The Joint International Tax Conference

Briefings



21 June 2024

A conference report by Edward Balaba and Camille McFarlane.

In the 13th year of this global annual event, organised by King's College London (KCL), CIOT, ADIT and the International Fiscal Association (IFA) UK Branch on 23 and 24 May, we brought together leading international tax practitioners to provide valuable insights into current challenges in international tax, drawing on their real-world experiences.

Chaired by Jonathan Schwarz, Temple Tax Chambers and Director of KCL's International Tax Law LLM, the conference catered to international tax specialists and future leaders in the field, including LLM students and the ADIT community. Professor Guglielmo Maisto, IFA President, opened with a keynote address on dispute resolution and the global minimum tax.

At the ESG and International Taxation session, chaired by Natalie Dunne (Baker & McKenzie), Lucy Healy (FTI Consulting), Sebastian Akbik (UN Principles for Responsible Investment) and James Egert (BDO) addressed key legal ESG issues, including the impact of base erosion and profit shifting practices, which cause revenue losses for governments that hinder funding sustainability goals. Soft laws, such as the Global Reporting Initiative standards, can provide a transparent approach for companies to meet stakeholder demands by aligning tax practices with sustainability.

The second session, chaired by Clive Gawthorpe (UHY Hacker Young), addressed Substance in International Tax. The panel – Dennis Kellmann (Mazars), Charles Duro (Duro & Partners) and Mark Bevington (ADE Tax) – discussed the meaning of substance in BEPS Actions 3 and 5 the EU Unshell Directive; substance, abuse and tax avoidance; and the Pillar 2 substance-based exclusion. They concluded that authorities should not close one loophole and open another.

The final day session on Recent International Tax Cases, chaired by Jonathan Schwarz, featured Sarah Gabbai (McDermott Will & Emery), Reinout de Boer (Stibbe) and Philip Baker KC (Field Court Tax Chambers). Beneficial ownership under securities lending agreements in tax treaties was analysed by the Tax Court of Canada in *Husky Energy v R* and in a Dutch Supreme Court decision on 19 January 2024. Application of GAARs and the PPT to tax treaties in the *Husky Case* and the Privy Council appeal from Trinidad and Tobago in *Methanex v IRB* was followed by *Pepsico Inc v COT* on royalties in the Australia-US Treaty.

Ivan Gutierrez (EY) chaired the Current Issues in Transfer Pricing session with Amelia O’Beirne (A&L Goodbody), Jemma Dick (Clifford Chance) and Juan Osman Moreno (DLA Piper). The first Irish Tax Appeals Commission decision *59TACD2024* on the treatment of employee share options was followed by discussion on the English Court of Appeal decision in *Blackrock LLC5 v HMRC* on whether third party covenants can be imported into a related party financing transaction and the Australian Full Federal Court decision in *Singtel v CoT*-on implicit support.

Cory Hillier, International Monetary Fund Senior Counsel, concluded with a keynote speech on varied experiences of, and advice to, governments on Pillar 2 implementation.

The authors are International Tax Law LLM students at King’s College London. Edward Balaba is a Chevening Scholar and Camille McFarlane is an Investment and Trade Promotions Consultant at JAMPRO.