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HOW FOREIGN TAX CHANGES AFFECT U.S. BUSINESSES AND THE PROSPECTS FOR TAX REFORM

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P R O C E E D I N G S

MR. GALE: Good afternoon. I'm Bill Gale. I'd like to welcome you to the Brookings Institution and this tax policy center event. We begin by asking the eternal question how is this event different from all other events. In all other events we talk about U.S. Tax Policy and what it means for the country.

In this event we'll be talking about tax policy in other countries and of course what it means for the United States. Also this event is the first annual Donald C. Lubick symposium at the Tax Policy Center and I wanted to say a few words about that. We are honored to have Don in attendance this afternoon here. Don is here with his wife Susan his daughters Carolina and Lisa, Lisa's husband David, Don also has a son Jonathan and many grandchildren so among Don's many attributes as he's help solve the Social Security Problem.

We organized this symposium series in honor of Don and his many contributions to public policy. Don was tax legislative council in the treasury in the Kennedy and Johnson administrations. He was assistant secretary for Tax Policy in the Carter administration and then again in the 1990's in the Clinton administration. He headed the tax advisory program for Central and Eastern Europe and the former Soviet Union from 1994 to 1996 which could not have been an easy job. He served on the transition team on the Obama administration in 2008. In recognition of all these successes Don received Treasury Exceptional Service Award in 1964, the Alexander Hamilton Award in 1980 and the Treasury Medal in 1999. You get the sense that they started making up titles to give to him for his unselfish dedication to public service spanning four decades. These are big awards for those of you who are not tax cognizant. These are big deals and they speak very highly of Don's ability and savvy and determination.

When he was not in the Federal Government Don was a managing partner with a Buffalo based law firm. He was a senior fellow of Harvard Law School International Tax Program. He co-authored a volume which I think has the greatest title in all of public finance, Basic World Tax Code and Commentary, A Template for Tax Reformers Around the World. He advised the City of Buffalo and the State of New York among others on tax policy matters. He has chaired the American Bar Association's Committee on domestic relation tax issues. That sounds like fun. He has taught at the University of

Buffalo and American University. He is a graduate of the University of Buffalo and Harvard Law School, a member of Phi Beta Kappa. He served in the U.S. Air Force. On top of that let me add that Don is one of the nicest people you will ever meet.

So Don we congratulate you on your extraordinary record speaking on behalf of Lem Burman and the entire tax policy center when we say we are honored to establish the Donald C. Lubick Symposium in your honor.

Thank you. Today is the first such symposium. Before I turn to the substance I want to note these events don't just happen they require the dedication and patience and savvy of many people to set them up. I want to thank two people in particular; Blake Carene at the Urban Institute basically does everything for the Tax Policy Center and Rebeka Sundin here at the Brookings Institute who put together all the logistics for this afternoon. I can guarantee you without their tireless work and patience none of this would have happened.

In terms of the substance changes in business taxes by other major economies are having important effects on the United States. Everyone knows that are statutory tax rates are much higher than other countries. Everyone knows that most other countries exempt most foreign source income while the U.S. continues to tax repatriated earnings. In newer developments many countries are offering new benefits for their multinationals including patent boxes that allow special tax rates for income for research and innovation. At the same time the OECD BEPS Initiative is intended to limit the ways in which countries can shift their funds out of high tax countries and into low tax countries. But American multinationals feel that BEPS is aimed at them. In the wake of BEPS some countries are now enacting new diverted profit taxes that target multinationals.

We'll talk about all these issues this afternoon. Basically we're focusing on what happens in other countries, how that effects American workers, American consumers and American businesses.

Our keynote speaker is Bob Stack. We are delighted to have him here. You have a bio in your packet. Bob is the deputy assistant secretary for International Tax Affairs in the Office of Tax Policy at the Department of the Treasury. In that capacity he is responsible among other things for the conduct of legal and economic aspects of tax policy including having the honor and the burden or representing the United States in multilateral interactions with other countries.

Before joining the government Mr. Stack served as head of international tax at the law firm of Ivans, Phillip and Barker. He graduated from Georgetown Law in 1984 where he was editor and chief of the Georgetown Law Journal. He also clerked at the Supreme Court. Let me turn it over to Bob, we're delighted to have you here and we look forward to your comments.

MR. STACK: Thank you very much. I just wanted to begin by saying that I have not had the pleasure before today to meet Mr. Lubick but I would like to say that the outpouring of affection and support that we see here today at the beginning of this ceremony demonstrates the great affection you've been held in and the fact that you've really been a giant in tax policy and I want to express my appreciation for that.

I fully appreciate how instrumental Don was in creating an Office of Tax Policy at the Treasury with excellence and integrity as the hallmarks of that office, an effort that began with your participation 50 or so years ago and it is something that as a current person at the Treasury Department I wanted to begin my remarks today by expressing my deep appreciation for the contributions you have made and for the way I have benefited from them in ways seen and unseen so thank you very much.

When I began to prepare today's speech I noted that figuring it was on foreign tax law changes and their impact on U.S. tax policy I should speak on the topic assigned because that is something I've learned to do. As Bill just mentioned I checked out the setup on the Brookings website and that Bill just quoted from and I worried that my speech had been obsolete. As the answers are staring us plainly in the face here is what the website says. Changes in the taxation of business income by our major trading partners are creating shock waves in the United States. Corporate tax rates in other countries have been falling while the U.S. federal rate has remained at 35 percent since 1993. The combined state, federal corporate tax rate in the U.S. is now the highest in the OECD. Most other countries exempt most foreign source income of their multinational tax while the U.S. continues to tax repatriated profits. Many other countries are providing new benefits for their multinationals including patent boxes that allow special tax rates for income from research and innovation.

While faced with these table setting observations how could any self respecting tax policy maker do otherwise then readily acknowledge that we just join the race to the bottom dramatically lower our corporate rates, make one with those countries exempting foreign income from further domestic tax and for good measure throw in a patent or innovation box to further lower the rates of certain tax payers. What more was there to say?

I was fumbling about for what I could possibly add to this debate in which one side seemed to command the unimpeachable intellectual and economic high ground. But as I recall having been the parent of teenage sons it hit me. I heard these arguments before. Mom, Dad everyone else's parents are letting them do such and such you should too. Failure to acquiesce to whatever it was we were being asked to go along with always was purported to result in the diarist consequences.

Now I don't mean to make light of the need for business tax reform. The president has put forth a very robust revenue neutral business tax reform that the administration is proud of. But I do hope that as the debate unfolds it will address important questions and be more of a cry to join the race to the bottom. But as important I want to talk about the international context in which this debate is unfolding and how the context should inform our discussions. On the specifics the president has insisted on business tax reform that is revenue neutral in the budget window and over the longer term by lowering the rate and broadening the base. This seems reasonable in light of the fact that we face mid to long term fiscal challenges and while we agree with the need to bring our statutory rate more in line with the rest of the world the responsible thing to do will be to make business tax changes taking into account our overall fiscal restraints.

Too often it seems to me a major impediment to business tax reform arises because there are those who desire revenue losing business tax reform. Without making the case for how we are as a country to make the numbers add up to produce fiscally responsible tax policy. This argument for revenue losing business tax reform is often advanced in urgent tones by those who insist the survival of American business depends on our joining the race to the bottom in corporate rates and heaping on other tax breaks on top of that while ignoring related issues such as the current ratio of corporate tax to GDP as compared to historic norms or for that matter the overall ratio of tax revenues to GDP compared to historic norms. The issue of whether such tax cuts favor capital or labor or even whether other revenue sources might be available to offset such losses.

There are other weedy questions too. In a territorial system won't there be a need for strong base protection measures? In such a system should U.S. parented multinationals be able to enjoy current deductions on interest expense that produces exempt foreign income.

And finally a whole potential topic unto itself what should our tax rules on inbound investment look like and how should we ensure a level playing field between companies investing here and those already here and competing with them. All of these questions arise in a politically challenging environment. Marty Sullivan pointed out in tax analyst recently a gallapole result indicating that on average over the last decade seven out of ten Americans believed American corporation were not paying their fair share of taxes.

Similarly according to Marty a 2015 research poll found that 64 percent of Americans are bothered a lot by the belief that corporations are not paying their fair share of taxes. And indeed the business tax reform debate is also taking place in an environment in which writers on tax policy have wondered whether the political steam has been let out of the drive for business tax reform in light of issues that affect every day Americans such as minimal average wage growth.

I suspect in the panel that follows and in the weeks and months ahead we'll continue to debate those issues. I would only want to add today that I do not buy into the notion that the U.S. must willy nilly do what everyone else is doing because we have our own unique circumstances and fiscal challenges that need to be taken into account as we do the responsible thing for our country.

However as the nation’s top tax diplomat such as it is I think my value today is really to step back and share a couple of observations about the global tax landscape that we face as we consider international tax reform. I have two observations I'd like to expand on.

First there is an urgent need to create an international tax system that permits greater certainty and stability for investment in the system so that businesses can get back to doing what they do best running great businesses.

Second I want to elaborate on what I recently described as a greater need for business involvement in the global tax debate beyond the halls of the U.S. Congress and the U.S. Treasury.

I'd like to begin with some very high level observations based on over three years of representing the United States Treasury Department in all manner of engagement with foreign governments on the subject of taxation covering the gamut. The G20 OECD base erosion and profit shifting project all manner of engagement on tax issues and the G7, the G8, the G20, inserting U.S.

interest in the ongoing state aid investigations by the European Commission and dealing bilaterally with our important trading partners on a regular basis on all manner of tax issues.

Based on my experience it is clear that the greatest contributors to the unstable tax environment we see in the world have been one, the ability of U.S. multinationals to dramatically reduce their world wide effective tax rates as reported to investors by permanently investing sums off shore. Two the so called mobility of IP income and capital and three and these are all related, the role of tax havens however defined as players in the international tax system. Let me discuss each in turn.

