

Minutes of the IPCC Business Meeting
held in the HILTON TOKYO Hotel - Kotobuki Room – TOKYO, JAPAN
Wednesday October 19th 2016 - 6 pm

Participants:

Jean-Louis Collart (Geneva, Switzerland)
Agnès Proton (Cannes, France)
Yann Mrazek (Dubai, United Arab Emirates)
Markus Zwicky (Zug, Switzerland)

The **call notice** and the meeting agenda were sent on September 28th 2016; the agenda stated the following points to be addressed:

- 1) Programs:
 - a) SIL 2016 Fall Meeting (Tokyo, Japan, 18-22 October 2016)
Review of our Panel presentation;
 - b) SIL 2016 Americas Forum (Bogota, Colombia, November 14-16 2016);
 - c) SIL 2017 Africa Forum (Cape Town, South Africa 6-7 March 2017);
 - d) SIL 2017 Spring Meeting (Washington DC 25-29 April 2017);
 - e) SIL 2017 Europe Forum (Barcelona, Spain 11-13 June 2017);
 - f) SIL 2017 Fall Meeting (Miami Fl 24-28 October 2017);
- 2) Joint Activities with ABA Section of Real Property Trusts & Estates Law and other Section committees;
- 3) Future IPCC topics to be addressed;
- 4) IPCC communication (webpage, newsletter ...);
- 5) Miscellaneous.

The meeting took place as scheduled and was conducted by the IPCC Co-Chair Agnès Proton.

1) – Programs

a) Review of ABA-SIL IPCC Panel in Tokyo

At the time this Business Meeting took place the program had not been held yet, since it was scheduled on Thursday October 20th 2016. See hereafter its presentation, as published in the Tokyo Fall Meeting brochure:

“Differences of Culture and Family Dynamics: Consequences for International Succession and Estate Planning”, Hilton Tokyo Hotel 9:00 - 10.30 am, in the Yamato Higashi room.

This Program was co-sponsored by the ABA-RPTE Non-Tax Issues Affecting the Planning and Administration of Estates and Trusts Committee, and also co-sponsored by ABA-SIL IFLC, International Ethics, International Tax, Immigration and Naturalization Committees.

Panel Chair:

Jean-Louis Collart, Mentha Avocats, Geneva, Switzerland

Moderator:

John Strohmeyer, Crady, Jewett & McCulley LLP, Houston, TX

Speakers:

Jean-Louis Collart, Mentha Avocats, Geneva, Switzerland

Timothy Langley, Langley Esquire, Tokyo, Japan

Yann Mrazek, M/Advocates of Law, Dubai, United Arab Emirates

Tomoko Nakada, Hokusei Law Office, PC, Tokyo, Japan

Guillermo Villasenor, Sanchez Devanny, Mexico City, Mexico

Cultural and social factors surrounding and influencing the ownership, structure, and control of family and business assets are important variables to consider in international estate and succession planning. Profound respect for elders and family heritage weighs heavily in certain countries and cultures, whereas in others, gender and individual control play the more prominent roles. To further complicate matters, increased global mobility has made it common for families to have members from multiple cultures, often residing outside their country of citizenship. Drawing upon their experiences, panelists will compare the ways in which these elements are pertinent to succession and inheritance planning in their home countries. Clients and the elements of the property concerned are often located around the world. Therefore, issues of international taxation and ethical questions such as the attorney's competence to address foreign law will be discussed.

As it happened at the time these minutes are written, we can say now that this program was very well attended, most interesting and quite successful. Our 2016 IPCC Newsletter Fall Issue, to be coming soon, will report in details about it.

Again, this session had been the highlight of our IPCC TOKYO events, around which were organized other successful IPCC gatherings:

- On Tuesday October 18, 2016: **Committee Dinner at the OTO-OTO Shinjuku restaurant** primarily organized by the **Cross Border Real Estate Practice committee**, with the participation of the Asia Pacific, China, International Family Law and the International Private Client committees. About 40 attendants enjoyed a delicious traditional Japanese menu, in the cozy atmosphere of a typical and most charming Japanese restaurant. All participants had a very friendly networking time. What a great way to get into the Fall Meeting mood! Our many thanks go to Gerard Hernandez Colet from the CBREP Committee, for having done all the work here.
- On Wednesday October 19, 2016: **Committee Breakfast** at the Hilton Tokyo Hotel - 8:00 – 8:50 am in the Kikuen room – Again, we had the pleasure of sharing a table with the **International Family Law Committee** and enjoyed another great networking opportunity there.

