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Reform and Innovation of International Tax Dispute Resolution Mechanisms

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Abstract

This paper explores the development background and traditional limitations of international tax dispute resolution mechanisms. By systematically analyzing the inherent defects and root problems of traditional international tax dispute resolution mechanisms, and focusing on the predicaments and development needs of developing countries, it proposes new solutions based on the concept of a community with a shared future for mankind to better address the shortcomings of international tax dispute resolution mechanisms.

Keywords

Cross-Border Tax Disputes, Dispute Resolution, Mutual Agreement Procedure, Base Erosion and Profit Shifting Action Plan, Community with a Shared Future for Mankind

1. Introduction

Currently, the remedies adopted by various countries for resolving international tax disputes, apart from the tax administrative review mechanisms and tax administrative litigation procedures stipulated in their respective domestic laws, rely more on the Mutual Agreement Procedure (MAP) set forth in bilateral tax treaties. China also predominantly employs this mechanism in its bilateral tax treaties with other countries. However, due to the numerous inherent flaws in the MAP mechanism itself, its inefficiency in resolving international tax disputes has long been criticized by multinational taxpayers (Liao & Feng, 2022). Especially in recent years, the development of economic globalization and digitalization has posed significant challenges to traditional international tax rules. The conflicts between national tax systems and the lag in international tax rules have not only weakened the certainty of these rules but also led to a series of interna-

tional tax disputes in activities such as cross-border investment. This has impacted traditional mechanisms for resolving international tax disputes. Frequent disputes over the application of tax policies between enterprises and host country tax authorities in cross-border investments further highlight the importance of improving the MAP mechanism. The European Union, the United States, and the Organization for Economic Co-Operation and Development (OECD) have initiated improvements to the MAP procedure, aiming to establish a more binding and effective dispute resolution mechanism. However, these efforts primarily represent the interests of developed countries and have not adequately balanced principles such as fairness. They still operate under a traditional rule system that cannot fundamentally resolve the shortcomings of the MAP mechanism. As the world's largest developing country, China has proposed the "Community of Shared Future" concept, providing valuable insights for addressing the drawbacks of the MAP procedure. This paper offers specific analyses and recommendations based on this concept.

2. Limitations of Traditional International Tax Dispute Resolution Mechanisms

Since international tax disputes often involve the tax sovereignty of nations, they are, by nature, considered international public law disputes. The traditional view holds that submitting tax disputes to binding third-party arbitration would limit the tax sovereignty of the involved countries. Therefore, for a considerable period, international tax treaties have primarily employed the "Mutual Agreement Procedure" (MAP), which is administrative in nature, rather than other judicially binding procedures to resolve international tax disputes. The MAP stipulates that if a taxpayer believes that the actions of one or both of the contracting states result or will result in taxation not in accordance with the provisions of the tax treaty, the taxpayer can present the case to the competent authority of their country of residence. The competent authority should strive to resolve the issue, and if the objection is reasonable and cannot be resolved unilaterally, it will be settled by reaching an agreement with the competent authority of the other contracting state. This provision first appeared in Article 25 of the OECD Model Tax Convention on Income and on Capital (hereinafter referred to as the OECD Model) in 1977. The MAP clauses currently adopted by most countries are largely derived from this, which sets out the initiation method, competent authority, scope of application, binding effect, and negotiation procedures of MAP in four paragraphs. In 2008, the OECD added a fifth paragraph—mandatory arbitration—in the revised model. However, most countries, including China, did not adopt this paragraph when signing bilateral tax treaties. This reflects the concerns of many countries about the potential erosion of their tax sovereignty by mandatory arbitration and doubts about its practical effectiveness.

The MAP has unique advantages in resolving tax disputes. Firstly, this procedure is controlled by the tax authorities of both contracting states, fully respect-

ing the tax sovereignty of both parties. Secondly, the tax authorities of the contracting states can communicate directly without going through diplomatic channels. Thirdly, initiating the MAP does not require exhausting domestic remedies as a prerequisite. Fourthly, in practice, the MAP can resolve a large number of tax disputes. For example, by 2015, China had conducted more than 190 bilateral consultations, eliminating nearly 30 billion RMB of international double taxation for multinational enterprises. Notably, in 2015, the State Administration of Taxation conducted mutual consultations with countries along the Belt and Road such as India, Indonesia, and Tajikistan, reducing the overseas tax burden for Chinese enterprises by approximately 270 million RMB.