I don't think it is open to debate that the ability of U.S. multinationals to defer income has been a dramatic contributor to global tax instability. I need to point no further then the EU state aid investigations where it is clear to me at least that if sums that were deferred from U.S. taxed had been taxed somewhere including in the U.S. these cases may never have been brought. But if one needs more proof look only to the points accentuated in places like the permanent subcommittee on investigation hearings in the U.S. Senate. The Hodge hearings in public accounts committee of the UK parliament as well as those held before the EU parliament and the Australian Senate.

These all focus on the very low rates of tax that are achievable whether abroad or in individual countries by multinationals and it is this effect that has caused a great deal of outrage in the international environment. These effective rates can be gleaned from financial statements and other sources and can be achieved by multinationals through techniques widely available to them. Countries around the world in times of austerity pounced on these deferred earnings which the rest of the world believes will never be taxed in the U.S. and have sought to write the rules in such a way as to take what they view as their fair share of this so called stateless income.

But deferral alone of course does not produce low effective rates. The mobility of intellectual property income and capital that is the relative ease with which multinationals can move these assets to favorable tax jurisdictions aided by U.S. car sharing and the check the box rules has been a major contributor to the ability of amines to achieve low effective rates which has promoted instability in the tax system by feeding the notion that amines and in particular U.S. amines are not paying their fair share. Of course none of this instability would have been possible without the presence of tax havens however defined. For present purposes it should suffice to say that large disparities and income tax rates whether based purely on the location of the income or by qualifying for special regime will inevitably drive behavior to take advantage of the arbitrage possibility. A goal of the BEPS project simply put was to have countries that write the rules write them in such a way as to minimize income shifting into low and no tax jurisdictions as opposed for example for doing such impossible things as seeking convergence on tax rates.

Any U.S. international tax reform that does not take a major step towards restoring stability will prove to be a pure victory no matter the rates agreed, the degree of territorial or the presence or absence of patent boxes. While the U.S. has worked hard to put the issue of tax certainty on the G20 agenda during China and Germany's presidency this agenda simply will not succeed if countries perceive that they are getting ripped off under whatever rules we end up with.

One aspect of today's topic is of course the effect of foreign tax changes on the tax reform debate. Let's look at some foreign tax changes that are flying under the radar and perhaps not adequately appreciated by all policy makers. I would submit that many if not all of these rules I'm about to talk about are motivated by a concern that the rules as they exist today let companies achieve unacceptably low, foreign effective rates and the countries are fighting back. Let's consider the UK diverted profits tax and its Australian equivalent. But let's also consider jurisdictions that are limiting deductions on royalties and other payments if those payments are going to low tax jurisdiction. These sorts of rules are squarely the efforts of source countries to take aim companies that shift income into low jurisdictions often by imposing taxes that would likely be credible for U.S. tax purposes.

In the absence of fixes to the international system I think we are closer to the beginning of this trend then to the end. These changes go beyond limitations on deductions for payments on low tax jurisdictions. Consider the difficulties multinationals have in deducting management and service fees paid among affiliates all over the world regardless of the destination of those fees as well as the drive in some countries to find a permanent establishment and then go search the globe for the IP income that could be potentially sucked into that jurisdiction once the PE is found.

Finally for good measure consider the recently proposed six percent equalization levy that in India with respect to outbound payments to digital advertising services. The levy is a supposed non income tax imposed on all payments made to those outside India for advertising services in India.

What's remarkable here is India decided to leap frog beyond income tax and its related permanent establishment treaty rules to impose tax on income often destined for a tax advantage location.

There is no movement among the countries in the OECD to examine any of these various proposals that may be or considered to be beyond BEPS. If U.S. international tax reform perpetuates this instability shame on us. We will see more of it and more time and money spent by our multinationals combating an increasing flow of inconsistent results around the world as well as the resulting disputes. If the U.S. multinational community continues to see it as in their best interest to perpetuate a system built on tax arbitrage and highly engineered tax planning shame on them. You are signing up for and bringing on more of the very instability you loathe and that impedes your business.

The President's global minimum tax proposal may well provide a strong antidote to such perceptions around the world. First our business reform permits tax free repatriation of amounts earned in countries taxed at rates above the global minimum rate wherever it is ultimately set. Thus permitting our multinationals to compete on a level playing field and virtually all of the major markets around the world and repatriate the profits without additional U.S. tax. But the global minimum tax plan also takes the benefit out of shifting income into low and no tax jurisdictions by requiring that the multinational pay to the U.S. the difference between the tax haven rate and the U.S. rate.

The global minimum tax concept has an added benefit as well and that is protecting developing and low income tax countries from foreign to foreign shifting so they can mobilize the necessary resources to grow their economies. While it is true that concepts such as minimum taxes and control foreign corporation rules are most effective if most countries go along in imposing them and so far the UK has been a staunch opponent of tightening these rules. I believe it is also true that the pressure will continue to build in the international community for the traditional residents countries to take into account the spill over onto poorer countries on tax policies that encourage foreign to foreign stripping. Stay tuned. Indeed at a recent IMF symposium the minimum tax was identified as something that could be of great help to developing countries by the mere expedient of disincentivising foreign to foreign shifting by multinationals resident elsewhere.

This last point this discussion of what is happening in the debate with developing countries and the need to help them protect their tax base shifts me into my final observation. The need for greater involvement by the multinational community in the international tax debate. Let me begin by making two rather obvious points.

First the BEPS project plainly took the business community by surprise particularly in its effectiveness of changing the rules of the road and the environment in which these companies operate. Second whatever the EU does with respect to requiring companies to report public country by country tax data and revenue data we would all have to admit that transparency issues spurred on in part by the Panama Papers have shot to the top of the global agenda and no amount of lobbying at Treasury or on Capitol Hill will stop global pressure for more transparency.

Might the arms length standard be served up next? It is broadly suspect and Lee Shepard one of our own reporters in yesterday Tax Analyst report had some choice things to say about that. If you watch how quickly country by country went as an idea among poor countries in developing spaces to being a headline story in Europe potentially making it public ask yourself how quickly might the standard in country by country be put on the chopping block.

Back to transfer pricing the effort we had in the BEPS process to take a paper that seemed to us to write the arms length standard out of the OECD rules to bring it back to something that seemed more familiar at least to U.S. tax practitioners was a very heavy lift. The U.S. has been a stanch defender of the arms length standard and will continue to be for reasons I have elaborated on elsewhere but we don't control the global agenda.

So what do I mean by greater amines involvement? First I don't advocate greater amines involvement as a means of taking sides as in I really need their help. It just occurs to me from my perch when I meet with governments as I regularly do and as I attend global tax events with themes also pushed by NGO's are dominating that if the amines community has a compelling perspective on these global tax issues that should be appreciated by policymakers around the world it is not being made effectively.

That leads me to my second point. The amines perspective needs to evolve way beyond we pay all the taxes we owe. To something more shall I say (inaudible) to combat the persuasive perception that multinationals do not pay their fair share that transfer pricing is some sort an elicit practice that blatant profit shifting is rampant and that therefore those nations need aggressive national action to reign those multinationals in.

How the multinationals get engaged and participate fully in this debate I leave to them but I don't think it is a task that can be ignored. Part of the discussion relates to creating conditions that are supportive of foreign direct investments in countries around the world and that relates back to the fact that at the G20 we're going to begin to look at the relationship between tax certainty and creating environments to increase foreign direct investments in countries around the world and that's a good thing. By investment we need to teach those countries that investment and growth mean more than obtaining the investment needed to serve their large markets. Part of this discussion relates to the need for more data to analyze taxes paid by multinationals in the jurisdictions around the world and to focus the international tax debate more around a data driven search for best policies and practices including policies and practice that encourage investment and much less on sensational and politically palatable anecdotes.

Mindy Hertzfield in a recent thoughtful piece in Tax Analyst made reference to "the bubbles in the world where people surround themselves with likeminded thinkers and fail to see the perspectives of others outside". To give you an appreciation of this phenomenon from where I sit on one day I might be attending a U.S. international conference as I did at the end of last week in which we parse in excruciating detail the transfer pricing equivalence of how many angels can dance on the head of a pin --

(Interruption)

MR. STACK: I was talking about and I apologize this took some wind out of my sails but I will just deal. I was talking about the contrast between going to U.S. tax policy seminars where people talk about in great detail how many angels can dance on the head of a transfer pricing pin and then I'm involved in multinational settings where the question is how we can stop the scourge of elicit transfer pricing and stop companies from using transfer pricing where the word is used in the same way as money laundering. Those are the bubbles that as your representative I live in and what I was asking today is that we try in some ways for the sake of better policies to bring those debates together.

From my perspective this is not about picking sides but rather the discussion needs to be fully engaged by all stakeholders so we can move forward and promote growth and create more favorable conditions for investment around the world including the developing world. NGO's and representatives of the business community should be at the same conferences listening to and challenging each other facts, arguments, policy proposals and visions for an international tax structure that works for everyone.

I made these points at a recent speech and afterwards someone in the audience came up to me and said that he didn't think moral suasion was going to be effective and that the multinational community will always be looking out for the bottom line. I was somewhat crestfallen because it drove home to me how ineffective I had been in trying to make my point. Because I think I am making a point based on the bottom line and not moral suasion. I think I'm making a point aimed at board rooms and not technical tax people. After all it is the board rooms who are supposed to care about the term consequences of actions and the reputational effect on the firm. Aggressive tax planning and all the related elements that I've talked about has already imposed a great reputational cost on some firms and the future trend is clear.

I am suggesting that at the end of the day countries and companies will both prosper in an international tax system that minimizes distortions built around tax benefits that can be achieved through a combination of the mobility of IP income and capital and games played through tax havens with a boost from U.S. cost sharing regulations and the check the box rules. Policy makers should be exploring how to build those structures and all stakeholders including amines and NGO's should consider whether they share these perspectives and if so how to participate together effectively with government representatives to build them.