We also supported the two IFLC programs chaired by our IPCC Past Co-Chair and current IPCC Senior Advisor Markus Zwicky on “*Implementation of the 1980 Hague Abduction Convention in Japan and the Pacific Rim*” and “*Moot Court : Children in International Divorces between Japan, the USA, and the Rest of the World*”.

b) 2016 Americas Forum (Bogota, Colombia, November 14-16, 2016)

As mentioned in IPCC Co-Chair Caroline Abela's monthly call minutes of last September 30th, our Committee active member Eric Kuhn will be attending this forum. Eric got involved in some organization calls and will register as a participant. He will then be able to represent our Committee there, and report afterwards about this coming SIL event.

c) 2017 Africa Forum (Cape Town, South Africa 6-7 March 2017)¹

The call for program proposals has not been sent out yet. Yann Mrazek mentions a possible topic that would be of interest there: *African Offshore Destinations and Tax Amnesty*. Yann made a presentation during the last STEP Africa's event that also took place in Cape Town, on April 4th 2016. It included a comparative panel Mauritius /Seychelles/ UAE. Yann will help us in making that proposal, together with Markus who will chair it.

Markus proposes also that we re-run our Morning Roundtable Session organized during the 2015 Africa Forum in Nairobi, Kenya : "*Family Law Issues for ExPats in Africa – International Family Law and Africa : Much More Our Business than you Think*" (held on Thursday, June 4th 2015, 8:00 – 8:50 am). Thus Markus and Agnès will prepare a second proposal accordingly.

d) 2017 Spring Meeting (Washington DC 25-29 April 2017)

As reported in our 2016-2017 IPCC Business Plan, our proposal "*Wealth Planning for PEPs and High Risk Clients: Risks and Challenges?*" has been accepted.

The topic will be addressing the following issues:

As professionally rewarding as it may be to act as trusted advisor to high profile clients, advising political figures and other potentially high risk clients is wrought with legal and ethical pitfalls for the wealth planning lawyer or advisor. Regulators require financial institutions to closely monitor transactions and account activity of clients who are political figures and other individuals who are or have been entrusted with a prominent public function (often referred to as "politically exposed persons" or "PEPs"). While lawyers generally do not share the same regulatory burden as that of financial institutions, lawyers are under more scrutiny than ever before. With any missteps, not only PEPs and PEP family members, but also their lawyers may be pulled into an unwelcome spotlight. The issue of privacy is also of great concern for these clients. While the public has an interest in knowing its political leader, families of PEPs are families after all, with their own fragile personal issues and an increased need for privacy and asset protection. This program will (1) explore the ethical and legal challenges, as well as reputations risks, associated with advising PEPs and other high risk clients on the ownership and succession of their wealth and (2) provide guidance on successfully navigating through this minefield.

It is sponsored again by the ABA-RPTE section – this time by its Ethics and Malpractice Committee, and co-sponsored by the following ABA-SIL Committees: International Ethics, Latin America & Caribbean, International Family Law, and International Anti-Corruption.

Our Vice-Chair Michael Parets is chairing this program, along with our Senior Advisor and former Committee Chair Markus Zwicky. Michael will moderate this panel as well.

In Washington the IPCC will also co-sponsored two programs:

- ***Who Owns My Property In the Sky and What Can I Do With it?*** Presented by the Cross Border Real Estate Practice Committee.

¹ In the meantime we just received the **call for proposals** regarding this 2017 Africa Forum which appears to have been **moved to June 25-27 2017**; tbc. The **deadline to submit those proposals** is set on **November 18, 2016**. To be followed up during your future monthly telephone conferences.

