

IATJ
MINUTES OF MEETING OF EXECUTIVE
May 28, 2013 BY CONFERENCE
CALL – 8:30 a.m. (Canada/U.S.)

Participants:

Eugene Rossiter (Canada), Friederike Grube (Germany), Philippe Martin (France), Dagmara Dominik-Oginska (Poland), Peter Panuthos (United States), Manuel Hallivis-Pelayo (Mexico), Joao Francisco Bianco (Brazil), Clement Endresen (Norway) Tony Pagone (Australia) and Pramod Kumar (India).

Regrets:

Wim Wijnen (The Netherlands), Malcolm Gammie (U.K.) Zaim Brahim (Morocco), and Bernard Peeters (Belgium).

1. Agenda:

The proposed agenda, as circulated, was approved.

2. The minutes of the meeting of the Board of Directors of January 14 and of the Executive of March 26, 2013 were approved, as circulated.

3. Financial Status: The financial report was presented by the President of the IATJ as well as a review of the financial status of the IATJ as of February 28, 2013, a copy of which was circulated. There were no questions with respect to the financial status however it was noted that of the sixty individual members of the IATJ there were approximately twenty receivables still outstanding.

4. Newsletter update: The President advised that he had recently received a newsletter from Friederike Grube and this will go out by the end of the week. Malcolm Gammie's newsletter will be circulated by May 30, 2013 and Judge Philippe Martin will have his newsletter drafted by June 30, 2013 with it to go out by July 15, 2013.

5. San Paolo, Brazil: Judge Bianco confirmed that the IBDT is conducting a conference on tax in San Paolo, Brazil on September 30 and October 1, 2013, jointly sponsored with IFA. There will be a panel, the subject being the interpretation of tax treaties. The confirmed attending on the panel from the IATJ are Judge Philippe Martin, Associate Chief Justice Eugene Rossiter, a federal tax judge from Brazil and one more member of the IATJ would be appreciated. As noted, Judge Bianco requested volunteers to participate and anyone who is interested in sitting on the panel should contact Judge Bianco directly with a copy to the President of the IATJ.

6. ABA regional conference/IFA American Branch: There is a conference sponsored by the American Bar Association and the IFA American Branch in Miami on June 14, 2013. IFA will be presenting a panel comprised of a representative from Canada – Associate Chief Justice Rossiter, Judge Hallivis-Pelayodge from Mexico, a judge from Guatemala and a judge from Brazil and the panel is now complete. The topic is beneficial ownership with each judge to make a presentation with respect to the cases in their respective courts.

7. 4th Assembly in Amsterdam: We were unable to complete a report with respect to the program and the budget at the meeting time, however, it appears that the program is progressing nicely and all the panels are pretty well complete. Judge Wijnen will provide a more detailed report at a later time. A brief discussion of the budget took place and it appears that the Assembly will likely break even.

8. Rules of Procedure for the Court of Justice of the European Union: This discussion arose during the last meeting of the Executive. Apparently, there is a Preliminary ruling are requested of the Court of Justice of the European Union. Sometimes the questions presented for preliminary ruling are not clear and concise. There is a suggestion that the national courts participate in the oral hearings to ensure that the preliminary rulings deal with a clear and concise question.

Judge Martin had discussed this with his colleagues in France and raised several concerns.

- a) The necessity of a new procedure – he has suggested that the present situation is not totally unsatisfactory as the national courts do send a full written file to the Court of Justice of the European Union on the preliminary question;
- b) Who would actually appear at the European Court of Justice? Who would make the presentation – the Advocate General or a representative of the national court, i.e. the President of the Court and what interest would they be presenting;
- c) Impartiality of ruling – after a ruling would the national court appear to be raising issues in favour of one party over the other party and would the judge then be disqualified from sitting on the future case.

It was suggested that these are some valid considerations and that this matter would be put on the business portion of the 4th Assembly with the discussion led by Judge Friederike Grube.

9. International Development Law Organization: The International Development Law Organization look to upgrade laws in the broadest sense of the world, and improve life and existence for world people. There was a proposal with respect to justice in Mongolia. There was a suggestion that the provision of a presentation and an overview of certain topics could take place, of approximately six hours starting with the initial engagement in May, 2013. This matter was to be followed by Judge Wijnen. Judge Pagone from Australia advised that an Australian judge had done some work in Mongolia and possibly he could be consulted, with respect to the steps to be taken in relation to the possibility of doing this presentation in Mongolia.

There being no further business, the meeting was duly adjourned. The next meeting was scheduled for May 27, 2013 at 8:30 a.m. by telephone conference call.