We are long past the days if they ever existed when Congress and the Executive Branch were the only players of importance with respect to U.S. international tax policy. Globalization and the emerging political structures that support it have brought these issues to the world stage and the action of each country has effects beyond its borders that must be taken into account as we build an international tax policy for the years ahead. The actions taken outside our borders likewise can have a profound impact on our taxpayers and the wisdom of policies we set and we're living through that.

This is all hard work in a challenging environment and I will be the first to admit that other countries sometimes do little more then to seek their own national advantage instead of supporting principle rules. But we owe it to average Americans as well as our successful companies that we stay at it so we can give the world a little extra scoop in the right direction during the time we are privileged to be engaged in helping to form U.S. international tax policy, thank you very much.

MR. TODER: This is the moderator discussion. It will be very brief. So I found your speech very interesting. And it seems to raise a question about whether we should think more about the general values or ethical climate in which we all approached these issues, and I was wondering what things the government could do to kind of encourage more of that, both on multinationals and with respect to other governments' policies.

MR. STACK: Well, actually, I'm afraid I'm not going to rise to that bait, because as a technical tax guy, I've had trouble distinguishing my extra mortgage deduction when I buy a really big house from the double dummy Irish. And if anyone else can draw the line where you've crossed from morality to immorality, we can have a debate later about it, but I can't do it.

I think it is about making policies and rules that we all agree to live by, but I don't think it's about naming.

MR. TODER: So I guess we'll have a couple of minutes for questions from the audience. Anyone have any questions? Way in the back.

SPEAKER: It seems with the new, sir, more inclusive framework that the OECD has announced for the BEDS implementation, the transfer pricing follow-up work on profit splits and related things like attribution profits to a PE, that may sort of be the acid test of the ability to sort of reach any kind of consensus with this larger group. Can you comment on that?

MR. STACK: Yeah, sure. I actually -- from my experience, I don't expect that expanding the group actually will expand the number of very engaged players in very technical transfer pricing issues, number one. It has just not been my experience that -- you know, we found it difficult to keep up with the flow of OECD paper and we're one of the biggest countries in the world. So I'm not too worried about that.

And second, in that follow-up work, look, like all in MBPS, you know, we're a player. It's a consensus process. And, you know, I think we'll have a strong influence in the word as it goes forward, so I'm not terribly concerned about the effects of that.

I do think, though, to return to the theme that I was trying to hit on is I think U.S. policymakers completely ignore at their peril what's happening in developing countries, low-income countries on the global political state, and that a lot of that bubbles into things you see every day.

Some people in the tax world think I do this as almost like an avocation, like it's a nice thing that he cares about these things. But, in fact, if you're not paying attention there, you're missing a ship that can sail two years before you realize it has sailed. So for U.S. policy, I think it's critical.

MR. TODER: Mind.

SPEAKER: Do you think there's a legitimate role for international tax competition?

MR. STARK: Well, whether I think there's a legitimate role for it or not, it's going to exist. Right? I mean, we're never going to drive out the arbitrage that comes from differential rates because that's kind of one of the rules of the road. People can have their own rates, sovereignty. Ireland has a 12.5. So -- and I think it would be naive to think we're going to build a system that gets away from arbitrage.

But I think when you get to highly-structured transactions through what we would all recognize as tax havens, I think you're in a different place that you probably can do a better job at policing. And we should. And U.S. companies should welcome it.

SPEAKER: Is the U.K. a tax haven?

MR. STACK: I think it wants to be.

(Laughter)

SPEAKER: Is it?

MR. STACK: But I think it's conflicted, actually. As a source country, we're seeing that it's going to be very protective of anyone using the U.K. market, and they're going to limit deductions. They're going to watch tax savings. A lot of this is going on right now in the hybrid work. And if you're in that -- as Mike Williams has said to me, we'll have a 17 percent rate, but you're going to pay 17 percent. And so they're going to be very aggressive in protecting their market as a source country.

As a country that wants to be the home of headquarter companies and have weak CAC rules, and get the spillovers of the benefits of having such and such headquarters in London, they're going to want to do that too. And then they're going to fight to have weak CAC rules so companies will find it an attractive place to be. So I think they're kind of hybrid.

Yeah, the patent box is, I think, a part of what will be driving it, but in my discussions, for example, with some countries, they view that as something that will beneficial to their mid-size company because they're not convinced themselves that the world is going to rush their researchers over into their patent box.

Remember, if you're getting 10 percent income on your patent income, you're getting a 10 percent deduction, and you've got to figure out a way -- you know, the game here is to get the high deduction and the lower amount of income, and it's not clear to me you do that by doing all your research offshore, and moving your researchers. Yes.

MR. TODER: Last question.

SPEAKER: You talked about U.S. headquarters companies, but you also referred to U.S. companies. I mean, isn't one of the issues that we're facing here that companies don't have natural nationalities? And how as a policymaker do you address that other than fighting a rearguard action with the anti-inversion proposal?

MR. STACK: So great question. So when I first got my job, I quickly realized, and I consulted with some of the really bright academics, some of whom are here, that there's also some interesting ideas about that like sales-based income tax, blah, blah, blah. None of them are ready for prime time, and none of them are coming before me on my watch or before Congress for that matter.

So we have the system we have. You're absolutely right that mobility of headquarters, mobility of these items makes the current residence-based system fragile. No question. But as policymakers, you know, we get to play the hand we're dealt, and that's the hand we have for now and we'll play it best we can. Thank you very much.

(Applause)

MR. TODER: I guess the next panel should come up.

(Pause)

MR. TODER: ... he is receiving medical treatment. He is stable condition. So is he -- he's gone to --he's still here. Okay. Great.

All right. So I just want to say it's really an honor for me to be -- I'm Eric Toder. I'm co-director of the Tax Policy Center. It's really an honor for me to be here in this event honoring Don Lubick, who was one of my mentors, one of my heroes, and, really, a mentor an ideal to all of us on the panel, and many of us in the audience.

We have a great panel here. I will -- you have their full bios. I will introduce them very briefly.

Manal Corwin is the National Service Line Leader for International Tax at KPMG. She was previously a deputy assistant secretary for international tax at the U.S. Treasury Department during the Obama administration, and has done many other things before then. I won't go through them all.

David Rosenbloom is a visiting professor of taxation, and director of the International Tax Program at New York University School of Law. He has also been a member of the Kaplan & Drysdale Law Firm, and David has many other accomplishments, but the one I'll mention is he also was the top international tax official at the Treasury Department, and that was back in the Carter administration.

John Samuels is now the chairman of Global Tax at Blackstone. Many of us remember him for years as the vice president and senior counsel for tax planning at General Electric. And I also remember John from his service in the Treasury Department during the Carter years where he was a tax legislative counsel.

And finally, we have Barbara Angus, who is the one member of this panel who is now in government. She's chief tax counsel for the Committee of Ways & Means. She has been a senior partner -- a principal with Ernst & Young before then. And before then, she also was the top tax -- international tax person at the Treasury Department during the first term of President Bush. The second President Bush.

So I will just turn this over to Manal.

MS. CORWIN: All right.

MR. TODER: And everyone -- I think I'm going to try to hold you to eight minutes each, if you could. We're a little behind time.

MS. CORWIN: Yes. But I will take a moment to say I'm privileged to be here, Don, in your honor, and to have served under your leadership at Treasury, and I think moments like that, the moment we experienced earlier in looking around the room, I've had the privilege to work with many of you, and were reminded of what is important, and I just want to take a moment to say that. It has -- we have wonderful colleagues, and we wish Bobby the best.

So I'm tasked with starting off just to kind of set the stage level set around the BEDS Initiative and how it started. I think understanding the origin of the anti BEDS movement, if you will, which I distinguish from the BEDS Initiative itself, is really critical to understanding the current impact on multinationals, but also the relevant impacts on U.S. tax reform.

Since the OECD launched its initiative to address base erosion and profit shifting, and then coined the acronym, BEDS, many have pointed a finger at the OECD for having -- or the organization for having opened a Pandora's Box that has unraveled longstanding international tax rules, and upset what was perceived stability ahead of their involvement.

I think a closer look both at the historical record at the OECD, and being able to affect significant policy shifts at anywhere near a breakneck speed, as well as its limited ability to keep the BEDS Initiative in check, more recently, in check relative to its original policy objective, suggests that the origins and reasons for the BEDS movement goes much deeper than the OECD Initiative itself.

BEDS is not the OECD's first rodeo in terms of addressing base erosion, profit shifting concerns more broadly.

Some relevant examples include as far back as 1998, or it's not that far back, but still far back, the report on harmful tax competition in 2004. We saw the establishment at the OECD of the aggressive tax planning steering group, which was established to identify and share concerns about aggressive tax planning techniques.

It started out with the participation of seven countries, and according to the OECD website is now 46 countries strong with an inventory of over 400 aggressive tax planning techniques.

There was also the work begun in 2005 on business restructuring to evaluate implications of global restructuring, and the incentives to minimize taxation. In 2010 and '11, we saw reports on the tax risks involving back losses, as well as corporate loss utilization through tax planning.

And then we saw reports in 2011 about the need for transparency and disclosure in the case of aggressive tax planning, and a 2012 report on hybrid mismatches before Action 2 was dubbed Action 2.

All of these initiatives and reports while echoing the same themes that we saw in the weave throughout the 15 BEDS action items, never resulted in the political call to action that we're seeing now being played out in a number of jurisdictions. Nor did these prior initiatives received even a fraction of the attention that has been the hallmark of the BEDS Initiative since its inception.

Indeed, I'd say most tax professionals, except for the people maybe in this room, who might be able to now recite letter and verse of the action plan, the 15-item action plan, never noticed, or even worried about, those prior reports or initiatives, and thought that they were of immediate concern.