- ***Lawyers' Obligations and Liability in Post- Panama Papers World***, presented by the International Ethics Committee.

e) 2017 Europe Forum (Barcelona, Spain 11-13 June)

Currently we have submitted two proposals along with the IFLC:

One is ***“For Better, For Worse - Examining the Impact of Pre-Marital Agreements on International Succession”***.

Its description is as followed:

The International Private Client Committee and the International Family Law Committee would like to put forward a joint proposal to consider in detail the interrelationship between pre-marital agreements and succession on death.

Multi-jurisdictional enforceability and the rights of parties to pre-marital agreements will be the subjects of panels presented by the International Family Law Committee at the Washington Spring 2017 Section meeting. Both proposing committees would like to continue and enhance the discussion by considering how prenuptial agreements concluded in one jurisdiction affect the rights of heirs, third parties and tax authorities in the event of the death of the patron. Substantive and procedural issues of cross border jurisdiction and enforceability, as well as fundamental principles of forced heirship and testamentary freedom, will be considered in the context of a case study requiring advisers to disentangle these complex legal issues.

On the IPCC side, our Vice-Chair Henrietta Mason and our active member Diane Legrand de Belleruche are supervising and following up with this project.

The second proposal is ***“Intergenerational Transfers: Lessons to be Learned from Family Owned Enterprises in Transition”***.

Its description is as followed:

As aging business owners whose biggest part of their family fortune is the family business often wish to see an orderly intergenerational transfer of those businesses. However, such transfers face a myriad of issues requiring significant care and planning. This diverse panel of lawyers with specific expertise will detail the problems and solutions facing such clients: how to integrate (or squeeze out) children; how to work through the structures and cultural differences impacting every cross-border family business; what to do about untimely divorces (theirs and their children's); how to assure the validity of marital agreements, wills, trusts and foundations; and how to manage the tax aspects and impacts of any transfer solution chosen (e.g., sale of shares).

On the IPCC side, Markus is in charge here.

Last, the IPCC is also co-sponsoring another proposal made by the Middle East Committee : ***“The use of trusts in estate planning in the Middle East and Europe - focus on UK, Switzerland, Italy, Israel and Spain (other countries to be considered)”***.

For the time being, we are waiting for the result of the usual (proposals) selection process.

f) 2017 Fall Meeting (Miami Fl 24-28 October 2017)

Although the call for proposals has not been released yet, we are planning on submitting the following topic: “*Global Philanthropy: International Grant Making and Giving*”.

It will be supervised by our Vice-Chair Frederick Schoenbrodt.

Another possible topic for a program to be held during this 2017 Miami event has been discussed during this meeting: “*Passport shopping & Tax Immigration – Ethical Issues under Consideration*”.

As an alternative to relocation, providing HNWIs with an alternative nationality can also be of interest to optimize their tax planning, residency facilities, and travelling possibilities.

Of course, ethical issues are of the essence when advising such options to these clients.

Markus and Yann will follow up there.

2) Joint Activities with ABA Section of Real Property Trusts & Estates Law and other Section committees

The RPTEL section has been supporting our programs held in Washington (April 2015), Roma (May 2016), and now in Tokyo. This section will also co-sponsor our Washington program; obviously we will keep pursuing and strengthening this most successful cooperation.

3) Future IPCC topics to be addressed

The list of possible topics to be addressed during future IPCC programs has been circulated on several occasions. For instance, it was sent along with this meeting agenda & call notice.

It is made available to all IPCC members for them to update and comment.

4) IPCC communication (webpage, newsletter ...)

The IPCC co-chairs will update the committee webpage to post these Tokyo business meeting minutes and also our Fall Newsletter issue that will be released soon. Our Vice-Chairs Annie Jacobs and Jim Lynch are currently taking care of its preparation.

As above mentioned, this 2016 Fall issue will cover our Tokyo Program more in details. Our Panelists and Moderator have been invited to contribute; they will give us insights and highlights from their respective presentations.

5 - Miscellaneous : N/A

No further topics being discussed, the meeting was adjourned.

Agnès Proton – IPCC Co-Chair
Cannes, October 27, 2016.