

BRICS and Developing Countries Legal Experts Forum

(IVth BRICS Legal Forum)

IIIrd Coordination Committee Meeting

of the BRICS Law Institute

Organizes:

Russian Association of Legal Experts

BRICS Law Institute

International Bureau of Fiscal Documentation

Ural State Law University

**Expert Group for Legal Support of Inter-Governmental Partnership
and Integration in the Sphere of Economy, Finance, Taxation and Customs
Euro-Asian Law Congress, 11th Session, 7 – 10 June 2017**

Timetable

6 June 2017 – meetings of the Organizational Committee of the 11th Session of the Euro-Asian Law Congress;

7 June 2017 – arrival of the Experts; preparatory meeting of the Experts on BRICS law;

8 – 9 June 2017 – BRICS and Developing Countries Legal Experts Forum (IVth BRICS Legal Forum) and IIIrd Coordination Committee Meeting of the BRICS Law Institute;

10 (11) June 2017 – Cultural program and departure of participants of the Congress.

The General Topic of the Session:

«Harmonization of the economic interests of Developed and Developing Countries – the role of BRICS in the forming of the New Legal Order»

I. General Subtopics

- 1.1.** WTO Law and Alternative Mechanisms for the Support of Sustainable Economic Development and Settlement of Economic Disputes in the Modern World;
- 1.2.** Economic Integration of the States with Different Political Systems as an Instrument for Harmonizing Political Disparities and Prevention of Creditability Gap;
- 1.3.** Legal Aspects of the Cooperation of BRICS Countries in the Sphere of Economy, Finance and Taxation: Prospects for the Elaboration of Multilateral International Conventions and for the Development of International Mechanisms of Dispute Settlement (e.g. BEPS Action Plan, Action 14 – 15);
- 1.4.** Economic Integration of the States and the Legal Issues of the Economic Development of Business Clusters (Special Tax Zones).

Moderators and Participants from the Russian Side and Independent Experts:

Yakovlev Veniamin Fedorovich, Cochairman of the Russian Association of Legal Experts, Chairman of the Academic Committee of the BRICS Law Institute, Legal Adviser of the President of the Russian Federation, Professor;

Krashennikov Pavel Vladimirovich, Cochairman of the Russian Association of Legal Experts, Head of the Committee of the Russian Parliament (State Duma), Professor;

Perevalov Victor Dmitriyevich, President of the Ural State Law University, Member of the Presidium of the Russian Association of Legal Experts, Professor;

Gracheva Yelena Yuryevna, Moscow State Law University, Professor, Vice-Rector, Member of the Highest Attestation Committee for the Russian Judicature;

Vinnitskiy Danil Vladimirovich, Executive Director of the BRICS Law Institute, Professor of the Ural State Law University;

Sheveleva Natalya Alexandrovna, Saint-Petersburg State University, Professor, Member of the Highest Attestation Committee for the Russian Judicature;

Pasquale Pistone, Academic Chairman of the International Bureau of Fiscal Documentation, Professor of Vienna University of Business Administration and Associate Professor of Salerno University;

Tolstopyatenko Gennady Petrovich, Dean of the Law Faculty of the MGIMO University (State Institute of International Relations), the RF Ministry of Foreign Affairs, Professor;

Ivlieva Marina Fedorovna, Moscow State University, Assistant Professor, Partner of the Legal Firm “PGP”.

II. The New Development Bank (Bank of BRICS) and Its Role in the Forming of the New Legal Order

- 2.1.** The New Development Bank (Bank of BRICS) and Its Programs: Internal Projects vs. External Projects?
- 2.2.** The New Development Bank (Bank of BRICS) and Its Procedures: International vs. Complex (International and Domestic) Regulations?
- 2.3.** Conclusive Remarks and Proposals;

III. Economic Integration of the States and the Legal Issues of the Economic Development of Business Clusters (Special Tax Zones)

3.1. Basic Questions

- 3.1.1.** *Special economic / tax zones: types and legal definition in domestic legislation;*
- 3.1.2.** *Special economic / tax zones and Bilateral investment and Tax treaties;*
- 3.1.3.** *Special economic / tax zones and BEPS;*