Regarding the inherent flaws of the MAP mechanism, they can be summarized as follows: Firstly, the MAP merely encourages the competent authorities of both parties to reach an agreement to eliminate double taxation, but it does not impose an obligation to reach a resolution (Taramountas, 2019). In practice, whether a mutual agreement can be achieved largely depends on the extent of the authority granted to the tax authorities by domestic law to make concessions. In reality, many countries are unwilling to grant their tax authorities sufficient discretionary power to negotiate with the tax authorities of another country to resolve tax disputes, especially in cases involving significant amounts of money. While this approach largely maintains the tax sovereignty of both countries, it also raises questions about the enforce-ability and finality of MAP resolutions. Furthermore, if a taxpayer is dissatisfied with the agreement reached by the tax authorities through the MAP, they can seek relief through domestic judicial procedures after receiving the MAP resolution. The tax authorities are also subject to the court's ruling, which may ultimately result in the inability to enforce the resolution reached through the MAP[1]. Secondly, the taxpayer's participation in the MAP is highly limited (Perrou, 2014). They only have the right to submit an application at the initiation stage of the procedure[2] and must ultimately accept or reject the agreement reached by the competent authorities through the MAP. During the negotiation process, taxpayers cannot participate according to their own needs, which may result in tax outcomes that fail to meet their demands (Pistone & de Goede, 2021). Additionally, it is difficult to prevent the competent authorities of both contracting states from potentially sacrificing individual case justice to balance their respective tax interests (Mooij, 2019). Thirdly, the efficiency of dispute resolution is low. The current MAP mechanism in bilateral tax treaties lacks clear deadlines for the negotiations between the competent authorities of the contracting states. In practice, this can lead to disputes being prolonged or even reaching an impasse. According to the OECD's 2022 statistics, the average duration for closing MAP cases in 2021 was 32 months for transfer pricing cases (35 months in 2020 and 31 months in 2019), and approximately 21 months for other cases (18.5 months in 2020). The aver-

[1]See UN MAP Guide, para. 71; OECD MEMAP, Sec. 4.1.

[2]See OECD Model: Commentary on Article 25 Paras. 31-35 (2008, 2010 and 2014).

age time to close cases has shown a trend of increasing year by year (OECD, 2024a). Additionally, data shows that in 2020, approximately 15% of the pending cases in the OECD had been awaiting resolution for over five years. Fourthly, the method of dispute resolution is singular. In the MAP procedures prescribed by the vast majority of bilateral tax treaties, the only way to resolve disputes is through mutual negotiations between the competent authorities of the contracting states, with no other means of dispute resolution available. Consequently, if negotiations fail to resolve the differences in opinions, the process can become stalled due to the impasse. Although Article 25 of the revised OECD Model in 2008 and the revised UN Model in 2011 introduced an arbitration mechanism, allowing unresolved disputes from negotiations to be decided by a third party, only a few bilateral tax treaties between developed countries have incorporated this mandatory arbitration procedure into their MAP clauses.

It is evident that in the traditional Mutual Agreement Procedure (MAP), although the tax authorities of the contracting states are required to initiate the mutual consultation process at the taxpayer's request, there is no obligation for both parties to reach a final resolution of the case. Additionally, the process is constrained by domestic judicial procedures, making it difficult to ensure certainty in dispute resolution. Moreover, due to the lack of specific timelines and progress requirements, the MAP often proves to be time-consuming and inefficient in practice. Even if the contracting states eventually reach a resolution after prolonged negotiations, taxpayers often suffer significant losses due to the lack of timely relief. Therefore, from the perspective of procedural certainty and enforce-ability, it is essential to explore more efficient methods for resolving international tax disputes.

