

IATJ
MINUTES OF MEETING OF THE BOARD OF DIRECTORS
September 11 2022 at 9:00 a.m.
Budapest, Hungary

Participants:

Chief Justice Rossiter
Judge Philippe Martin
Judge Michael Beusch
Judge Wim Wijnen
Judge Akin Ajibola
Judge Dagmara Dominik Oginska
Judge Peter Panuthos
Judge Vesa-Pekka Nuotio
Judge Manuel Luciano Hallivis Pelayo
Judge Jennifer Davies
Judge Eui Young Lee
Christopher McNall
Caroline Vanderkerken

Absent with regrets:

Judge Friederike Grube
Judge Vineet Kothari
Judge Anthony Gafoor

1. The list of attendees.
2. 12th Assembly in Review:

a) Logistics:

(1) Facilities:

The logistics for the Assembly were carried out by the International Curia. The room was courtroom style which had been done previously and it worked out satisfactorily. Not booking rooms in hotels but leaving it up to attendees to make their own accommodation arrangements was also satisfactory. Not blocking out rooms but suggesting hotel locations made the administration less difficult.

(2) Materials:

There was some uncertainty with respect to the printing of the slides. A deadline had been set by the court but it was effectively ignored. Maybe the host court could have the files electronically rather than just in paper. The slides are kept electronically in pdf so possibly the host court could keep them electronically and distribute accordingly. This is highly dependent on the host court and its ability to assist in this regard.

Some ideas were discussed about production and distribution of Assembly materials.

(1) It was noted that IT of the host country had all the current materials. Possibly the host country could be responsible for sending out the materials. As noted earlier, this is highly dependent on what a host court can do to assist an Assembly.

(2) An inquiry was made to whether or not we would use the IATJ website for distribution.

(3) The use of Share Point or some sort of portal was considered, then there is the rights with respect to registration.

(4) The use the IBFD for distribution purposes.

(5) There was an idea of using an outside agency for the management of the website – there is a costing issue.

The premises were very satisfactory and certainly added to a positive atmosphere. Some of the binder slides were not in order, not properly bound but this can be corrected. Colour matching was a problem, in the future all slides should be in black and white. It was generally of the view that the host court did an absolutely wonderful job. It was suggested that we do away with distribution of paper but put it on the website. Post conference do the printing of binders upon

request. Also there was an idea that we should have a template for IATJ presentations.

b) Program:

In analyzing the program presentations, the following was discussed with some questions and suggestions.

- (1) There was a discussion on different styles in presenting the programming – a discussion with respect to the interactive was better than a lecture style but this is dependent upon the topic, the more technical the more difficult it is to have a non-lecture style. There was two levels of discussion – presentation within the panels versus presentation followed by interaction of the panelists and the attendees. The order of the panels is important – put techno topics early in the day with more discussion towards the end of the day.
- (2) It was noted that balance in timing of topics was done very well. The judicial topics really depends upon the exchange of experience, an information level on the slides.
- (3) Informative category: Adversarial versus inquisitorial - are systems not converging together? What about the tax administration of the host country? What about the issues of the host country? For the interview process by the host presentation could it be better presented to keep the people engaged? The Chair should understand the expectations of the IATJ in terms of content, presentation, etc. Need to be more prescriptive by the IATJ.
- (4) Common issues. Civil versus common law and use that to direct the nature of the discussion. The host country – panel descriptive question and answer and then discussion to follow. Maybe it will be a specific situation as per country. Menu between topics was quite good – liked the introduction and the sum up. Comparative law in each panel. Chair should be the chair not necessarily a panelist and should keep the panels on time.

(5) Larger panels versus smaller Panels, open for discussion. Lead papers versus multiple papers, open for discussion. Interactive nature, open for discussion. Responsibility of the chair and organizers? Style of each session to ensure right fit together. Longer health breaks, two hours for lunch may be too much.

3. Topics for Assemblies and Webinars:

Possible new topics for future Assemblies or Webinars:

- Treaty interpretation and how courts describe as to how multi-lateral instruments in new treaties are to be construed. Use and non-use, the OECD commentaries.
- Interpretation – Interpretation methods of treaties by courts.
- Foreign law – The duty to qualify for entities or contacts. Do we have a methodology for doing that? How to find the right tax treatment in your own country?
- Some topics that are specific court/country related.
 - a) application of tax under the treaty and country;
 - b) domestic tax treatment versus international tax treatment;
 - c) technical expert evidence;
 - d) principal purpose test – how to be interpreted by the court and who has the burden of proof;
 - e) group appeals – how do courts process and deal with group appeals;
 - f) evidence extra-territoriality – virtual versus in-person; jurisdictional issues?

- g) right of privacy re digitization and human rights;
- h) digitization on any type of forum (not doing anything on paper), how is it done by country;
- i) changing processes and the role of the judges;
- j) exchange of information – information collected and accessed the same. How do we react to the system of exchange of information?
- k) climate change and tax;
- l) minimum tax for multi-nationals;
- m) case load and court management – who runs the court - case management, caseload management and how is this managed.

4. Location of the 13th Assembly:

Consideration and discussion took place with respect to the 13th Assembly – it was proposed to be held in The Hague September 8 and 9, 2023 with the Dutch Supreme Court taking the lead.

There being no further business, the meeting was duly adjourned.