

IATJ
MINUTES OF MEETING OF THE EXECUTIVE
March 26, 2013 BY CONFERENCE
CALL – 8:30 a.m. (Canada/U.S.)

Participants:

Eugene Rossiter (Canada), Friederike Grube (Germany), Philippe Martin (France), Wim Wijnen (The Netherlands), Bernard Peeters (Belgium),

1. Agenda:

- The proposed agenda was discussed, with additional items added thereto being the Rules of Procedure of the Court of Justice of the European Union and the collaboration with the International Development Law Organization.
2. The minutes of the Board of Directors' Meeting of January 14, 2013 were approved as circulated, with slight amendments to be suggested by Wim Wijnen with respect to the wording in paragraph 11.
3. ACJ Rossiter reviewed the financial status as at February 28, 2013, a copy of the report being attached.
4. Newsletter: ACJ Rossiter advised that the newsletter would be going out shortly. The first author to present a newsletter for this year is Malcolm Gammie from the U.K. Correspondence has been forwarded to him with respect to the topic and he is expected to have a paper for presentation to the membership shortly.
5. Logo/Trademark: ACJ Rossiter explained that both he and Wim Wijnen had canvassed law firms in Europe and in Canada with respect to obtaining a trademark on the IATJ logo. They advised that it is really quite expensive and it would have to be updated on a regular basis. It was concluded that it was not worth the expenditure to proceed with a trademark for the logo at this time.

6. San Paolo, Brazil – IATJ Panel: Associate Chief Justice Rossiter advised that he is still awaiting word from Judge Bianco with respect to the firming up of:
 - (a) the date for the panel;
 - (b) topic for the panel; and
 - (c) panel composition.

Judge Philippe Martin advised that he had been contacted by the organizers of this conference for him to participate in a panel on “Tax Treaty Interpretation – Article 6.2 FL”, but he doesn’t know if this is associated with the IATJ panel. ACJ Rossiter is to make enquiries of Judge Bianco as to the status of the panel et cetera.

7. ABA Regional Conference/IFA, Miami, June 14, 2013, IATJ Panel: ACJ Rossiter advised that there was a panel being organized by Judge Bianco in cooperation with the ABA and IFA. It will be an IATJ panel. The IATJ judges would come from North or South American countries. ACJ Rossiter will be attending, Judge Manuel Hallivis-Pelayo from Mexico and Judge Bianco from Brazil will also be attending, and possibly another judge from South America. Attempts were made to have a judge from the U.S. Tax Court attend but this has not been successful to date. The topic was to be “beneficial interest”.

8. Update on 4th Assembly in Amsterdam:

- (a) Hotels: Judge Wim Wijnen advised he recently checked the hotels in which reservations have been made and confirmed there have been 14 reservations to date. ACJ Rossiter is to follow up to see if we can get more of an update on these reservations as soon as possible.
- (b) Bus transportation: Judge Wijnen advised that he had made various enquiries as to bus transportation. He is going to advise as to the particulars as soon as possible.
- (c) Boat tour: Judge Wijnen has signed a contract with respect to same.
- (d) Reception, Friday evening: The President of the Court of Appeal has made a request to the judiciary to cover the costs associated

with this reception, the financial aspect of which has not yet been finalized. Judge Wijnen is confident that the approval will be obtained.