3. The BEPS Tax Reform Has Not Changed the Inherent Flaws of the MAP Mechanism

Due to the joint initiation of the "Base Erosion and Profit Shifting" project (hereinafter referred to as the "BEPS Project") by the G20 and the OECD, the international tax system has undergone significant changes, and the risk of international tax disputes has consequently increased. In response, the OECD/G20 released the "Action 14 Final Report," which concertize the overall objective of Action 14, "Making Dispute Resolution Mechanisms More Effective," into 28 improvement measures, including 17 minimum standards and 11 best practices. The aim is to enhance the efficiency of resolving international tax disputes through the reform and improvement of the existing MAP mechanism, thereby minimizing the tax uncertainty and the risk of international double taxation in cross-border economic transactions. Unfortunately, the reform proposals put forward in Action 14 largely reaffirm the earlier work objectives of the OECD over the past decade and do not establish new rules.

Firstly, the BEPS tax reform has failed to overcome the fatal flaw in the current MAP mechanism regarding the certainty of dispute resolution—it cannot

ensure that tax disputes will be definitively resolved through the MAP process. The final report merely requires countries to clearly state their policy stance on whether to include mandatory arbitration procedures in the MAP mechanism of tax treaties, aiming to enhance the transparency of countries' policy positions on whether they agree to use arbitration to resolve pending disputes within the MAP mechanism (OECD, 2024b, 2024c). In Chapter 6 of the BEPS Multilateral Convention, the supplementary mandatory arbitration procedure, similar to the provision in paragraph 5 of Article 25 of the 2008 revised OECD Model, becomes a dispute resolution mechanism that the contracting parties can choose to apply at their discretion. Furthermore, contracting parties that agree to apply the arbitration mechanism stipulated in Chapter 6 (Articles 18 to 26) of the Convention can make various reservations regarding the degree and scope of arbitration, the range of disputes submitted to arbitration, and the applicable law for arbitration (OECD, 2024d). This reflects the differing positions and opinions among BEPS Inclusive Framework members on this issue. It also means that the efficient resolution of cross-border tax disputes cannot be made absolute but should instead serve the overall interests of countries in international tax cooperation.

Secondly, the BEPS tax reform does not set clear time limits for the contracting parties' tax authorities to reach an agreement on tax disputes, only seeking timeliness in the resolution of mutual agreement procedure (MAP) cases. In this regard, the minimum standards require members to provide sufficient resources for dispute resolution, ensure that the staff handling disputes have the authority to independently resolve cases, and strengthen communication and cooperation between tax authorities to resolve disputes promptly. Additionally, the Action 14 Final Report sets a goal of closing each case within an average of 24 months. Therefore, by neither introducing mandatory arbitration procedures nor specifying dispute resolution deadlines, but merely setting a target, the inefficiencies in dispute resolution remain unresolved (Zhu, 2021).

Finally, there is insufficient attention to the fairness of the agreements reached, with a unilateral focus on the efficiency of case handling. Because the resolution of cross-border tax disputes involves the distribution of tax benefits, the outcome of case handling reduces the taxable amount for the country making the tax decision (usually the source country of income or the capital-importing country) (Li, Bao, Hu et al., 2020). Therefore, the agreements reached through MAP not only correct the "non-compliant taxation" made by the tax authorities but also readjust the distribution of tax benefits between the countries involved in the case. Consequently, the fairness and reasonableness of the dispute resolution are crucial for both the taxpayers and the countries involved. Accordingly, any improvement to the cross-border tax dispute resolution mechanism should consider how to ensure that the mechanism produces fair results. However, on this issue, the Action 14 Final Report only proposes, as part of the best practices, the "Global Awareness Training Module" developed by

the Forum on Tax Administration. This module aims to cultivate global awareness among audit or assessment personnel involved in international taxation within BEPS Inclusive Framework member countries, ensuring that they fully consider the extraterritorial effects of their taxation actions when making tax decisions. Strictly speaking, this cultivation of "global awareness" merely helps tax authorities make more prudent taxation decisions, thereby reducing tax disputes, and lacks a direct connection to the fairness of the dispute resolution outcomes.