So if it's not -- so, you know, why now? What's new? And if it's not the OECD's power and influence that's at play here, what is the driver behind the BEDS movement?

I think, Bob, you covered a lot of the issues driving it, but it was very much the political environment, and the public and political environment largely outside the United States that really launched the OECD Initiative into what it is today.

We know the numbers of factors that have contributed to that environment. It was the financial crisis. It was the political pressure that politicians were under relative to their handling of that crisis, and the resorting to austerity measures, and just an increased public focus on whether or not multinationals were paying their fair share.

So that is really what spurred politicians into action. The original goal then of the BEDS Initiative at the OECD was to temper that rhetoric, in fact, and litigate the risk of what was viewed as politically driven unilateral action. And there was a fair amount of concern that that action would, in fact, undermine the existing international standards and consensus.

To that end, in February of 2013, the OECD announced that it's going to take this initiative over in an attempt to evaluate and maybe change the rhetoric. When that initial announcement was made, there was a focus that was on, not on the behaviors of companies, the compliance habits of companies, but, rather, on what are the limitations of current rules in a modern world. And that first report was full of statements around what we're really looking at is to evaluate whether current rules are for purpose.

The other thing that report emphasized was that unilateral action would be disastrous for both business and for governments. And the initial reports promised that they were not going to re-litigate the issue of source versus residence country taxation.

What happened since, I think, is telling as to whether or how of this was in OECD-driven initiative versus really driven by forces outside the OECD. Initially, obviously, politician welcomed the report. It was endorsed by the G-20 repeatedly, and the G-20 has increasingly become involved in ways that we would have never imagined back in the Lubick era, for example, at Treasury, the number of G-20 reports that include tax.

Those political forces though, not surprisingly, the political forces that led to BEDS, and had the OECD sort of attempting to mitigate the direction it was going, are also surprisingly -- not surprisingly leading to some of the outcomes that we're seeing from the project, and had made it very difficult for the OECD to maintain control of where it's going.

The increasing rhetoric. We've seen that the increasing rhetoric has continued in terms of looking to what multinationals are doing. We've also seen that ultimately the source versus residence country taxation has been reopened, and unilateral action has not been stopped.

So I'll just conclude by saying the relevance of that observation, and the impact on reform is understanding as we look through to what extent we ought to consider the BEDS Initiative in pursuing U.S. tax reform, it's important that it isn't just about the OECD, and we shouldn't have to worry about the OECD as we think about reform, but it's broader than that. And to the extent that the goal of U.S. tax reform is to preserve the interests of both the U.S. government and U.S. companies, and residents, or U.S. interests, those interests are clearly impacted by the behavior of other countries. And the U.S. tax base can be eroded not only by the behaviors of multinationals, but by behavior of other governments.

MR. TODER: Thank you. David.

MR. ROSENBLOOM: Well, thank you. Thank you, and thank you for the opportunity. It's good to be here, Don. Thank you very much for this opportunity to speak about policy and reform.

It seems to me I've seen this movie before, however. We all love to sit around and talk about policy, and I will get to policy in a second. Let me just say that while we talk about policy, our tax system is being slowly eroded in the level of administration. Doesn't matter what the rules are if you don't have people to enforce them. And if you just take even a wink, even a quick look at what's happening to the Internal Revenue Service in the last few years, you would realize one of the reason why -- it almost doesn't matter what the rules are.

We lost so many people in the Revenue Service that the enforcement capability is diminished dramatically. And unless that gets rectified, frankly who cares about that if we don't have a tax system?

Saying all that, I will now turn to tax policy. I see BEDS as the, sort of the revenge of the source basis approach to tax. And part of it, I think, is true. I get this a little bit from what Bob Stack said, because the deal, as I understood it coming out of World War II was that in the eternal war of residence and source, the resource countries would limit their take of tax, and the residents countries would undertake to avoid double taxation.

And that's been, certainly, the U.S. view of the world. It's particularly and dramatically reflected in our treaty policy where we are way beyond the OECD in favoring the country of residence.

What's happened, I think, is that the residence countries and we were, and still are, presumably, the premiere residence country, failed to do their part of the deal. They failed to impose tax on their own taxpayers. I think you could draw a direct line, not even a dotted line, between check-the-box and BEDS. I think BEDS is a direct reaction to the check-the-box rules.

And they were used aggressively by U.S. taxpayers in ways that got under the skin of a lot of countries. I think it was probably a foreseeable thing that that would happen. You had to take -- I think the problem -- I'm like John. I've never been inside a corporation, but I think the problem inside a corporation is the war between the long view and the short view.

I mean, it does seem to me that taking the short view in terms of tax planning has resulted in a lot of pretty, pretty aggressive things which have led ineluctably to the BEDS, what we see in BEDS.

Saying that, the question for me has been how should the United States react to that. We've been the premiere country going around the world telling other countries be reasonable. If you want our investment, limit your tax at source.

And, frankly, the Indians, the Chinese, the Brazilians, lot of other countries, they're just not buying it anymore. I mean, the basically are asking us, look, we'll set our own tax policy, thank you very much. And by the way, you guys in the United States aren't doing such a great job either. And, frankly, that's where we are. I think we have to come to terms with that.

There's only a couple of things I think we can do. So far, my perception, some will say this is unfair, is that our policy has essentially been to do nothing. You know, pretend that BEDS doesn't exist. Unfortunately, it does exist, and it's going to be -- I think the upshot from BEDS is going to be quite dramatic for a lot of companies. I don't think we can do a heck of a lot about it, although I do hold hope that we can improve dispute resolution mechanisms. I think that's the one aspect of BEDS, and the efforts of Bob and others to advance ways of getting disputes resolved, because I see a lot of disputes on the horizon. So one thing we can do is do nothing.

Another thing we could do is double down on our basic policy of saying residence country rules. We go around to Brazil, India; we try to convince them to be reasonable in their treatment of our companies.

I've had a fair amount of experience recently, particularly in India, and I tell you, it doesn't work very well. So I don't see that that's going to be fruitful.

The third thing that we could do, and I think it really is something that is long overdue, is that we could rethink the balance between our own source-basis taxation as opposed to residence-basis taxation. I think if you put your, wanted to put your finger on at least one of the major problems with tax policy, international, cross border tax policy in the United States it's that everybody seems to think almost exclusively about the outbound rules.

I've seen entire books written in this town called international taxation where there wasn't a word about inbound. But guess what? The inbound investment in the United States on a year-by-year basis is just staggering. I saw the statistics this morning. It ain't 1946 anymore guys. And so we really ought to revisit rules that have been in place for over 50 years. We haven't touched the Foreign Investors

Tax Act from 1966 except at the margins, and it's time to rethink that, and it's time to rethink our treaty policy as well, in my view.

I think that the -- and if you wanted to address inversions, lowering the corporate rate as a means of addressing inversions is in my view mindless. You can't get even close to being low enough to remove the incentive. But what you can do is you can pay more attention to the inbound investment once people do invert because why people invert at the end of the day is it's just better to be foreign in the United States.

We treat people better, our rules are more generous, the IRS audits of the inbound investors are much lighter, and in many cases nonexistent. All of that needs more attention. It isn't going to be cured by just a little bit of policy around the edges. We really need to rethink where we stand in the world. We don't stand in the same place that we stood in 1962 and 1966. And in my opinion, what is really needed is a thoroughgoing review of our statutory law on inbound investment.

Next comes treaties. I think we are way too favorable to the residence countries in treaties. I have said -- these are sort of radical thoughts. Nobody pays attention to what I say anyway. But I think we ought to just can the nondiscrimination clause from treaties. Why? Because we want to discriminate. And we do discriminate. We just say we're not discriminating.

So let's get a little less hypocritical about our rules. Let's rethink the way -- I was disappointed to some extent in the model, in the new model treaty which doesn't go far enough in my opinion for a complete rethink. You can't really do it though; you can't start with the treaty. You have to start with redoing the statute, rethinking the statute.

So my third approach, if you -- the three approaches that I see to BEDS are do nothing, double down on convincing the rest of the world that, you know, it really is right that the residence country, the source country should reduce tax and the residence country will undertake to avoid double taxation. Or maybe take a few leaves from the book of Brazil, India, and China, who say, look, we've got a market, and, you know, we're going to impose tax on the entry into our market.

We have a market too in the United States, and I don't think you can plan around that market. That market isn't going anywhere. And so it seems to me that that's what I would see as coming out of the BEDS material. Thank you.

MR. SAMUELS: So first let me say how delighted I am to be here, and to thank Don because without Don, I wouldn't be here. I was a lawyer laboring in a Wall Street law firm, and Don called the senior partner in the firm and said do you have anybody who is foolish enough to come to Washington and work twice as hard for half the money? And the partner said, yep,

I've got just the guy, and it changed my life. Without Don, I wouldn't be here, and I thank you.

So I rarely find myself in agreement with David, but I certainly do, and I'll get to that in a minute. I want to -- I really think we need to focus a lot more on our source-base taxation. As Allan Auerbach said we don't know what residence is anymore, and we don't know what source is anymore, so what we really need to focus on maybe is destination which is what David is talking about, I think.

To frame international tax reform, I always like to start outside the tax world. What is it we're trying to accomplish? And I think the answer is maybe to raise revenue, but probably not in this area, but to increase the standard of living, increase investments, jobs, competitiveness of U.S. firms, but only to the extent that it's a vehicle to increase the U.S. standard of living.

So how do taxes come into play in this world? Well, how should we change our tax system to do that? I actually think looking at what other countries are doing is a good place to start. I don't find race to the bottom very helpful. It's a label, and maybe it's a race to the top because what they're looking to do is attract investment, and they're using their tax system to do that.

And I have only two reasons I can think of as to why we wouldn't look at what other countries are doing? One of them is maybe think we're smarter than the rest of the world. Well, for a long time we did. This program. You know, we met the enemy and he is us. Well, no other country in the world could put together a group of people like in this room, and maybe that's a blessing. Maybe it's a problem.