- (e) Closing dinner: The contract is signed for the closing dinner at the Okura Hotel.
- (f) The accounting rules at the present time do not allow the IBFD to pay third parties monies for events that we are organizing. As a result, Judge Wijnen is going to finance small items in the meantime and the IATJ will reimburse him sometime in June.
- (g) Program: In discussing the program, Judge Wijnen advised of the following:
 - (i) The location of the meeting of the directors on Thursday, August 29, 2013 at 6:00 pm will be decided once we determine where the directors are all staying, that is, Amsterdam or Lieden.
 - (ii) On August 30, 2013 there will be words of welcome from the CEO of the IBFD before the substantive sessions start;
 - (iii) Substantive session - "Tax Avoidance"
Chairperson: Peter Panuthos
Panelists: Malcolm Gammie, Ergen Brandt, Stef Weijhel
There may possible be other panellists but the Chair will follow up with respect to same.
 - (iv) Substantive session - "Indirect Taxation"
Chairperson: Friederike Grube
Panelists: Dagmara Dominik-Oginska, Timothy Lyons and Judge Grube is obtain one other member for her panel.
 - (v) Substantive session - "Objective law/subjective judges"
Chairperson: Ed van der Ouderaa, Vice-President of the Court of Appeal of Amsterdam. He will present a paper with respect to the above noted topic and will then initiate a discussion with attendees.
- (h) Cocktail reception: The cocktail reception will be held at the Court of Appeal. At the present time monies are being pursued for the reception and buffet. There will also be a tour given by the architect and others.
- (i) Saturday: Substantive session - "Transfer Pricing"
Chairperson: Philippe Martin

Membership of the panel is yet to be determined, but hopefully there will be one from India, one from the Netherlands and one from Germany.

- (j) Substantive session – “Recent case law on treaty overriding”
Chairperson: Joao Bianco
Panelists: There is to be judicial representation from Mexico, USA, Trinidad & Tobago, India, Hungary, Australia, Germany and Israel and these are to be confirmed at a later time.
- (k) Substantive session – “Conclusive force of declarations of foreign authorities”
Chairperson: Robert Jan Koopman
Panellists: Thomas Stadelmann, a judge from Belgium, Austria and possibly a judge from Germany. Judge Friederike Grube is to pursue someone in Austria for this panel.
- (l) Substantive session – “Excise duties in EU”
Chairperson : Harald Jatzke from Germany will do this presentation.
- (m) Closing dinner: Guest speaker will be Peter Wattel.
- (n) Judge Wijnen is planning some events for Sunday and will provide further particulars at a later time.
- (o) The meeting of the Executive and Board will take place on Sunday, at a time and location to be determined at a later date.
- (p) We are to send an invite to a member of the European Court of Justice.
- (q) There are to be two guests also invited from the Belgium Supreme Court to sit in on the first day of the proceedings on a gratuitous basis.

- 9. The Rules of Procedure of the Court of Justice of the European Union – there was a presentation done by Judge Friederike Grube, on her behalf and on behalf of Dagmara Dominik-Oginska from Poland. The issue is that sometimes the European Court of Justice makes preliminary rulings without the input from national courts. It was suggested that there be amendments to the rules of procedure for the European Court of Justice so that national courts might be invited to make presentations to the European Court of Justice before they make the preliminary rulings, to ensure that full and complete information will be available when they make their determinations on these preliminary rulings.

There was some concern that the ECJ could be concerned with being swamped with requests from the national courts. There was also the view that many times the ECJ may be guessing as to the position of the national courts.

It was agreed that this matter would be put over to the next Board of Directors' meeting for discussion. Attached is a notice of proposal to amend the rules of procedure of the Court of Justice of the European Union.

10. International Development Law Organization: Wim Wijnen advised that the International Development Law Organization had evolved in upgrading the laws in the broader sense of the world, that is, to improve the life and existence of world peoples. There is a proposing relation to a justice in Mongolia. There were enquiries as to providing an overview of certain topics which would take approximately six hours, starting with an initial engaged in May, 2013.

After discussion it was agreed that this was certainly something which could advance the interest of IATJ and providing assistance by the IATJ to developing countries in the world. Judge Wim Wijnen is to follow up on these enquiries with respect to same with a view that possibly in the future we might have a couple of judges from IATJ participate in this project, at least on the first issues raised. Judge Wijnen is to report back with respect to his efforts in this regard.

11. 5th Assembly – Washington: There was a brief discussion with respect to the particulars for the 5th IATJ Assembly in Washington. It will be discussed further at the next directors' meeting.

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