4. Analysis of the Causes of Inherent Flaws in the MAP Mechanism

The inherent flaws in the current MAP mechanism, such as the closed and singular nature of participant involvement and dispute resolution methods, as well as the lack of transparency in the dispute resolution process, largely stem from the inability of the designers of this procedural system (including those who later formulated the BEPS Action Plan reforms) to break free from the constraints of traditional international tax concepts. Traditional international tax concepts are rooted in the notion of state sovereignty that emerged during the development of the Westphalia nation-state, the relatively isolated and closed national economic foundations, and the prevalent simple international division of labor at that time. "In the Westphalia nation-state system, national interest supremacy is the basic principle guiding a nation's foreign relations, and the goals of international competition and cooperation are to maintain and promote national interests. Furthermore, competition for national interests is often viewed as a zero-sum game." (Qin & Wei, 2018). Under the influence of such concepts, the international tax principles formed in the early 20th century similarly held that, in formulating their international tax policies and conducting international tax coordination and cooperation, countries should use the preservation of their tax sovereignty and the maximization of their tax benefits in international tax distribution as the value standard and policy objective (Holmes, 2007). Therefore, the international tax relations arising from cross-border income are, in nature, the tax benefit distribution relationships between the taxpayer's country of residence and the country where the income originates. Therefore, the international tax relations arising from cross-border income are, in nature, the tax benefit distribution relationships between the taxpayer's country of residence and the country where the income originates. These relations can only be regulated and adjusted by the basic principles of international public law and the rules of international treaties (Rohatgi, 2005). The taxation of cross-border income earned by taxpayers within the tax jurisdiction of a sovereign state is, in nature, a domestic tax distribution relationship between the government of that state and its taxpayers. Consequently, it is governed and constrained solely by the domestic tax laws reflecting the unilateral will of that state. International law, which adjusts the rights and obligations between sovereign states, and domestic law,

which regulates the power and obligations between a state and its subjects under its jurisdiction, are two distinct legal systems that do not intersect and are clearly delineated.

Under the influence of the traditional international tax concepts mentioned above, the early designers of the OECD Model and the UN Model narrowly understood the international tax relations arising from cross-border income merely as the distribution of tax benefits between the contracting states of a tax treaty, without considering the taxpayers who actually earn cross-border income through cross-border investment and business activities. Consequently, they naturally denied taxpayers the status of participants in the Mutual Agreement Procedure (MAP), which addresses the mechanism for resolving disputes concerning the application of tax treaties. They even excluded the involvement of other governmental departments of the contracting states (such as the Ministry of Foreign Affairs and the Ministry of Commerce) and limited the participants in the MAP to the competent tax authorities of both contracting states, who could represent their respective governments in tax matters, thus creating a closed and singular scope of participation. Similarly, in terms of dispute resolution, even when the dispute arises from a taxpayer's complaint about the tax authority's actions of a contracting state potentially violating the provisions of a tax treaty, the issue of interpreting and applying the disputed provisions is related to the allocation of international tax benefits. Therefore, it is considered the only appropriate option for the tax authorities, who previously represented their respective governments in the negotiation and signing of the bilateral tax treaty, to handle the interpretation and application disputes of the treaty provisions through mutual consultation and negotiation. If the dispute were to be resolved by an independent third party, there would be a risk of misinterpreting or deviating from the original intentions agreed upon by both contracting states during the negotiation and signing of the treaty. This is also a key reason why the OECD Model has historically not introduced other dispute resolution methods in the MAP process. Even with the addition of a mandatory arbitration mechanism through the introduction of paragraph 5 in Article 25 of the revised and updated 2008 Model, the arbitration decision must still be presented in the form of a new mutual agreement reached by the competent authorities of both contracting states. Moreover, the competent authorities of both parties are allowed to exclude the enforcement of the arbitration decision by reaching a different mutual agreement (OECD, 2024e). Therefore, it is deemed inappropriate to disclose to the parties involved how the relevant competent tax authorities conduct negotiations and make compromises to reach a new agreement. This approach aims to protect the tax interests of the respective countries as much as possible.