But we're not smarter than the rest of the world. Maybe we're different than the rest of the world. Well, maybe we were once when we had the big, large U.S. market to ourselves, and didn't have much foreign competition. U.S. firms didn't have to complete abroad.

No longer. Today as a result of technology, trade, low-cost transportation, the U.S. is a small open economy. Larry Summers and Jim Hines did a great paper making that point. So we ought to behave like one. We aren't different than the rest of the world anymore.

So what is the rest of the world doing? They're lowering their corporate rates. They're adopting territorial systems. Maybe very clear, they are adopting territorial systems without minimum taxes. What I mean by that is current home country tax on active business income. If it's passive interest income, maybe that's one thing. But active business income, nobody is doing it. And it's a very bad idea.

In my view, it's a hybrid system is what we have today. It's too broad; it will hurt the competitiveness of U.S. firms. It's too narrow; it will not stop base erosion. We have a 15 percent minimum tax. We have a headline rate in the U.S. if 35. Intangibles will still go to take advantage of arbitrage that 10 or 15 point difference. And it won't raise any money. Foreign governments will raise their rates to soak up the minimum tax, and U.S. multinationals will stop planning to reduce their rate for below 15 percent. It's just a bad idea. And no other country has one.

All right. So if we're going to reduce our rates, and adopt a territorial system, how do we pay for it? Rate reduction. I'd start with base broadening on things that can't move. I'd rely on the Ramsey Rule. I would slow depreciation on things like utilities, and railroads, and pipelines, and telecommunication and cable, leasehold improvements, things that have to be here and can't move, and aren't in the traded sector.

This is what the U.K. did. It's what we do with real estate. It's kind of, as I said to Ramsey Rule. I'd capitalize a lot of things. Repairs. Advertising. I understand that's a timing item, and pushes the revenue loss outside the 10-year window, but we're going to be using dynamic scoring. Whether you like it or not, we're going to be using dynamic scoring. And dynamic scoring shows a lot of growth outside the window. The U.K. did a study, and showed that 60 percent of the revenue lost from their rate reduction would be made up of economic growth in the long run.

I'd adopt thin cap rules like the rest of the world. And then if I needed more money, I'd shift the burden to up capital to individuals (inaudible) immigration. Dividend with a dividend direction credit system, higher taxes on dividends or capital gains, approval taxation, as Eric has recommended, or even a (inaudible) regime like Harry and Rosanna recommended. Again, individuals are less noble.

How to pay for territorial. Well, first, on a static basis, territorial doesn't cost very much. Harry and Rosanne did a analysis in 2006 if you exempted dividend you'd raise -- exempted all dividends paid by foreign firms, you'd raise a billion dollars.

So on a static based, we're collecting no revenue. Having said that, the Joint Committee has estimated that moving to a territorial system would add a 25 percent rate, 220 billion, or at a 35 percent maybe 300 to 400 billion.

And I think there are two pieces to that revenue loss. One is incremental income shifting from a territorial system. And two is the Joint Committee is anticipating the dividends will come com back in the 10-year window. They won't be sheltered by credits. I don't know why they're assuming that. They haven't in the last 20 years, and I don't think they will in the next ten, but having said that, that's the headline number.

So I would address instead of using a blunt tool like the minimum tax, I would address base erosion. Believe me; I think it's a problem. I think it's a big problem. I don’t think there's a bigger problem under territorial than it is today. I think today's it's a heads I win, tails I lose. I shift anywhere; I can always bring it back. I think it's a huge problem.

I've tried to identify where the problem is. So where is the problem? You go to your TFO and you say, I'd like to move something offshore. Or when do you move something offshore for tax reasons? When the tax savings are greater than the non-taxed cost of moving. When is that? Got to have big tax savings that you can count on it. When do have big tax savings you can you can count on? When you have high margins for the foreseeable future. When do you have those in a competitive market? Only when you have protected intellectual property. That's the only time you can have high margins over a long period of time.

So that's the plus side of it. What are the costs?
The cost of moving? If you have -- your products can be put into a Fedex envelope and shipped, or sent over the internet, very low cost. Think high tech. Think pharma. Think intangibles is where I think the issue is.

Today -- and it's very easy to move patents to Ireland. But the problem is the way our tax system works if you move patients to Ireland; you have to also move your manufacturing outside the United States. So I can explain that later. I have a couple of minutes left. That's a big problem. We have no high tech manufacturing in the U.S. anymore. And I think, my thesis is the IP is outside the U.S., and because they can't manufacture in the U.S. because the royalties paid would be Subpart F income. If you had a contract manufacturing arrangement there'd be a permanent establishment here, we're hollowing out our base.

So I would address this outbound transfer, outbound base erosion with very tough transfer pricing rules. There would be formulaic that outlaw cost sharing, that outlaw contract research, and would put a weighted -- I'd use something called the Realistic Alternatives Test, and I'd put -- I'd limit the return in the cashbox to the weighted average cost to capital of the parent. Pfizer doesn't go out to finance its next drug to go to a venture capitalist.

I'd also provide a patent box, but it would be of low rate, but the R&D would have to be done in the U.S. The R&D would have to be scaled here, meaning you'd have to manufacture it here. And I'd only apply it to very high margin stuff to guys who move.

And then I'm out of time. I'm in my negative territory. I would think about a DPT. As David said, I'd think about a DPT, a diverted profits tax, for the United States. What we have left is our large U.S. market. India and China, and now the U.K. has set the path for it. I think it's lot of sense for us to explore that.

I'm out of time, and I otherwise would tell you why I think it makes sense, and how we could do it, and deal with our treaties.

MR. TODER: Barbara.

MS. ANGUS: (Off mike) I've had the opportunity to work with and (inaudible) Committee (inaudible) sometimes we were on the opposite (inaudible) way, and made clear that in his view, we were both working for the same objective, a better tax system. So it's a privilege to be here today, Don, at the first Donald Lubick Symposium.

I thought the question that was posed to this panel was a really important one. And I think it also has a really simple answer. Foreign tax changes do have a dramatic effect on U.S. businesses, and they further reinforce the need for fundamental tax reform in the U.S.

So that's my simple answer. I'll elaborate for a few minutes on that. Over the last decade, countries around the world have been reducing their corporate tax rates. The U.K. just announced a further reduction to 17 percent. That's less than half of the U.S. rate.

In the same time period, countries around the world have been replacing their worldwide tax systems with territorial approaches for taxing the global businesses that are headquartered in those countries.

The Fortune 500 used to be dominated by U.S. headquartered companies, but those spots are increasingly being taken by foreign headquartered companies. These developments all matter. The U.S. tax system must be modernized to reflect the modern world.

More recently, the focus on BEDS has led to an anti corporate sentiment around the world largely focused on household name companies, largely focused on household name American companies. And rather than seeing coordinated change in international tax policy that I think the OECD was seeking to deliver, what we're seeing are countries using BEDS as an excuse to justify what are often blatant revenue grabs.

There are many examples of unilateral action being taken in the name of BEDS that are at odds with the BEDS recommendations. The U.K. diverted profits taxes is one example, a response to concern about the permanent establishment rules, but a very different response than the response agreed to and negotiated in the OECD that involved amendments to the permanent establishment definition in the treaty.

One could say that the U.S. 385 regulations, which are controversial for many reasons, a very different response to concerns about interest deductibility than the BEDS action for, and the agreed recommendation with respect to limiting interest deductibility.

The recent EU efforts toward requiring public release of country-by-country reporting information is in sharp contrast with BEDS Action 13's mandate for reporting of this information to tax authorities only. It seems likely that this is just the beginning of a long line of unilateral actions justified by BEDS, but not in line with the agreed BEDS recommendations.

The (inaudible) cases are another example of law being applied beyond its original intent to target corporations, and again, almost exclusively American corporations. And in the U.S. we're seeing increasingly American companies forced to consider a foreign acquisition, or to succumb to a foreign takeover as the only way to remain competitive in the global marketplace. These transactions are labeled inversions, but we should recognize them for what they are, a means for survival.

The Ways and Means Committee held a hearing earlier this year on the global tax environment in 2016, and what that means for tax reform. And the clear conclusion was that we need fundamental tax reform that includes a modernization of the U.S. international tax rules.

I think an important point that was driven home at that hearing was that international tax reform is not just an issue for global American businesses. It's an issue for all American businesses.

If a global American company is forced to move its headquarters to a foreign country through an acquisition or takeover that often means that over time key decisions that used to be made in the U.S. will be made overseas instead. That's something that will be felt throughout the company's supply chain including the local businesses that provided goods and services to the American company.

It also will be felt in their local community where the company provided support to the symphony, to the museum, to the local sports teams. I think in looking at this issue, building a wall is not the answer. Tax reform is the answer.

The Ways and Means Committee has been charged with leading the effort to produce a blueprint for comprehensive tax reform that will lay out the House republican vision for a 21 Century tax system. That will be released this summer so that the Committee is ready to lead the effort to enact tax reform in 2017.

International tax reform, of course, is an integral part, an integral element of comprehensive tax reform as it involves particularly complex issues that include the meshing of U.S. tax rules with the rapidly changing rules of our trading partners.

We've seen that the crafting of new international tax rules benefits from consultation and input. We need more input. We need to spend more time looking at what is happening in other countries. And by that I don't mean that we should follow the lead of other countries. The international tax rules that other countries choose to put in place may well not be at all appropriate for the U.S. and the U.S. economy, but it's very important that we understand them because of the impact they have on U.S. companies investing in those countries, and the impacts those rules have on foreign companies that seek to invest in the U.S.

So we need to understand what's happening in the rest of the world. As we look to international tax reform, we'll continue this consultation and input process this year so that we're ready with the right international tax reform package as soon as it can be enacted into law.

