



華東政法大學

East China University of Political Science and Law



Dispute Resolution in International Economic and Tax Law and Mediation

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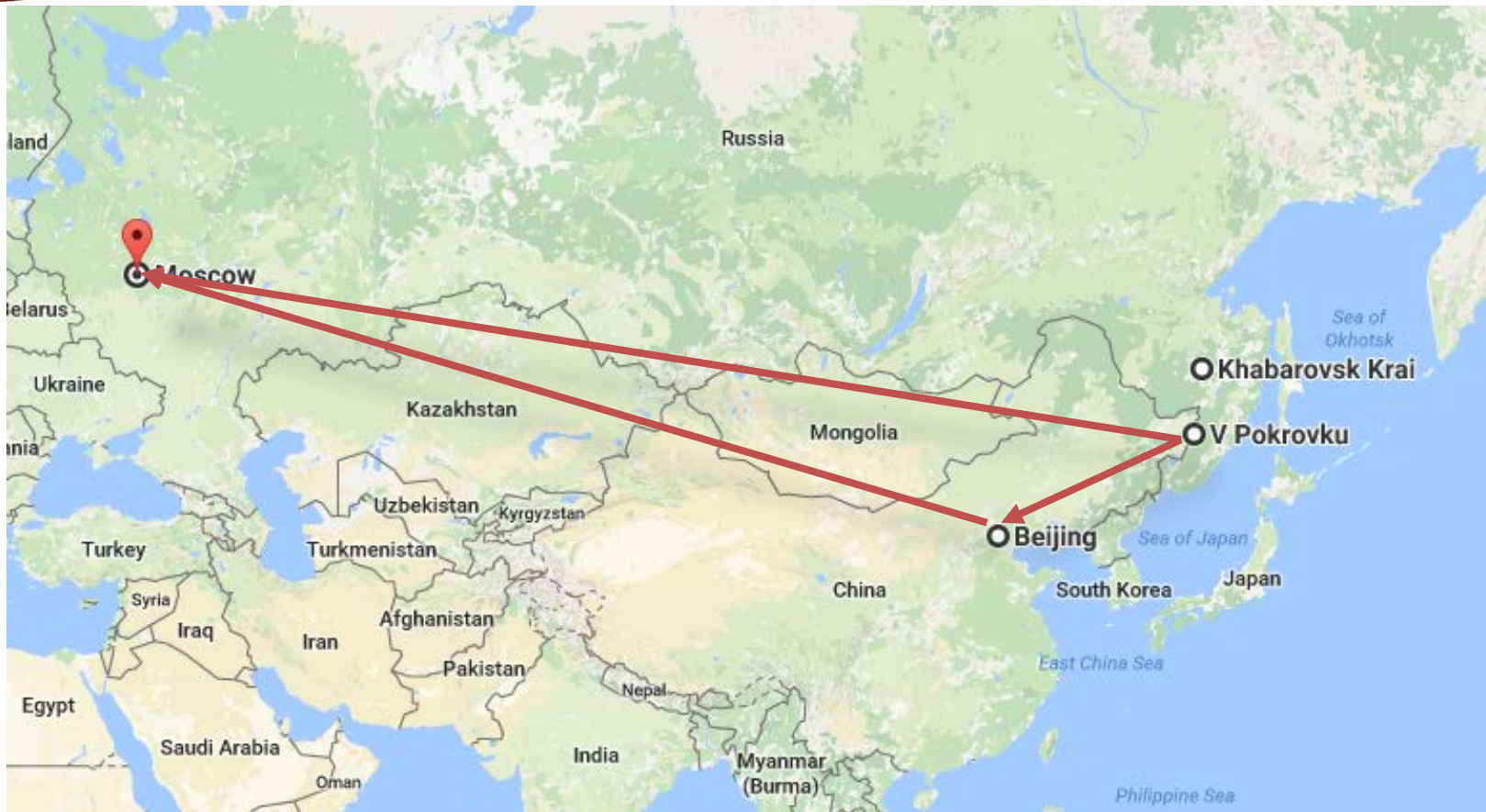
Fact of the Dispute

- **A Chinese entrepreneur farmed lands in Russia through using his employees and equipment, aggregately more than 18 months, but each time less than 2 weeks.**

- **Russia-China Tax Treaty (1994)**
 - **PE? Business profit or individual service income, or other income?**



A Tax Dispute Case – MAP?