The current international tax coordination achieved through bilateral tax treaties is a limited form of international tax coordination that aims to maintain the independence and autonomy of the contracting states' domestic tax systems as much as possible. It has not established uniform international standards and

rules for many substantive or procedural matters related to the taxation of cross-border income. Moreover, for many important terms used in tax treaty rules, the definitions and scope are still allowed to be interpreted and determined by the contracting states' respective domestic income tax laws. As is well known, due to the significant differences between the domestic income tax systems of the contracting states, the application of the domestic income tax laws of one contracting state to calculate the tax on cross-border income, which is subject to the taxing rights allocation rules of the tax treaty, often leads to disputes from the residents of the other contracting state. These international tax disputes arise from the differing domestic tax systems of the contracting states. Since the tax authorities of both contracting states must enforce their respective domestic tax laws based on the "principle of legality in taxation," they often find it difficult to reach an agreement to resolve these disputes, even through the Mutual Agreement Procedure (MAP) mechanism. This is often a primary reason for the prolonged and unresolved mutual negotiations in practice and the low efficiency in dispute resolution.

5. China's New Concepts and Proposals for International Tax Dispute Resolution

To improve the procedural efficiency and enforce-ability of international tax dispute resolution mechanisms, major world economies and international organizations have carried out varying degrees of reform by drawing on arbitration procedures. The United States has focused on introducing tax arbitration procedures, achieving the application of mandatory tax arbitration within its tax treaty network. However, the effective implementation of this mechanism relies on bilateral cooperation within the U.S.-centrism tax treaty network, which can only be promoted through the U.S.'s leading position in international economic cooperation. For other countries and international organizations, this dispute resolution mechanism, which mainly depends on the advantages of a central country and is relatively binding, does not have general referential value.

In the 1990s, the European Union also made similar attempts but did not achieve significant results in practice. Consequently, it supplemented the tax arbitration with more diverse resolution procedures, creating a more flexible quasi-arbitration mechanism. The OECD's global tax reform indicatively shifted dispute resolution from bilateral consultations to multilateral coordination, further enhancing the adaptability of international tax rules in the context of economic globalization and guiding the international tax dispute resolution mechanism towards a more efficient and powerful multilateral direction. However, the current international tax dispute resolution system is still a patchwork of various progressive solutions centered around the Mutual Agreement Procedure (MAP). These reform measures have not addressed the root causes of the inherent issues within the existing MAP mechanism. Under the current situation of underdeveloped international tax coordination, mandatory arbitration is not necessarily

the best means to resolve international tax disputes.

5.1. China Proposes a New Approach to International Tax Relations

As economic globalization deepens, the Western-dominated international governance mechanisms are increasingly failing to address various global challenges. In response, China's President has proposed an unprecedented strategic and intellectual global governance solution: promoting the construction of a community with a shared future for mankind. This concept has rich connotations, with core elements including diversity and openness, respect and inclusiveness, consultation and co-construction, mutual benefit and win-win results, and cooperative governance. These core elements should also form the foundational ideas guiding countries in developing new approaches to international tax relations.

Firstly, the new approach to international tax relations, based on the concept of a community with a shared future for mankind, emphasizes the goal of achieving mutual benefit and win-win results in international tax relations, rather than adhering to the traditional value of prioritizing national tax interests and the one-sided pursuit of maximizing domestic tax benefits in international tax relations. In terms of international tax coordination and cooperation, it advocates that countries, when coordinating tax jurisdiction conflicts through international tax treaties, should not only focus on achieving formal equality in the distribution of tax benefits from a limited "pie" of cross-border income but should also consider the actual fairness of the distribution outcomes. In particular, attention should be paid to how international tax coordination and cooperation can promote inclusive economic growth for all parties involved, achieving mutual benefits for both contracting states and multinational taxpayers by expanding the "pie". Otherwise, it would not only contravene the objective laws and trends of current global economic integration but also ultimately be detrimental to the country's fiscal revenue and economic development.