3.2. Special Tax Zones in BRICS and Developing Countries

(In cooperation with the IBFD)

- 3.2.1.** *What is the definition for special tax zone (STZ) in your country? What is the relationship between the concept of tax haven and STZ? What is the economic goal of the STZ regulations? What is the current STZ time frame, if any?*
- 3.2.2.** *Are there any constitutional or other domestic limitations applicable on granting tax benefits to certain taxpayers? What types of taxes are affected in STZs?*
- 3.2.3.** *What is the content of STZ tax rules and tax incentives, and what are the requirements? What is the role of permanent establishments and controlled foreign companies within the STZ? Sanctions when taxpayers do not (anymore) fulfill the requirements?*
- 3.2.4.** *- Is there any ring fencing in relation to business activities between domestic STZ and non-STZ companies?*

3.3. Principles of international tax law, Procedural rules and other Tax Treaty Law provisions in connection of STZs

- 3.3.1.** *Art. 24 of the OECD Model Convention / the UN Model Convention – Principle of Non-Discrimination and other principles of International Tax Law;*
- 3.3.2.** *Art. 9 of the OECD Model Convention / the UN Model Convention – Transfer Pricing / Formulary Apportionment;*
- 3.3.3.** *Art. 23 of the OECD Model Convention / the UN Model Convention – Methods of Avoidance of Double Taxation (in particular, Tax Sparing Credit and Procedural Aspects);*
- 3.3.4.** *Art. 26 of the OECD Model Convention / the UN Model Convention – Exchange of Information / Bank Secrecy;*
- 3.3.5.** *Art. 27 of the OECD Model Convention / the UN Model Convention – Mutual Agreement Procedure.*

IV. Dispute Resolution in International Economic and Tax Law and Mediation

(In cooperation with the IBFD)

4.1. - Partners are capable of dealing with international tax disputes (International: between states)

4.1.1. - Are there any procedures with other states, besides the Mutual agreement procedure (MAP) in tax treaties, to deal with international tax disputes without the interference of a third person?

4.1.2. - Are these settlements enforceable on the taxpayer/is it possible for taxpayers to rely on these settlements and to what extent?

4.2. - What is available in domestic situations (country reports)

Comparative study about mediation in domestic tax law between taxpayers and tax authorities:

4.2.1. - Is mediation offered in national tax disputes between taxpayers and tax authorities? If not, are there any (legal) boundaries to prohibit the implementation of mediation? At that stage is tax mediation offered? The examination stage, objection stage (appeal at the tax authorities) and/or appeals stage (appeal at the court) or in a complaint procedures against the behavior of tax authorities (ombudsman)?

4.2.2. What is the legal framework for mediation in domestic tax cases? Is mediation enforceable (mandatory or voluntary)? What are the case requirements for mediation and what kind of disputes does mediation solve (income tax, treatment of taxpayers, etc.)?

4.2.3. What kinds of techniques may be used by the mediator? E.g. narrative mediation, facilitative mediation, etc. Is mediation confidential, what is the relationship with the confidentiality provisions in tax law? If not, why is mediation transparent? Who may act as a mediator (tax officer, commercial mediator, ombudsman, separate division within the tax authorities)?

4.2.4. Is the settlement agreement enforceable? If yes, how is it enforceable (via contract law, tax law provisions)?

ROUND TABLE: “Soft” Law and “Hard” Law as Instruments for the Improving of the Global Legal Order: Selected Examples

5.1. - International Private Law and International Tax Law: the Role of Soft Law (a topic with the elements of the theoretical analysis);

5.2. - Legal Regimes for Cross-Border Transportation (in particular, via electric main, gas main/pipeline, oil pipeline, etc.) in BRICS and Developing Countries: Private Law and Public Law Aspects of Regulation;

5.3. - Legal Regimes for Cross-Border Bankruptcy in BRICS and Developing Countries: Private Law and Public Law Aspects of Regulation.