So returning to the question that was put to the panel, foreign tax changes are significant. They do affect U.S. businesses, and they ratchet up the need for U.S. tax reform.

MR. TODER: Okay. Does anyone have any response to, responses to anything that was said?

MR. SAMUELS: I agree with David Rosenbloom that we should be looking very carefully at more -- I don't know whether you want to think about it as a destination based income tax on sales in the U.S., or using, exploiting the U.S. market or anti base erosion, but I think there's -- all of our focus on base erosion has been on outbound-base erosion. Not to say that's not a problem and it should be dealt with. And if we do that, other countries are likely to retaliate, and that will solve the (inaudible) income problem, countries acting in their own self interest.

MS. CORWIN: So just picking up on that, I think one of the things that I'm struck by is to the extent the concern and the impacts of what's happening right now is you have a lot of unilateral action, and not coordinated tax policies looking to tax Source, It is a re-litigation of source and residence, but without the coming to the table to have the conversation and strike the deal the way the original deal was struck between residents and source.

Is it really clear that if every country just does its own thing, figures out how to get more source country taxation with respect to its inbounds, makes an adjustment, maybe it's territorial that we will solve the problem being faced by companies now in terms of the clash of these tax rules.

So just take a hypothetical. If the U.S. were to move to a territorial system so the U.S. company operating outside the U.S. doesn't have to worry about double taxation vis-a-vis the U.S., the approach to source-country taxation right now doesn't necessarily mean that it's not going to worry about double taxation with respect to multiple jurisdictions claiming the tax with respect to the same revenue.

So don't we need to do something more than simply think about domestic reform, and is there still room to have coordinated action in the international space?

MS ANGUS: We may need to do something more, but I think it's critically important that we do something domestically. All of the change that's happening around the world has disproportionate impact on U.S. companies because of the ways in which our international tax rules are completely different than those of the rest of the world.

And if we move our system, our international system more in line with the rest of the world, if we move more to a territorial system, eliminate the lock-out effect and what that does in terms of the buildup of foreign earnings, I think that puts us in a better position to have a larger discussion. But right now, an action that's taken by another country has a different effect on the U.S. than it does on that country's other trading partners.

MR. ROSENBLOOM: I don't disagree with the territorial system under condition, but it seems to me that, again, BEDS is not -- or the world is not simply going to territorial. It's going to an increased emphasis on taxing the domestic marketplace.

And, unfortunately, I think the debate is gone. I don't think -- I think it's too late to try to persuade people that we ought to all get together and get serious about residence taxation.

MS. ANGUS: Or source. Even a coordinated source approach.

MR. ROSENBLOOM: Well, I'm not sure you can -- I don't -- one of the -- I like Bob's statement, but I thought it was -- then he has to do this. He gets paid to do this.

(Laughter)

MR. ROSENBLOOM: It was idealistic. Idealistic in terms of which -- look, I've been at the table with some of these countries, and I mean, you're not -- there's only so much persuading you can do. I think we have to act in our own national interest. It's just that we haven't had a coherent discussion about what our national interest is. Our national interest can't be confined to just always reducing a tax on outbound investment. That can't be the end.

First of all, we can't pay for that. And secondly, we ought to be paying attention. These other countries are not completely stupid. They're acting in their own self-interest and they are doing it for a reason. We have something to learn from them. We're not going to be able to dictate the world, the international tax system.

There was a time in our history when we could come pretty close to doing that, but those days are long gone and BEDS of --

MR. TODER: Can I --

MR. SAMUELS: Let me just respond to David and --

MR. TODER: Okay.

MR. SAMUELS: so the world is a big place. It isn't all homogenous. If you look at the capital exporting countries, Europe and -- they all have remarkably similar tax systems.

And if you believe in markets, and my friends, the economists, have taught me to do that, it's like they got into a conference room and agreed on how they would tax outbound investment. Not at all territorial, and they've lowered their corporate rates. And they did that because it's in their own self-interest. They want revenue, but they also want investment. They're acting in their self-interest.

But they have harmonized. They have actually harmonized on outbound investment. We are an outlier. On what we call the source country, the big, rich markets. India started with the (inaudible) case. Says, well, we don't care about this permanent establishment stuff. This is all crap.

I actually thing they're right. It's a construct of wealthy countries who are going to use their markets and you don't have any tax. China follows. Now the U.K. has followed. So let us join. We have a big market. Bob Stack said the U.K. is doing two things. They want headquarters. They want the tax source-based income. Great. We should want the same thing. They want their multinational to thrive outside. They've adopt the territorial system. Great. We can have both.

So it is -- David said it. The goal should be national interest, and back in 1962 when we -- the architecture of our basic system was put in place, the goal of every economist, and Ms. Peggy Musgrave, from then on was global welfare. Not national welfare.

National welfare is a relatively new starter in the international tax policy debate.

MR. TODER: It's easier to be a moderator with this panel.

MR. ROSENBLOOM: One word. One word. Which is John just pushed one of my buttons that I had not previously pushed --

MS. CORWIN: But you agree.

MR. ROSENBLOOM: -- which is I think the OECD is the wrong forum for us to be trying to make progress in.

First of all, I'm not saying drop out of the OECD. But the OECD has got this urge to democratize and to admit to the table a bunch of countries that don't have many common interests with us. Rich man's clubs. It's a rich man's club.

MR. SAMUELS: It was.

MR. ROSENBLOOM: It isn't anymore. And so the lowest common denominator is getting lower and lower. I think what we ought to be doing is forming coalitions of like-minded capital exporting countries to talk about these problems on a one-by-one basis. I think it would be in our own interest to have groups. We do have some of these groups.

MS. CORWIN: Yeah, but we have things in common with market companies -- with countries a well.

MR. ROSENBLOOM: Both. With both.

MS. CORWIN: I mean, with both, right?

MS. ANGUS: That's a really important point.

MS. CORWIN: Yeah.

MR. ROSENBLOOM: Yeah, both.

MS. ANGUS: And this dichotomy between source and residence country I think is sort of a false choice for the U.S. when we are both a source and residence country, and we want to continue to be both.

MR. ROSENBLOOM: Right. But we've overemphasized residence to the exclusion of source for far too long.

MR. TODER: Okay. So as a naive economist, I want to ask a question about source because when I learned international tax, I learned that there were some -- a form of coordinated system, and the source country got the first bite of tax. Whether there was a residual tax afterwards, countries could decide.

So the question then when you have IP being a main driver of value, where is it appropriate to tax those IP profits? That's something I don't quite understand, and I'd like the panel to help me with.

I think John is tell me destination, but I have a funny feeling about that. If you say a company develops IP in the United States, does that mean all their business is exports to other countries tax it because that's where their sales are? I'm a little -- need some help.

MR. SAMUELS: Really hard question. You say source. The historic concept is where is the income earned.

MR. ROSENBLOOM: Right.

MR. TODER: Right.

MR. SAMUELS: And I'm thinking about source in where is the product consumed. When I think about IP, the only thing that protects it are laws, patent laws. So maybe it should be -- if there weren't patent laws in different countries, the -- in other words, if you invent something in the U.S., and if somebody in France, we didn't have treaties, somebody in China could copy if and earn it. The rents would disappear very quickly.

So it's probably the country whose laws are protecting the rents as to where the IP income is earned at least in a conceptual sense. But net-net, I can move my factors of production. I can move my residence. I can move where I do my R&D, not as mobile as people think. The one thing I cannot move is my customer. I cannot move my customer, which is (inaudible) destination based tax. So that's the only ultimate answer to tax it, I think.

MR. ROSENBLOOM: Well, I think what you need is a careful review of that very question because I'm not convinced that it's an either/or answer. I'm not convinced that there's one answer to that. For example, my instinct of response to your question is where are the deductions being claimed? That's what a source country would tell you. If the U.S. know where the income is, they're going to ask, but are we going to allow the deductions? If they're allowing the deductions, they're going to want at least some of that income regardless of where the customer is. But I'm not excluding John's analysis.

MS. CORWIN: So, I mean, you know, I think with John's analysis there's still I think it begs the question as to what is -- in terms of where it is consumed, what is the value attributable to that consumption, right? There's going to be components of value, and you have to -- there's still this question of residual. Is there a residual that goes to the owner, or the developer, or is it all somehow transferred and divided up to the consumer?

And just to reinforce a point I made earlier, what if one country follows David's approach and looks to where it's developed or protected, and the other is looking to where it's consumed, and don't you have multiple incidents of taxation of the same income?

MR. ROSENBLOOM: You do. I think that's inevitable. The reason for preferring residence taxation to source taxation, if you get away from selfishness in countries is that the residence country is in a better position to avoid double taxation. And for years, international taxation was dominated by the concern for double taxation. But there's been a subtle shift. I think we all know it. And the modern concern isn't double taxation. The modern concern is double non taxation.

And so, yes. The shift from residence to source is going be accompanied by international double taxation. I think it's inevitable when you move to a more source based world. But I don't think you could stop that. I think we have to come to terms with the reality of what's going on. We're not leading the world. We're following it. And some of this discussion, by the way, puts us in a posture of being a following country, which at least when I entered this business back, as my daughters say, when the dinosaurs roamed the earth, it was, you know, we were the leaders. We're not the leaders anymore. I sound like Donald Trump.

MR. SAMUELS: Sound like Donald Trump yeah.

MS. CORWIN: I was going say can we be a team player. I mean, if we're not leaders, do we pack up our toys and go home, or can we be team players?

MR. ROSENBLOOM: I think we ought to learn.

MS. ANGUS: (Off mike) put in a plug for coming back to the economics answer that you're supposed to -- income is earned where the economic value is contributed. And, yes, an intangible transaction is really complex. And there's values in various different points. But I still believe in the fundamental transfer pricing concept that you should see what were the contributions to value, and where were they made, and the income earned should be divided among that.