Secondly, the new approach to international tax relations should not be merely viewed as a tax benefit distribution relationship between the governments of two taxing countries. Instead, it should fundamentally be restored to a tax benefit distribution relationship between two or more taxing countries and multinational taxpayers. The tax benefit distribution relationship between two taxing countries concerning cross-border income is reflected and manifested through their respective tax collection and distribution relationships with multinational taxpayers' cross-border income. Whether the two taxing countries are coordinating their tax jurisdiction conflicts through their respective unilateral domestic tax law systems or bilateral tax treaties, their ultimate goal is to eliminate double taxation on cross-border income, thereby enabling multinational taxpayers to receive a reasonable amount of after-tax profit. Therefore, understanding international tax relations solely as a tax benefit distribution relationship between

two taxing countries while excluding the tax benefit distribution relationship between the taxing countries and multinational taxpayers from the scope of international tax relations is an artificial division of what is essentially an integrated relationship encompassing both levels of benefit distribution. This perspective fails to accurately reflect the true nature of international tax relations and hinders the pursuit of correct solutions to the complex legal issues in international taxation.

Lastly, national tax sovereignty is a relative concept. When a country decides and exercises its tax jurisdiction based on its tax sovereignty, it should respect the tax sovereignty of other countries. In terms of constraining and limiting tax jurisdiction through international treaty legislation, it should respect the differences between domestic tax systems of different countries. For disputes arising from international double taxation or insufficient taxation due to differences in the domestic tax systems of contracting states, it is inappropriate to simply resort to zero-sum and confrontational methods such as independent third-party arbitration after the fact. Instead, based on strengthening mutual communication, understanding, and recognizing the differences in tax systems, the disputes should be resolved flexibly and amicably by one or both contracting states on a case-by-case basis, guided by the concept of a community of shared tax interests.

5.2. China's Proposed Solutions to Overcome the Drawbacks of MAP

1) Overcoming the Uncertainty of MAP Mechanism for Dispute Resolution Requires a New Perspective on Interests and Justice

Both contracting parties must clearly understand that the fundamental purpose of signing bilateral tax treaties for international tax coordination and cooperation is to avoid and eliminate international double taxation on taxpayers' cross-border income (of course, this also includes preventing the unfair outcome of international double non-taxation), rather than competing for a larger share of tax benefits on taxpayers' cross-border income. In cases where international double taxation arises due to differences in the domestic tax systems of the contracting parties, if the tax authorities of both parties insist on applying their domestic tax regulations without considering the unfair issue of double taxation on taxpayers' cross-border income caused by these differences, such a legal application result not only contradicts the purpose of bilateral tax treaties but also represents a shortsighted tax policy that can severely discourage taxpayers from engaging in cross-border investment and business activities. This could lead to a reduction or even disappearance of the cross-border income "cake" between the contracting parties, ultimately harming the tax interests of both parties in the long run. Resolving the issue of international double taxation encountered by taxpayers through the MAP mechanism ensures that taxpayers can achieve reasonable after-tax profit returns from cross-border investment and business activities, thereby promoting continuous and expanded cross-border investment

and trade activities between the two countries. On the basis of an increased cross-border income "cake", the fiscal tax revenue needs of the contracting parties can also be met, ultimately achieving a win-win outcome for all stakeholders.

Only on the basis of achieving the above shift in values and perspectives can the contracting parties of a bilateral tax treaty commit to ensuring the resolution of international double taxation issues encountered by taxpayers through the MAP mechanism. They can then authorize their respective tax authorities with flexible enforcement powers during mutual consultations and negotiations on specific cases, thereby coordinating the resolution of international double taxation issues caused by differences in domestic tax systems of the contracting parties. Both parties should correctly recognize that fairness and justice in the application of the law in specific cases are the ultimate goals pursued by the application of law.

