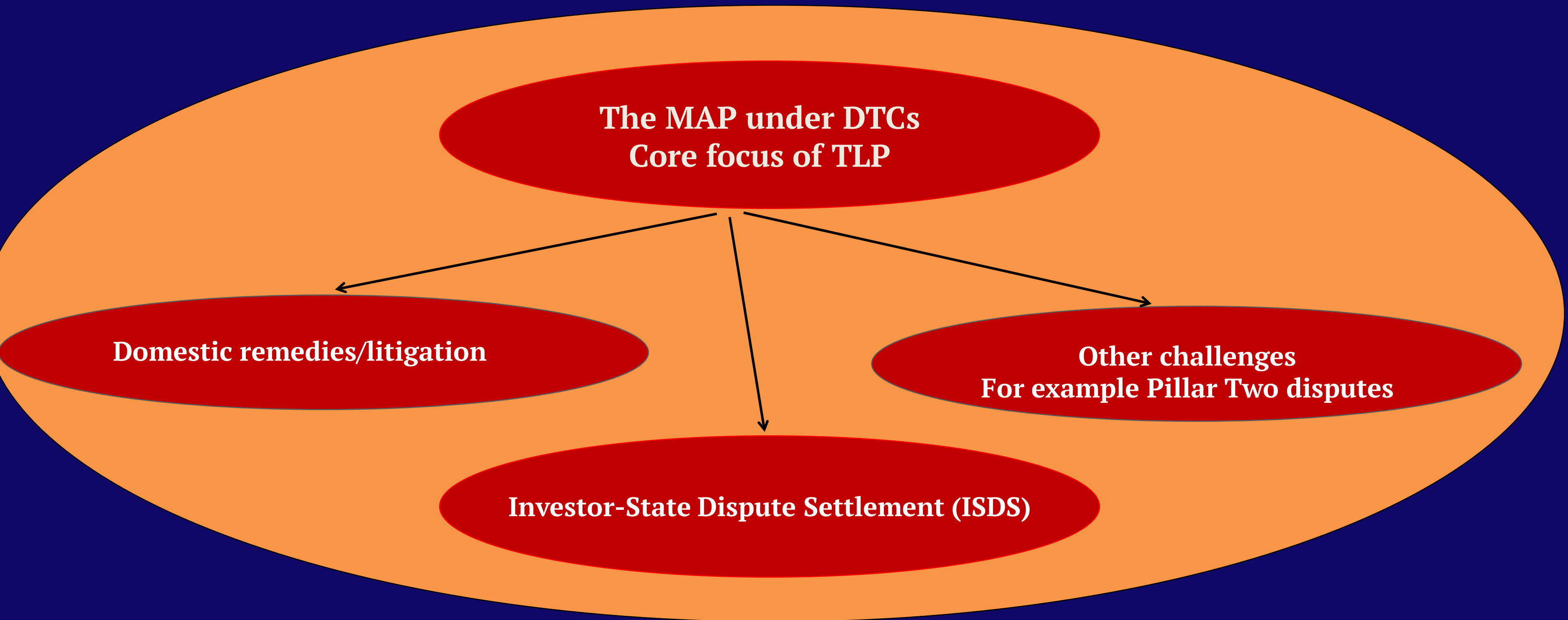
Prof. Robert Danon, Chair PSC Global IFA

Objectives of Global IFA's 2024 TLP

- Revisit the **current and future practical challenges posed by MAP as a state-to-state dispute settlement procedure inspired from diplomatic protection** (both at the level of access and operation of the MAP) and explore **broader ramifications** (for example penalties, criminal law ramifications, relation between TP and custom duties, etc.). Does it work? What can (should) be improved?
- Explore **possible improvements to the OECD Commentary on Art. 25** as well as **to minimum standards and best practices on BEPS Action 14**.
- Scientific agenda reflects the strong emphasis put by Global IFA **on International Tax Dispute Resolution from a holistic perspective**.
- Main topic of the Cape Town Congress ***“Practical approaches to International Tax Dispute Prevention and Resolution”*** is the first important milestone.



Global IFA's 2024 TLP in the global tax controversy context



TOPIC: INTERNATIONAL TAX DISPUTE RESOLUTION

Making dispute resolution mechanisms more effective in the aftermath of OECD Action 14

Lagos– 3 June 2024

INTERNATIONAL TAX DISPUTE RESOLUTION

Lecturer Lutando Mvovo

Executive Head International Tax
Vodacom Group Tax

Objectives of Article 14 of BEPS

- One the four BEPS minimum standards;
- Reducing uncertainty and improve tax resolution of tax-related disputes;
- Consistent and proper implementation of tax treaties;
- Timely resolution of disputes;
- Strengthen effectiveness and efficiency of the MAP process.



Peer Review Mechanism

- Review compliance with the minimum standard;
- Two-staged process
 - Phase 1- evaluated implementation of Action 14 minimum standard and recommendation;
 - Phase 2- follow-up of the recommendations;
- Deferral of peer reviews for some developing countries;
- Did peer reviews achieve the intended objective?



Mutual Agreement Procedure

- Special procedure outside the domestic law;
- Exists irrespective of any domestic remedies;
- Allows CAs to address taxpayers complaints about:
 - Incorrect application of tax treaty provisions; and
 - Difficulties in relation to treaty application of interpretation
- Crucial role promoting fulfilment of treaty obligations;
- Pursuing MAP and other domestic legal remedies simultaneously;
- MAP cannot override judicial decisions (Court decisions);



Typical Tax Treaty Issues Dealt with Through MAP

- Transfer pricing issues;
- Dual treaty residence issues;
- Application of withholding taxes in contravention to the treaty provisions;
- Permanent establishment issues;



Access/Denial of MAP Requests

- No action by treaty countries results or will result in taxation not in accordance with the treaty;
- Taxpayer's failure to meet time lines provided in the treaty;
- Most DTAs contain time lines for the submission of the MAP request



How does a MAP work in Practice

Five steps

- MAP request
- Unilateral Stage of consideration of the MAP case
- Bilateral stage
- Conclusion of the MAP
- Implementation of the MAP



Weakness of the MAP

- Uncertainty if CAs agree to disagree;
 - Long periods to resolve the dispute;
 - Judicial decisions;
 - Optional **arbitration**
-
- **Challenges for developing countries**



Alternative Dispute Resolution and Dispute Prevention Mechanisms

Alternative Dispute Resolution

- Proactive approach by CAs outside MAP;
- Mediation Process;

Dispute Prevention mechanisms

- Advanced tax ruling
- Advanced Pricing Agreements



Q&A from the floor & Conclusion