

MINUTES OF THE MEETING OF THE  
DIRECTORS OF IATJ – OCTOBER 25, 2014  
Washington, D.C.

In attendance:

Associate Chief Justice Eugene P. Rossiter, Tax Court of Canada;  
M. Philippe Martin, Conseil d'État, France;  
Friederike Grube, Richter in am Bundesfinanzhof, Germany;  
Judge Willem F.G.Wijnen, Court of Appeal of 's-Hertogenbosch, The Netherlands;  
Justice Clement Endresen; The Supreme Court of Norway;  
Dr. Manuel Luciano Hallivis Pelayo, Tribunal Federal de Justicia Fiscal y Administrativa, Mexico;  
Justice G. Tony Pagone, Federal Court of Australia;  
Counselor João Francisco Bianco, Administrative Council of Fiscal Appeals, Brazil;  
Judge Bernard Peeters, Belgium  
Justice Peter J. Panuthos, U.S. Tax Court;  
Judge Michael Beusch and Mia Fuchs, Federal Administrative Court, Switzerland

Regrets:

Judge Dagmara Dominik-Oginska, Voivodship Administrative Court in Wroclaw, Poland;  
Brahim Zaim, President, Supreme Court Morocco.  
Pramod Kumar, Income Tax Appellate Tribunal, India;  
Judge Manuel Garzón, Supreme Court of Spain;  
Judge Malcolm Gammie, First-Tier Tribunal (Tax Chamber) U.K.

The purpose of the meeting was to conduct a detailed 5<sup>th</sup> Assembly review.  
The following was note:

- a. There appeared to be a balance between tax and procedural topics;
- b. The number of panelists in each particular panel appeared to be satisfactory;
- c. Something must be done to encourage audience participation in the discussions;

- d. The preparation for the panels should be well before the presentation and not just the morning of or the evening before, and rather than do a panel format it was suggested that there might be just one topic done in depth and then have some commentaries with respect to the one topic. By this it was meant that speaking to the topic generally, and then two comments from two commentators;
- e. There was discussion with respect to the set up, that is classroom v. arrow style v. horseshoe style;
- f. There was discussion with respect to the number of topics per day;
- g. There was discussion with respect to the protocol for the panels, as each panelist should be limited to fifteen minutes in speaking;
- h. There was a suggestion that a presenter should be limited to thirty to forty-five minutes on any topic and then two commentators be given ten minutes each;
- i. It was noticed that the style of room is highly dependent upon the location and the number of people present and there was a query as to whether or not there could be a break-out session with two panels running presentations at the same time;

1. Topics:

Suggested topics for the future were:

- i. BEEPS
- ii. Multi-lateral convention
- iii. General Anti-Abuse provision – OECD – judges’ reactions
- iv. Substance (law v. form) (civil)
- v. Transfer pricing
- vi. Anti-avoidance
- vii. Treaty shopping
- viii. Recent case law
- ix. Use of foreign jurisdiction by domestic courts
- x. Ethical requirement for judges on financial issues, i.e. relationship to tax professions; businesses; ownership of stock
- xi. Determination of residence for individuals;
- xii. Permanent establishment
- xiii. Domestic law and tax treaties
- xiv. Fraud in VAT
- xv. Human rights treaties and tax treaties

- xvi. International tax participation of partnership
- xvii. Wording of court decisions
- xviii. Precedents – foreign cases
- xix. Fact finding in tax cases
- xx. Consistency of precedents and reversal of jurisprudence
  - a. Procedure for reversal
  - b. Changes of jurisprudence
  - c. Time adjustments – is it retroactive?
- xxi. Case management – adversarial v. inquisitorial
- xxii. Best practices in judging
- xxiii. Procedure of tax jurisdiction in host country
- xxiv. Foreign laws dealt with in court proceedings
- xxv. Interpretation of foreign law
- xxvi. Production of evidence – how produced and when
- xxvii. Comprise/settlement of tax disputes – ADR
- xxviii. Experts – use of
  - i. When
  - ii. How
  - iii. Oral or both
- xxix. Witnesses: treaty negotiations – can they give evidence on treaty interpretation?

2. Location:

The location of the 6<sup>th</sup> Assembly will be in Lucerne, Switzerland.

3. Date:

The dates will be September 4 and 5, 2014.

General:

4. In terms of the IATJ, we are looking for new members in Latin America, as well as Portugal, Spain and Italy. There was some discussion with respect to IATJ recruitment of more countries and members.

5. There is a conference in Mexico City on November 8, 2016 where it is hoped that the IATJ will be able to have a panel participating.

6. IFA will be having an IATJ panel on the protection of taxpayer rights.

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