2) Overcoming the Unilateral and Closed Nature of the Current MAP Mechanism Participants

Based on the aforementioned concepts of openness, transparency, and diverse governance, it is necessary to consider granting taxpayers the right to participate in the consultation process when reforming the unilateral and closed nature of the current MAP mechanism participants. As stakeholders in MAP dispute issues, allowing taxpayers to participate in consultations not only helps both competent authorities comprehensively and thoroughly ascertain the facts of the case but also enables them to understand the taxpayer's position, thereby facilitating quicker and better resolution of issues. Exceptions would include cases unsuitable for public disclosure or where parties voluntarily waive participation. Even in situations where both competent authorities unanimously believe taxpayer participation is inappropriate, taxpayers should still be allowed to submit written opinions. In practice, the most contentious issues currently involve transfer pricing cases. In such cases, it generally requires communication and negotiation between tax authorities and taxpayers, and mutual compromises to determine the fair market price (profit) for intra-group transactions. Therefore, it is even more crucial to consider involving taxpayers in consultations. This facilitates mutual communication and understanding among all parties, aiding in achieving dispute resolution outcomes agreeable to both competent authorities and acceptable to taxpayers.

To alleviate the responsibility pressure on the competent tax authorities of the contracting parties for making concessions and compromises in individual case negotiations, it is also possible to involve representatives from the trade, commerce, and investment departments of one or both contracting governments when handling specific cases from a more macro-policy perspective. This is because resolving international tax disputes is highly policy-oriented, especially when dealing with tax disputes involving major infrastructure investment projects, which often impact the trade and economic cooperation relationship between the contracting parties. Therefore, it may be conducted in the form of a

joint committee composed of representatives from both contracting parties (OECD, 2024e). We can also invite other countries to participate as observers in the consultations. Our ultimate goal is to establish an open, diverse, and multi-faceted dispute resolution mechanism by introducing various dispute resolution methods. The cases raised not only involve the determination of legal facts but also disputes over the interpretation or application of treaty rules. More often, they arise due to differences in the domestic tax systems of the contracting parties and the lack of unified coordination provisions in tax treaties. Relying solely on bilateral negotiations between tax authorities to resolve various types of international tax disputes is clearly insufficient to meet the need for timely and effective resolution of complex and diverse international tax disputes. In accordance with the modern tax governance concepts of mutual respect, cooperation, and multi-party governance, a combination of dispute resolution methods such as negotiation, mediation, and third-party expert technical consultation should be employed. This approach fully mobilizes the initiative of stakeholders in resolving disputes. This not only alleviates the reality that many developing countries lack professional knowledge and experience in international taxation, have insufficient international tax administration capabilities, and face a shortage of talent, but also ensures higher quality resolution of issues.

3) Greater Emphasis Should Be Placed on Building Dispute Prevention Mechanisms and the Improvement of Tax Administration Capabilities

The increasing number of unresolved cases and the continuous growth in the number of cases highlight that solely relying on the MAP as an ex-post remedy is no longer sufficient to meet the need for promptly resolving disputes. This is especially true in the current environment where significant differences in domestic tax systems and increasing uncertainty in the application of international tax rules exist. Reshaping the MAP mechanism should not only focus on issues arising after the procedure is initiated. To a certain extent, dispute prevention mechanisms can play a more positive role.

The OECD's International Compliance and Assurance Program (ICAP) can serve as a useful reference. Engaging in such tax authority and taxpayer cooperation through the MAP process for international tax compliance consultations and negotiations can effectively prevent and reduce the occurrence of international tax disputes if cooperation compliance agreements are reached among the parties. Even if an agreement is not reached, the prior communication and consultation among the relevant parties about each other's tax regulations and perspectives on tax issues can expedite the negotiation and resolution process if a dispute arises and the MAP mechanism is initiated.

