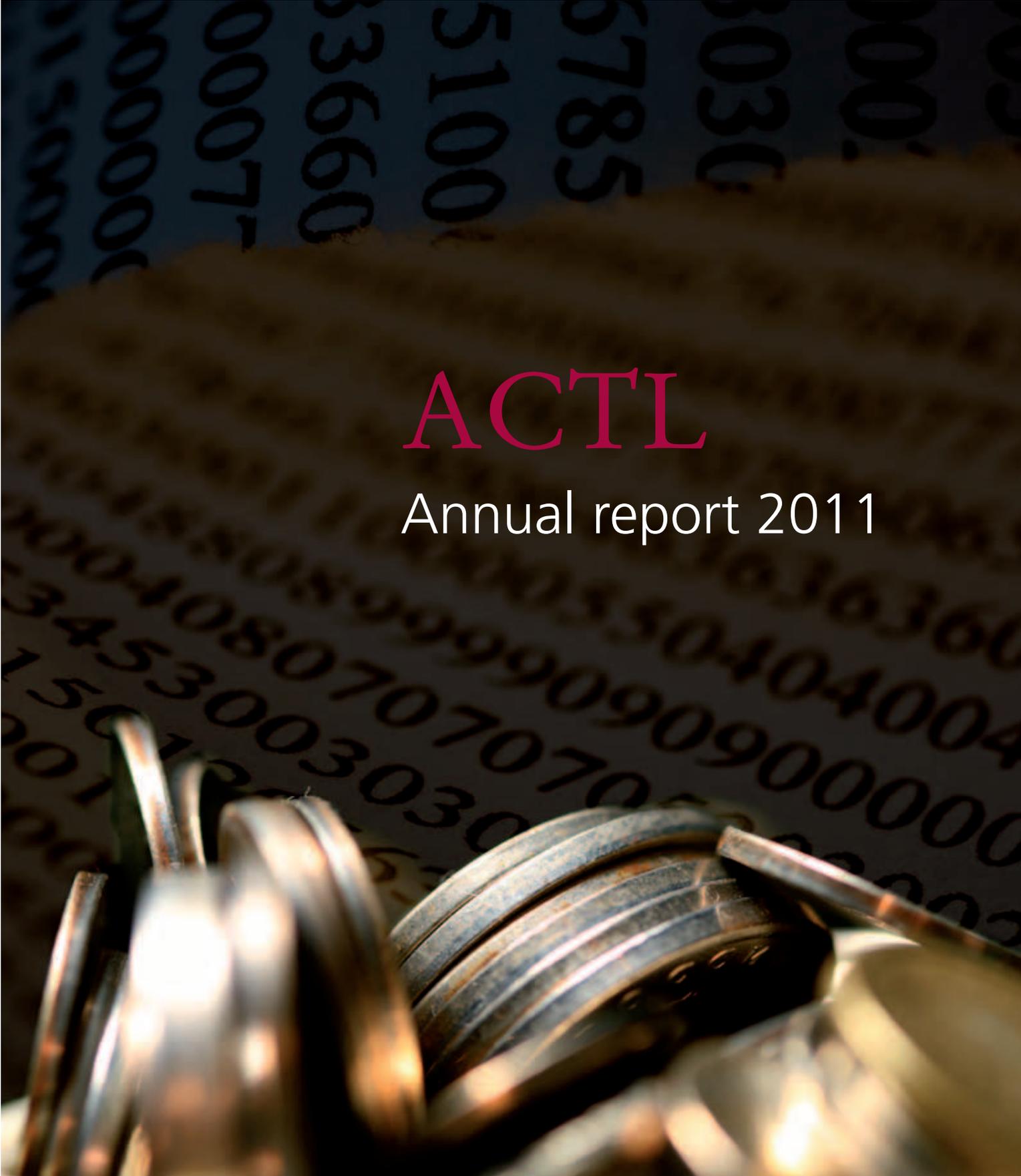




ACTL

Annual report 2011





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General information on the ACTL

1. Introduction

The Amsterdam Centre for Tax Law, founded on 1 January 2009, is the tax law research centre of the University of Amsterdam.

Until 31 December 2008, the tax law research was conducted at the Amsterdam Centre for International Law (ACIL).

The object of the ACTL is to conduct thorough research into various areas of the national, international and European tax law, and to share the results of this research with society by means of publications and seminars.

2. Institutional affiliations

Within the University of Amsterdam, the ACTL is considered to be a Centre of Excellence. In that framework, the research of the ACTL belongs to the 'Private and Public European law priority area', which is one of the Amsterdam Law School research priority areas.