And so I continue to be grateful for the work that Bob Stack did at the OCED in defending the transfer pricing rules in this area. I think they're really important.

MR. TODER: Then that leads to a follow-up question. Was that the right choice by OECD to continue the transfer pricing, or should they have looked at a different paradigm for allocating income?

MS. ANGUS: Well, I've tipped my hand --

MR. TODER: Yes, we know you have.

(Laughter).

MS. ANGUS: I think transfer pricing was the -- is the right choice. I recognize that every few years there are calls for a move to formulary apportionment, and I think any formula is by its very nature artificial and arbitrary. So we're having this discussion today about all the disagreements among countries, I can't imagine how countries could agree on a formula both on the formula to apply, and the more importantly and more fundamentally on the day, today, implementation of that formula consistently over years. And that's what would be needed.

So I come back to transfer pricing that it's complicated, but it is grounded in an economic truth. Where is the contribution to economic value? And I think that any agreement needs to have an anchor like that.

MR. SAMUELS: But, Eric, to your question about the transfer pricing between a parent and a totally-owned subsidiary, can that ever be arms length? And I actually don't think it can. I mean, the Treasury just told us you can't have debt between your -- almost, virtually told us between your parent and your wholly-owned subsidiary. This whole notion of transferring risk from the parent to your subsidiary from the parent to your subsidiary, in the captive insurance area, you don't get away with that. You can't do it.

Why we allow this fiction that the subsidiary is a separate taxpayer (inaudible), and you got to -- this is what a venture capitalist would have charged. So I think I'd respect the foreign entity, but I might need some tough guidelines around what arms length means when I'm dealing with a wholly-owned or controlled subsidiary.

MR. ROSENBLOOM: Yeah. I think that's right. I think it's a false dichotomy to set formulary against pure arms length. There's a whole bunch of steps along the way there including presumptive rules. I mean, again, you know, I was certainly one of the people who thought that the Brazilians were nuts with their system, but I no longer think that. They are slightly nuts. But they're not as nuts as I thought they were. You know, they have basic -- they have basic formulas. They've very rigid in their application of their formulas, which I don't like, and they don't bend in treaty negotiations, which I don't like. But it does seem to me you can go along with presumptive rules in transfer pricing, and that's the way the developing world is going. They can't apply a pure transfer price rules like we have in our regulations.

By the way, we can't either, which brings me back to tax administration, which is, I think, really the elephant in the room. I doesn't matter what the rules are if you don't have anybody to enforce them. Seriously. And that's where we're headed.

MR. TODER: Well, on that note, I think I'll throw this open to the floor.

SPEAKER: Assuming we'll solve the business tax issues later, on the question of the impact of foreign rules on the U.S. system and U.S. reform, following up on something Bob said, something John said, which is context matters, and let's start with first principles, or let's start outside the tax system, or at least the business tax system.

John, at the end of your presentation you talked about maybe making up revenue on the individual side. And with the debate about wealth inequality that we're hearing now, it's not exactly what we're talking about about business tax reform, but when we think about what other countries do on the individual side, or what other countries do on the carbon tax side, or the VAT side, how much of that should we be -- I was in Europe recently. I was shocked to hear that Switzerland has a progressive fine for you get into an auto accident, you pay more the wealthier you are.

Of course, wealth taxes you see around the world. A whole bunch --

SPEAKER: Hire a chauffeur then, a well-paid chauffeur.

SPEAKER: Exactly. Exactly. So what role for all these other changes, in particular on the individual side with wealth inequality being such an important part of the debate today?

MR. SAMUELS: Let me try -- first of all what stunned me a little bit through a lot of this conversation is we keep talking about corporations like they pay tax. We don't pay tax. I learned that from you guys a long time ago. Not only do we not pay it, if we did pay, we wouldn't pay it. It's going by people.

I think people -- you want to tax what's not mobile. People are not mobile. And our --

SPEAKER: (off mike).

MR. SAMUELS: Well, you can move from New Jersey to Florida, but we don't let you move to Bermuda. We've figured that one out. But where the real money is here is the rates. Our top rates are getting to be about as high as they can get. And our rates, top rates are as high as -- the rest of the world's are not any higher. It's where they kick in.

The middle class in this country is getting a free ride. The very top rates in foreign countries kick in around -- I'm going to pick a number, about $120,000, $150,000. And that's where the money is. If you look at the -- it isn't really capital gains although you can tax capital gains. If you tax capital -- if you raise the rate on capital gains, we've got to tax, tax gains to death. Otherwise, the lock in would be terrible, and maybe carryover basis. Don and Hank had carryover bases in the law for a while. You had gains to death, right? So that Lubick tax gain at best.

But the answer is, yes, if we can tax what's not mobile, M tax, I'm not so convinced taxing consumption -- I know all you guys all think it's the greatest thing in the world. I'm not so convinced it's so pro-growth. Once I read Allan Auerbach, and is it Kalakov, is that his name? That all the gains are from the double tax of accumulated wealth, and then once that's gone, not so sure it's any different than any other tax.

MS. CORWIN: But, John, the answer is yes to -- I thought the point you were making is that we tend to compare ourselves with other countries on one spectrum or one aspect of their tax system, and not the full spectrum. So even if you go to the individual tax and say, well, as compared to other countries, the middle class in other countries, pay higher income taxes, but they're also getting significant amount of services and other benefits. So if we were to compare the full spectrum of impact, financial impact on individuals in other countries it's --

MR. SAMUELS: The have a VAT too, but their public sector, their government has a much bigger piece of the economy than we do in this country. Now we're catching up.

MR. ROSENBLOOM: I don't think we ever really know how the tax system in another country applies in full. I mean, we read the statutory rules. We talk to experts, but in the actual application, we tend to impugn to the country our own understanding and our own practices, and our own practices, and for that matter our own culture is not found in other countries.

I just saw, for example, just read a paper done by I think it was some economist in Asia on the effect of Japan moving to territoriality. And this paper came to the conclusion that territoriality didn't make -- territoriality in Japan didn't make much of a difference on corporate behavior.

Well, that's fine. I mean, its fine for Japan. But to take that conclusion and apply it outside Japan is crazy. I mean, Japan, I've dealt with Japan enough to know that it's the most taxed compliant country in the world. You can't take a study of Japan and say, what you've -- the conclusions that you've reached no matter how good they are, are applicable to us, to our country. It's not true.

MS. CORWIN: And Japan's territorial system looks very different than other territorial, you know, to make them all --

MR. ROSENBLOOM: I think that would be true in every country. I mean, in the U.K., I don't know the deals that are made by the tax inspectors in the U.K. I would be very suspicious of any comparison of a part of a tax system, I lived through all of that about how, you know, the Japanese were more generous than we on giving -- when they had a credit system.

Sure, they were more generous, but their credit system only went down one tier. I mean companies would pick and choose. Taxpayers would pick and choose, cherry pick from other systems and say let's adopt this, let's adopt that. But I think the overall comparisons are fallacious, generally.

MS. ANGUS: I find myself agreeing with David, which concerns me a little bit.

(Laughter).

MS. CORWIN: Everybody is agreeing with David.

MS. ANGUS: But --

MR. SAMUELS: David is going to change his views now.

MS. CORWIN: Yeah.

MR. ROSENBLOOM: Thanks. I --

MS. ANGUS: It's really important that we understand what other countries have chosen to do, and why, because as a part of the global economy, all of those choices affect the U.S., but it doesn't mean that any of those choices are right for the U.S. Our choices just need to be informed by what's happening in the rest of the world.

MR. TODER: Another question?

SPEAKER: Sorry.

MR. TODER: Could you identify yourself?

MR. GREEN: I'm sorry. Seth Green. I wanted to address the point that John made a while back. He was talking about not -- it's not a race to the bottom looking at other countries. And I guess the question is isn't -- I would argue that headquarters taxation is -- and the remnants of a residence based system is really a way of collecting rent from the rest of the world. Right? You get your company headquartered in some place. You take advantage of treaties to reduce source-based taxation, and you collect a little sliver, whether it's some small amount of residual residence-based taxation, or just the tax on the salaries of the people who moved because of your headquarters company.

And so if you view residence-based taxation and headquarters taxation through that lens, isn't it not true that the U.S. is like every place else? Because we're bigger, and so we can benefit from rent from other places less than they can benefit from renting us?

MR. SAMUELS: There are so many double negatives there, I'm not sure --

SPEAKER: I'm sorry about that.

MS. SAMUELS: -- I followed you, but the answer is I don't think this is about headquarters, or inversions. I think they're a symptom of the problem. I think the real issue is (inaudible) owned in the hands of someone where they produce the highest after-tax rate of return. After-tax rate of return.

So if somehow we could just stop all acquisitions of U.S. companies, cross-border mergers. Stop them. That wouldn't stop capital from flowing out of this country. Would flow out at the portfolio level. Assuming now our rates were higher, and we had a worldwide system, shareholders would sell GE stock and buy Siemens. U.S. companies would sell divisions. Merck sold its Consumer Products Division, Dr. Scholl's Foot Pads, Coppertone, other things. They put it out for bid. It was a global business. Bayer, a German company, beat Proctor & Gamble in the bid because Bayer could bid -- and China was the big potential market for this -- Bayer could bid -- and assume it was only the Chinese rate that was going to pay on those Chinese profits -- P&G had to bid assuming it would pay the U.S. rate.

So it's assets, its startups. It isn't -- it's what I call creeping acquisitions which is slow loss of market share by U.S. firms. Charley Kingston, some of you may know him, was a great New York tax layers years ago, said, the biggest mistake we made was when the U.S. had all the capital in the world, and all the headquarters in the world. We should have dropped our corporate tax rate to 20 percent, adopted a territorial system, and not let these other places nibble us to death slowly having attracting investment, real assets, et cetera, and we would have had a higher tax based today, more headquarters, more investment.