To improve tax administration capabilities, Tax Efficient Supply Chain Management (TESCM) can be adopted. TESCM is an emerging concept that integrates tax optimization into supply chain management. By conducting tax planning in various stages such as supply chain design, procurement, production, distribution, and sales, it aims to reduce tax burdens and increase corporate

profits (Yuan and Ma, 2018). The main characteristics of TESCM include: a) Cross-border coordination: TESCM emphasizes the coordination of tax and supply chain management for multinational enterprises on a global scale, enabling tax optimization across different tax jurisdictions. b) Integration of tax optimization and supply chain optimization: TESCM is not merely simple tax planning; it combines tax optimization with overall supply chain optimization to ensure that tax burdens are reduced without affecting, or even enhancing, supply chain efficiency. c) Dynamic adjustment: TESCM requires dynamic adjustments based on changes in tax policies and market environments, ensuring that enterprises can achieve optimal tax and supply chain management at all times. By formulating reasonable transfer pricing strategies through TESCM, ensuring that transaction prices between related companies comply with market principles, it can reduce transfer pricing disputes at their source. Additionally, TESCM advocates for tax transparency among enterprises in different countries, encouraging timely disclosure and communication of tax information, thereby reducing tax authorities' suspicion of corporate tax practices and lowering the risk of disputes. Finally, TESCM emphasizes tax compliance management for enterprises in different tax jurisdictions. By strictly adhering to local tax laws and regulations, it helps reduce disputes arising from tax violations.

4) Enhancing Coordination between Bilateral Tax Treaties and Domestic Tax Systems

Under the influence of traditional international tax concepts, international tax treaty rules and domestic tax systems usually belong to two unrelated legal systems. Therefore, the coordination of bilateral tax treaties with domestic tax systems is extremely limited. Moreover, countries generally do not want international tax coordination and cooperation, aimed at eliminating international double taxation for taxpayers, to excessively impact the independence and autonomy of their domestic tax administration systems. This often leads to the situation where both international and domestic tax dispute resolution mechanisms can be applied concurrently.

Article 16, Paragraph 1 of the OECD Multilateral Convention states: "A person may submit a case to the competent authority of the Contracting Jurisdiction of which it is a resident irrespective of the remedies provided by the domestic law of those Contracting Jurisdictions." This means that even if a case has entered the administrative review process, the MAP can still be directly initiated in compliance with the Multilateral Convention. Against this backdrop, if taxpayers choose to apply the MAP mechanism, a series of issues may arise regarding the coordination between the domestic tax administration systems of the contracting states and the MAP mechanism under the bilateral tax treaties. These issues include how to calculate and determine the late payment penalties or interest on taxes, the statute of limitations for tax collection, and whether the implementation of agreements reached by the tax authorities of both parties is constrained by the domestic tax laws of the contracting states. If the domestic

tax administration systems of the contracting states lack clear or reasonable provisions, it will affect the willingness of taxpayers to apply for the MAP mechanism and hinder the efficiency of the MAP mechanism.

To address this, Action 14 of the BEPS project has made relevant recommendations to the domestic tax administration systems of contracting states. It requires countries to incorporate the recommendations of Action 14 into their domestic tax administration system reforms as much as possible, establishing a domestic tax administration mechanism that effectively interfaces with the MAP mechanism under bilateral tax treaties. This provides clear guidance and convenient domestic procedures for taxpayers choosing to apply the MAP mechanism and ensures that agreements reached through mutual consultation can be enforced at the domestic level. Efforts should be made to break through the influence of traditional international tax concepts and to recognize correctly that the tax treaty rules signed by contracting states and the relevant domestic tax systems are a unified legal system that cooperate, complement, and interact with each other. The lack of coordination between the two will severely restrict the realization of the purposes and functions of the tax treaties.

6. Conclusion

In the process of economic globalization, the demand for fair distribution of tax benefits among different countries, especially developing countries, has increased. Therefore, it is necessary for relevant countries and international organizations to consider these countries' concerns more thoroughly when updating the rules for international tax dispute resolution mechanisms. Additionally, economic globalization has led to increasingly close economic ties between countries, necessitating the continuous improvement of tax administration rules and the enhancement of dispute resolution efficiency. This will make the rules between nations and international organizations more coordinated and consistent, thereby meeting the operational needs of multinational enterprises. Furthermore, to better address the tax challenges posed by emerging economic forms such as the digital economy, it is essential to incorporate more provisions and mechanisms to tackle these new issues when updating the relevant rules.

Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

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