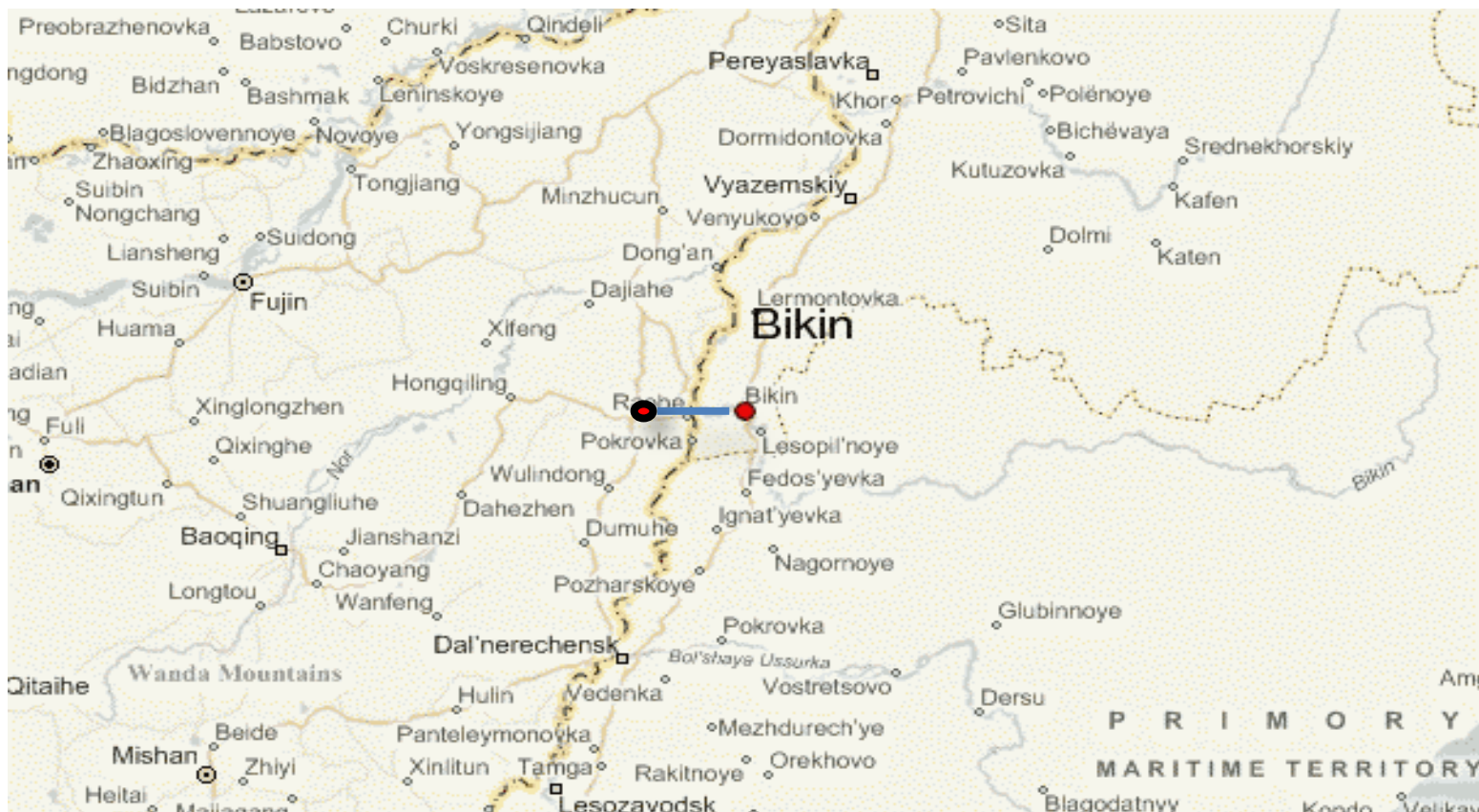


MAP

- **All 106 tax treaties China concluded use MAP; no arbitration; no mediation**
- **Limitation of implementing MAP**
 - **Location distance; Time consuming; No participation of taxpayers; Unpredictable result; Short of human resources, etc.**



Mediation?





Doubts on this Approach

- **The payment: to Russian tax bureau or to Bikin government – Is it really a “tax” payment?**
- **Any interaction between local governments of Russia and China with their competent tax authorities?**
- **An alternative resolution approach or an illegitimate result?**



Improving this Approach

- **Make it a legitimate mediation approach for the BRICS**
 - **Delegation of negotiation power from the central (Competent Authorities) to the local (tax authorities)**
 - **Involving local governments and local experts**
 - **Accepting the mediation result by the central competent authorities**



The BRICS: Mediation + Arbitration

- **Is arbitration a possible approach amongst the BRICS?**
 - **a multilateral agreement**
 - **Tribunal: a 5 countries round-table; involvement of BRICS Bank**
 - **mechanism: referring to the EU arbitration directive proposal, or the U.S.-Canada approach?**



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Thank you!

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