



MEETING OF THE ANAO GROUP

BY VIDEO LINK

Sunday 17 May 2020 (8:00 pm Eastern Time)

MINUTES

I. Attendance and Apologies

In attendance were the President of the IAJ, Mr. Tony Pagone, and the President of the ANAO Group, Ms. Allyson Duncan, as well as the following delegates representing their respective associations:

Australia: Jennifer Davies, Caroline Kirton, Glenn Martin;

Bermuda: Juan Wolffe;

CAJO (observer): Peter Jamadar, Adrian Saunders, Georgis Taylor-Alexander;

Canada: Robert Blair, Clayton Conlan, Thomas Cyr, Kristine Eidsvik, Julie Dutil, Louise Mailhot;

Kazakhstan: Aidar Aralbayev, Madiyar Balken;

Mongolia: Munkh-Erdene Tsend-Ochir, Tsogt Tsend;

New Zealand: Gerard Winter;

Philippines (observer): Belen Carasig; Eileen Joy Patinko-bong; Remie Mondia;

Republic of China (Taiwan); Lin, Yin-Lun (Grace);

United States of America: David Carter, Margaret McKeown, Cynthia Rufe, Joanna Seybert, Chuck Simpson;

Porto Rico: Mario Morales, Elsie Ochoa, Carlos Salgado;

II. Approval of Minutes from ANAO Meeting in Nur Sultan (Clayton Conlan)

Upon proposal of Cynthia Rufe, seconded by Joanna Seybert, the Group unanimously approved the minutes.

III. President's Report

A. Presidency Committee Report

—Upcoming Meetings

President Duncan reported on the recent call of the Presidency Committee and its main outcomes, as outlined in the information paper provided by the General Secretariat. The present Presidency Committee will continue for another year and will meet virtually.

The President added that it was up to the Regional Groups to decide how they wished to proceed. ANAO agreed to carry over its discussions, including the paper to be prepared by Caroline Kirton and the discussion to be moderated by Robert Blair.

President Duncan then invited the IAJ President, Mr. Tony Pagone, to provide the background on the necessity to amend the IAJ Constitution to provide for a *force majeure* event such as that which occurred with the corona virus pandemic. President Pagone noted that the Constitution was not fit for purpose and had no provisions for situations like the current one (running of meetings, elections...). Therefore, he asked the Secretariat to prepare a draft amendment concerning cases when force majeure or other events prevent the regular running of IAJ's activities and the proposal will be circulated soon to IAJ Member Associations. Louise Mailhor recalled what happened when a coup in Ivory Coast prevented the 2002 Central Council meeting to take place and in 2003 two meetings were held, one at the beginning of the year in Spain, to hold the elections, and the other, regularly, in Austria in Autumn.

President Duncan reported on the decisions of the Presidency Committee with respect to the venues of the 2021 and 2022 meetings (Costa Rica and Israel), and announced that Taiwan had graciously offered to host the meeting in 2023.

B. Working Groups/status and membership

President Duncan went through the working groups to make sure everyone had an opportunity to participate who wished to do so.

The Working Group on Assistance of Judges, chaired by Nicholas Blake, had four ANAO members, namely Juan Wolffe (Bermuda), Clayton Conlan (Canada), Carlos Salgado (Puerto Rico) and Cynthia Rufe (US). Mr. Blake already circulated a draft document. The works of the two other WGs, on Monitoring and on amending the Constitution, will be put on hold for now.

The Monitoring Commission, chaired by IAJ Vice President Mikael Sjoberg, had two representatives from the ANAO Group, Clayton Conlan and Kristine Eidsvik (both from Canada).

As for the WG on Statutes, chaired by President Pagone, Mr. Wolffe recalled the debate occurred in the meeting in Kazakhstan on the amendment proposed by the Presidency Committee to article 4 of the Constitution concerning the possibility to admit to the IAJ “international associations or representative groups of judges”. He also recalled the rationale behind the various attempts made in the last years to have such an organization as CAJO become a member of the IAJ and the proposal by the EAJ to admit “regional associations or groups representing judges from the Caribbean and Pacific Islands”. All these attempts failed, notwithstanding an overwhelming support by many IAJ members, because of the statutory provision concerning the majority needed to amend the Constitution. An issue was then raised during the meeting about the calculation of the quorum. In particular, a debate started on the exact meaning of Paragraph 2 of article 12, in the part concerning the vote by not less than “half the members of the Association”. According to some delegates, “half the members” did not mean half of all the members, but rather half of the members entitled to vote. As a result, the CC decided to establish a WG to inquire into the voting provisions for possible changes to the IAJ Constitution.