You really in a global economy can't keep mobile capital in a place, taxed at a high level when other countries aren't taxing it. Maybe when it was Bermuda, or the Bahamas or Barbados, you could, but not when it's the U.K., not when it's developed countries. You just can't do it.

SPEAKER: (Off mike).

MR. SAMUELS: Source meaning where the income is earned?

SPEAKER: Yes.

MR. SAMUELS: I don't know where it's earned. If I do my R&D -- we do our R&D in six different places, and the scientists were talking to each other on the internet. Then the raw materials was sourced one place. Different components are made in different countries. They're shipped to a place they're assembled. The marketing is somewhere else. You tell me where that income is earned.

MR. ROSENBLOOM: You know, John, if you were looking at that question, and instead of sitting here in Washington, D.C. you were in New Delhi, and we're doing it for the Indian tax administration, you'd identify the various components of source, and you'd say we want all of them.

MR. SAMUELS: No. Wait. Wait.

MR. ROSENBLOOM: We're going on tax it on one of five (inaudible).

MR. SAMUELS: Well, that's a different --

MR. ROSENBLOOM: And that's probably the way we should at least start out thinking.

MR. SAMUELS: But that's where the product is sold or consumed.

MR. ROSENBLOOM: Well, not necessarily. You think that to the Indian software is developed in India and exported; they're not taxing even on a source basis? They're finding a way to tax it, trust me. And we ought to be thinking -- I'm not saying I would conclude on any one of these things, and I certainly agree with your proposition that destination is part of the source inquiry. I'm just -- and I'm not saying this is easy either. But I am saying that that conversation is a conversation we haven't had in this country in 50 years.

MR. SAMUELS: And I'm being pragmatic. What we have left in this country is a huge market.

MR. ROSENBLOOM: Yes. I agree.

MR. SAMUELS: So let's use it.

MR. ROSENBLOOM: I agree.

MR. SAMUELS: China is throwing its weight around, and India. Why don't we use our huge market?

MR. TODER: Anymore questions?

SPEAKER: Thank you. The OCE as the main topic that everyone's talking as country-by-country reporting and disclosure, and David, you talked about enforcement being lacking in the U.S. Do you think increasing disclosure like the OEC has announced, and that all G-20 countries like China and India have adopted, or going to adopt, will that enhance enforcement allow countries to better deploy their resources, and will it maybe negate (inaudible) like thin caps rules or CAC rules by increasing disclosure?

MR. ROSENBLOOM: Well, I think it's going to lead to a pretty chaotic situation myself. I think for a while, maybe even for a long while, the greater amount of information available is going to lead countries to what someone called earlier as revenue grabs. I think that's pretty much inevitable that there are going to be countries doing some strange things. And our companies because they're present around the world are going to suffer from that.

I'm more concerned -- I'm not so much concerned about the enforcement aboard. I'm concerned about the hollowing out of the revenue service in the United States. I think -- you know, just to put -- this isn't what you asked but let me just make this one point that we have in the Revenue Service there's now 85,000 employees. That's 15,000 less than we had six years ago. Of those 85,000 employees in the Internal Revenue Service, there are 250 of them that are under the age of 25.

They're not getting new people. They're not hiring. It's not the most attractive place to work. People don't want to work in a place where you got a bunch of bozos yelling at you all the time about what a terrible job you're doing. So it's not the most attractive career path for a young person. And in addition, they don't have the money to hire people. This is not good. This is not good.

MR. SAMUELS: So I would agree with David, but I would say the system not only is really enforced by the accounting firms, and the law firms, and are withholding (inaudible). But I think we really need more and better resources, the IRS, but --

MS. CORWIN: You will need resources to help navigate those, all those disputes that will arise just to defend competent authority cases and so forth, and that's --

MS. SAMUELS: There's that too.

MR. TODER: Mike, do you have a question?

MR. SAMUELS: Mic for mike.

MR. TODER: Mic for Mike.

SPEAKER: Hi. It's Mike Schlare. And of all the people that need tax cuts in the U.S. these days, I'm not sure multinationals should be first on the list --

MR. SAMUELS: You're falling into the trap that they pay tax. It's warm --

SPEAKER: They do pay tax.

MR. SAMUELS: -- think about what the consequence of (inaudible) it is. Don't anthropomorphize them. Don't make them people. They're not.

SPEAKER: That's fine. And the other thing is that we live in a world today where you set up shop somewhere in a tax haven, or a low-tax jurisdiction. You pretend that's where your residence is, and then you enter into cost plus, and do sales around the world and you enter cost plus arrangement everywhere. So all the places you're selling stuff and doing everything else, make a tiny sliver of profit, and all the real profit is going to the tax haven where you set up shop with a few people.

MR. SAMUELS: Right. I mean, it's not surprising under that system that every country wants more than their little sliver. I mean, unless we do something -- and you say, well, source is where the research takes place, and maybe that's right, but ultimately, I think you've got to go where the sales are whether it's formulary apportionment based solely on sales, or something like that, or else it's not surprising all these countries around the world are saying they're being cheated out of tax. They're not getting any tax.

MR. SAMUELS: So that's what the -- I would --formulary apportionment based only on sales sounds to me like a destination-based income tax. And, sure, that's what -- you can think of the DPT as sort of that. The answer is, yes. I agree with that.

SPEAKER: Well, we shouldn't be complaining about that. That's --

MR. SAMUELS: I'm not complaining. I'm thinking it's just maybe the only solution. I'm following David's lead.

MR. ROSENBLOOM: Well, I would not limit it to that though. I'm not -- for example, if research is done in the United States, but sales are made around the world, I'm not saying necessarily I would give up on the U.S. claim to some of that revenue on a source basis. In other words, I'd be prepared to have a multilayered interpretation of source --

MS. CORWIN: That's not source. Right? So that's a different definition of source.

MS. ROSENBLOOM: Look. I mean, you can call it what you want. It's not residence for sure. It's basically -- a source country in my experience, typically, looks to whether it has to bear a deduction. If it bears a deduction, its instinctive reaction is if we bear the deduction for something, we're going to tax the income. I don't think that's a crazy way of looking at it.

MR. SAMUEL: We're wrestling with a problem of an income tax in a world of mobile capital. If you had a value added-tax, and you'd R&D here, and the product is sold outside the U.S. we wouldn't collect a nickel of money on that. The export would be exempt. When we sold it into the U.S., we'd collect the tax.

We're trying to do something that's really impossible, which is catch a light beam that's moving around the room much faster than any of us can see it. Income taxes don't work in worlds of mobile capital. We need some kind of destination data.

MS. CORWIN: So just to be --

MR. SAMUELS: Allan Auerbach did a great piece. His modern corporate income tax is not an income tax at all. It's a consumption tax, but he calls it an income tax. And we're in the death throes of the income tax --

MR. TODER: Well, I'd say since we have all these smart people together, the reason we're having this conference is to figure out how we could do a corporate income tax which is still taxing investment income at some level. So --

MR. SAMUEL: At the individual level.

MR. TODER: At least whether we should have a VAT as more of a revenue is another issue, but even if you believe that, we still are probably going to want to maintain an income tax. So --

SPEAKER: (Off mike).

MR. SAMUELS: Well, then you -- if you want to tax in from capital, you have to tax it at -- where it's not mobile by the owners.

MR. ROSENBLOOM: I'm not taking a position.

(Laughter)

MR. TODER: Any other questions? Yes. Jerry.

SPEAKER: (Off mike) mainline.

MR. SAMUELS: More than one.

SPEAKER: Well, you said, well, I'm not in favor of a VAT like many of you people are. But then it seemed to me you cane around --

MR. SAMUELS: No, no. I'm saying administratively. I was suggesting that every economist will tell you, oh, that's because it doesn't tax savings is going to create a lot more economic growth, and that it's much better than an income tax for growth. I'm just saying I'm not sure I fully agree with that.

SPEAKER: Look what it did for Italy.

MR. SAMUELS: Right. The economic end -- I understand when you can tax something twice like the accrued wealth that already income taxes been paid on there's a nice bang for the buck, but overtime, I don't know why if a governor takes money out of the economy in one form either as a VAT or as an income tax, it makes a lot of difference to me. I don't have it in my genes to spend. So that's my only point.

MR. TODER: I have one more question. Time for one more question. Going once. Going twice. Yes.

SPEAKER: We have a lot of high-powered former international tax counsels, or deputy assistant secretaries for international tax in the room, and I often look at these double taxation treaties not from the developed countries perspective, but from developing countries. I've come to the conclusion that most of these double taxation treaties should be terminated as Mongolia did with a Dutch treaty, and maybe where a country should start is a simple rule. If you deduct it, it has to be someone's income, domestic income. a reaction?

MS. ANGUS: I think it would be really unfortunate if all the network of world tax treaties were terminated. They serve really important purposes. One of them is to allocate taxing jurisdiction, but they also serve significant administrative purposes, and provide certainty, and I think that certainty is to the benefit of developing countries and developed countries alike.

So it might be that you'd like to see different provisions in some treaties, but I think a world without treaties would be a much more complicated place.

MR. ROSENBLOOM: Well, I sort of half agree with that. I think treaties with developing countries are a bit of a con. But I do think that avoiding double taxation, exchanging information, maybe a couple of the other provisions of the typical treaty are useful, useful in appearance, and maybe even useful in practice.

I do think that I can see why developing country treaties -- I sat through a bunch of lectures from the likes of Argentina on this subject -- that why developing country treaties from their standpoint are really a revenue lost, a net revenue loss as we tend to go and tell them you've got to sign it a particular way. I sort of see that point of view.

On the other hand, I think Barbara is right. I think going in a world without treaties you're just adding to what in inevitably going to be a pretty chaotic situation in the post-BEDS world.

MR. TODER: I think that's -- a pretty chaotic situation is a good last word. So let's end it here, and I want to thank the panel for a very stimulating discussion.

(Applause)

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