



# **AIJA Tenth Annual Tax Conference**

## **AIJA Tax Law Commission (TLC)**

### **Vienna 23 to 25 February 2017**

International Association of Young Lawyers  
Association Internationale des Jeunes Avocats

THE ONLY GLOBAL ASSOCIATION OF YOUNG LAWYERS

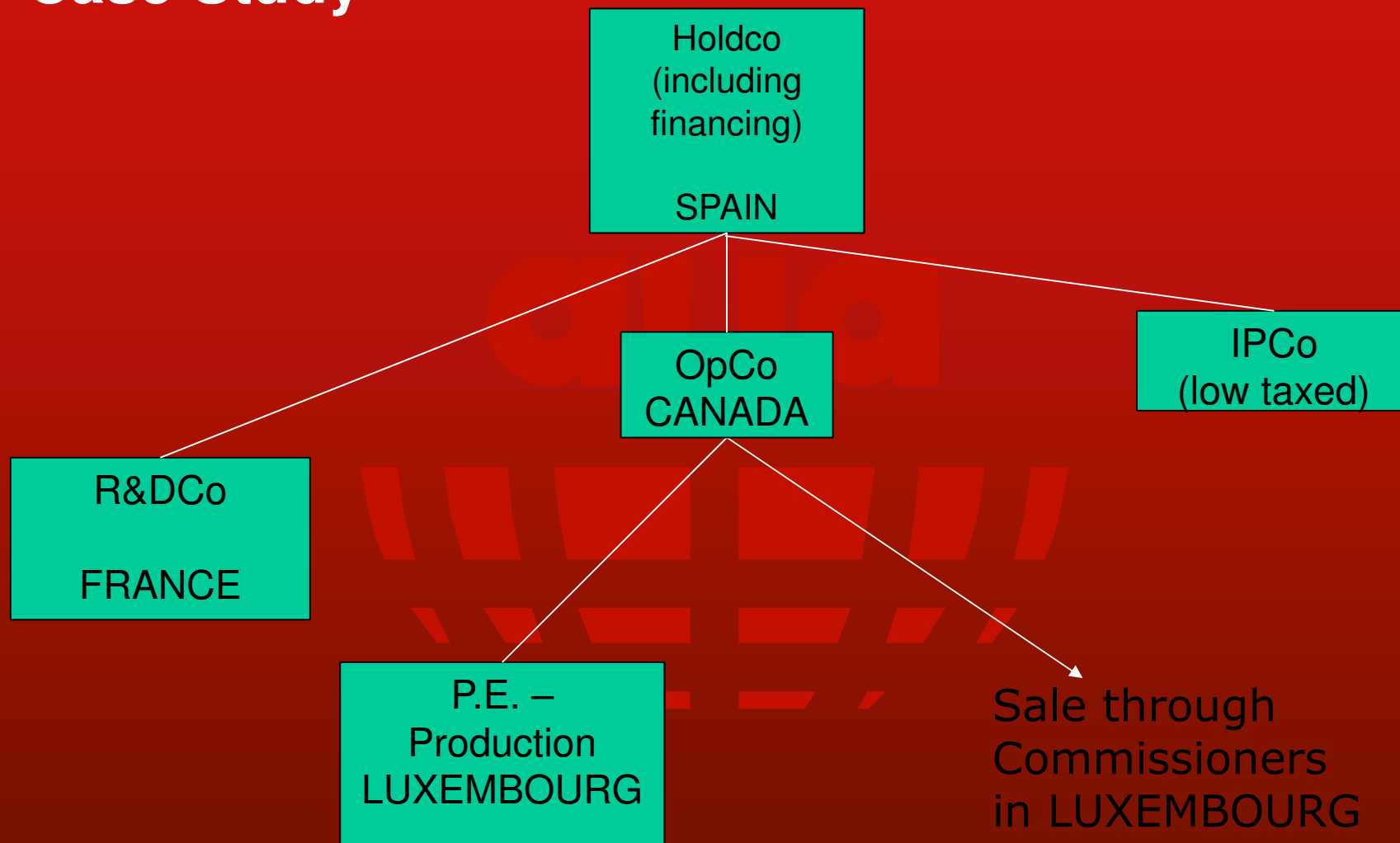
# **Cross Border Transfer of Value: Practical Implications of Transfer Pricing - Panel Discussion -**



International Association of Young Lawyers  
Association Internationale des Jeunes Avocats

THE ONLY GLOBAL ASSOCIATION OF YOUNG LAWYERS

# Case Study



## Case Study

- World wide group, development and production of Pharmaceuticals
- R&D Subsidiary in France
- IP is held in a separate IP entity in a low taxed jurisdiction
- Production through a permanent establishment of OpCo in Luxembourg
- Financing by HoldCo
- Sale of pharmaceuticals all over the world through:
  - Permanent establishments of OpCo
  - Subsidiaries of OpCo
  - Commissioners



## Questions to be answered:

1. HoldCo provides financing to OpCo, OpCo's permanent establishment as well as to the R&D subsidiary. How are arm's length interests to be calculated? Any structuring options? Did BEPS change the approach of HoldCo's jurisdiction?
2. R&D is being performed in France. How does France approach the indemnification to be charged for the R&D services? Is this influenced by the IP-entity in the low-taxed jurisdiction?
3. The IP-entity charges license fees to OpCo, which are being used for production at the permanent establishment, as well as to HoldCo. Are these fees deductible at the level of the permanent establishment or OpCo? What if the IP entity falls under a patent-box regime? In general: what needs to be taken into account when deciding on the allocation of profits between OpCo and the permanent establishment?



## Questions to be answered:

4. The products are sold by OpCo all over the world. In Luxembourg, the products are sold by means of commissionaires. How does Luxembourg approach the calculation of the remuneration to be paid by OpCo to the commissionaires? Are any profits allocable to a potential permanent establishment?
5. In Country X the products are sold through a subsidiary. Does the price between OpCO and this subsidiary need to include a component for IP, based on the views of Canada? Any thoughts from the other jurisdictions?



## For further questions, please contact:

**Nicolas Duboille**

Simmons & Simmons, France

[Nicolas.Duboille@Simmons-Simmons.com](mailto:Nicolas.Duboille@Simmons-Simmons.com)

**Alain Goebel**

Arendt & Medernach, Luxembourg

[alain.goebel@arendt.com](mailto:alain.goebel@arendt.com)

**Catherine Nicholson**

Torkin Manes, Canada

[Cnicholson@torkinmanes.com](mailto:Cnicholson@torkinmanes.com)

**Janneke Speetjens**

Peters, Schönberger & Partner, Germany

[j.speetjens@psp.eu](mailto:j.speetjens@psp.eu)

**Gustavo Yanes Hernández**

Monereo Meyer Marinel-lo

[gyanes@mmmm.es](mailto:gyanes@mmmm.es)



International Association of Young Lawyers  
Association Internationale des Jeunes Avocats

THE ONLY GLOBAL ASSOCIATION OF YOUNG LAWYERS