Adrian Saunders provide the Group with information about CAJO, that is an association grouping the judiciaries of small Caribbean countries where no national judges' associations are established.

President Pagone added that also in the Pacific Region there were situations similar to that of the Caribbean Sea, with small countries and small judiciaries and associations. This implies an effort on the part of the IAJ to help these associations to join it. On the other side, the European and Ibero-American Groups have some concerns about when associations of associations may be admitted to join, in particular as regards associations that are competing with the two Groups at regional level.

President Duncan recalled that the ANAO member was Juan Wolffe and an additional representative of the Group was needed. Julie Dutil (Canada) volunteered.

President Duncan asked Glenn Martin to speak about the International Organization on Judicial Training, which had promulgated principles that Mr. Martin would like the IAJ to endorse or support. The PC referred the question to the Judicial Education Group chaired by Vice President Rafael de Menenez, where it has not yet been taken up.

Mr. Martin explained that the declaration sets out guiding principles for judicial training that are both the common base and the horizon uniting judicial training institutions throughout the world, regardless of the diversity of judicial systems. He stressed the importance of proper judicial training to create and maintain judicial independence, in particular where jurisdictions are under development.

President Duncan then gave the floor to Mr. Tsgot Tsend to report on the activities of the WG chaired by IAJ Vice President Sjoberg and charged of fostering the creation of new associations. He said that the WG met in Germany and finalized a draft report in March that outlined the steps needed to establish an association and included samples of statutes.

President Duncan noted that Mr. Conlan was member of four working groups and asked whether there was any colleague available to relieve him in the WG dealing with the possible addition of other official languages in the IAJ Constitution. Elsie Ochoa (Porto Rico) volunteered.

President Duncan said that there were two Associations risking their membership because of their arrears in the payment of annual contributions (Iraq and Mexico) and she finally mentioned the Presidency Committee's decision with respect to the halving of annual fees in 2020 because of the covid pandemic. She also reminded the delegates of their associations' current dues paying status.

IV. Applications for membership

A. Philippines (Tsgot Tsend)

Mr. Tsgot Tsend reported that his joint report with Sabine Matejka has been forwarded to the Presidency Committee for consideration.

B. Yemen (David Carter)

Mr. David Carter met with the Yemen representatives in Kazakhstan and the Yemen representatives spoke about the urgent need for their application to be approved given the civil war and the unrest in Yemen. Afterwards there were attempts to organize a meeting with the Yemen colleagues in Tunisia, but they failed because of the impossibility to contact the colleagues. He stressed that he would be uncomfortable in making any recommendation on the application without being able to meet the Yemen judges.

President Pagone added that neither he nor the General Secretariat had any news from the applicant association.

President Duncan highlighted the fact that the IAJ should anyhow find a way to show support to the colleagues down there and that the issue will be dealt with bilaterally in the next days.

V. Consideration of Study Topic (Robert Blair)

Mr. Robert Blair spoke briefly about the study commission topic: Diversity and the Judiciary. He and his panel members felt that it would still be timely next year.

VI. Discussion of 2021 mid-year ANAO meeting

President Duncan asked whether there was a consensus about having a meeting next year, circumstances permitting, and whether it could be held in the DC area. The response of the Group was favorable. A possible topic could be about emerging technologies and the law, that could be reformulated to incorporate what was learnt from COVID 19.

President Pagone added that the Presidency Committee asked the four Study Commissions to study the impact of covid under the lenses of their respective subject-matter.

VII. Country Reports

President Duncan noted that some information on virtual hearings and precautions caused by the pandemic was already given by delegates while introducing themselves. Several delegates highlighted the need to be prepared to cope with a new “normal” way of administering justice when the emergency will be over.

VIII. Other

No items under miscellanea.

The President ended the call at 9:30 pm Eastern Time.