The ACTL is one of the founders of the Group for Research on European and International Taxation (GREIT), a collaboration between the ACTL and researchers from Lisbon University (Portugal), Lund University (Sweden), Vienna University (Austria), Johannes Kepler University of Linz (Austria), European University Institute (Italy) and the University of Salerno (Italy), and is to be found at www.greit-tax.eu.

In 2011, the ACTL concluded an informal co-operation with the International Tax Programme of the NYU School of law. In 2012, this will result in a further cooperation in various areas between the ACTL and the NYU.

3. ACTL Research Programme

3.1. Tax Sovereignty versus Globalisation

3.2. Background and objective

Globalisation of world trade is characterised by progressive liberalization and regulation of trade between States and by formation and expansion of multilateral trade cooperation bodies, such as the World Trade Organization (WTO), the Organisation for Economic Cooperation and Development (OECD), the European Community, NAFTA and Ecosur. Taxation, which still is a largely national sovereignty, particularly in direct taxes, may conflict with these organisations' objects, especially as regards free movement of goods, services, persons and capital. The free movement rights enshrined in the treaties founding these organizations and the standards set by them in hard law (e.g. EU-directives) and soft law (e.g. recommendations), have their impact on national taxation. This also applies to bilateral tax treaties concluded between States. Although bilateral tax treaties can also be considered an expression of tax sovereignty, at the same time they limit the tax jurisdiction of the contracting States. European law especially limits the (tax) sovereignty of Member States. Globalisation and free movement rights have as consequence that goods, services, persons and capital can move faster and to more destinations. On the one hand, this gives rise to the prospect of taxpayers trying to relocate their tax bases to jurisdictions with lower taxation, or to have them 'disappear' by international mismatches. States take all kinds of measures to protect their tax base. On the other hand, relocation of the taxpayer leads to 'tax competition' arising between States. Member States endeavour to make various aspects as attractive as possible (special regimes, low rates, advance certainty about tax position, etc.).

The aim of this research project is twofold: (i) to establish the limits on national tax sovereignty and tax jurisdiction set by international and supranational law, and (ii) to assess whether these limits should be narrowed or broadened on the



From left to right: Thies Sanders, Jan van de Streek and Dennis Weber during the LOF Congress

basis of criteria such as level playing field, interjurisdictional equity, free movement of persons and capital, budgetary stability, tax base integrity and fair interstate policy competition. The emphasis in the research program lies on European law in light of its major influence on national and bilateral tax law in the EU. In this respect, a distinction is drawn between the impact of the EU Treaty freedoms (theme 2) and the impact of the various harmonisation measures in the area of tax law within the EU (theme 3).

3.3. Research themes

The research program is divided into three related and partly overlapping research themes: double tax treaties, the EU treaty freedoms and the EU directives in the area of direct and indirect tax law. These three bodies of law all limit the tax

sovereignty and/or the tax jurisdiction of the Member States.

Research theme 1: Influence of double tax treaties on tax sovereignty

Double taxation treaties can be considered an expression of tax sovereignty. By concluding tax treaties, the States can limit and allocate their tax jurisdiction. In some States (for example, in the United States, Canada, Germany and Denmark), this limitation and allocation of the tax jurisdiction can be unilaterally overridden by national law (tax treaty override). Tax treaties are generally bilateral and provide for the avoidance of double taxation on income and capital, or on inheritance and gift tax. Theme 1 focuses on the bilateral tax treaties for the avoidance of double taxation on income and capital. These treaties are generally

concluded on the basis of the model convention issued by the OECD. On the basis of a bilateral tax treaty, the state of residence of a taxpayer has the obligation, generally, either to exempt the income or capital which may be taxed in the state of source of the income or capital, or to credit the tax of the state of source, in situations where the state of source is allowed to tax the income or capital under the treaty. Research Theme 1 will explore the extent to which tax jurisdiction is limited by those treaties. Issues that will be researched include:

- i) The status in public international law of the official OECD Commentary to the Model Convention and the relevance thereof as a means of interpretation of treaties following the Model Convention;
- ii) The relevance of national law of both States party to a bilateral treaty, both anterior and posterior law (i.e. prior to or after concluding the treaty, respectively) for the interpretation of these bilateral tax treaties;
- iii) The relevance of justified expectations of both the contracting States and their residents for the interpretation of these bilateral tax treaties;
- iv) The possibility to fight treaty abuse by taxpayers (the doctrines of *fraus conventionis* or *fraus tractatus*);
- v) The phenomenon of tax treaty override.

Research theme 2: Influence of EU treaty freedoms on tax sovereignty

Tax sovereignty is limited by EU law. As regards direct taxes (e.g. income tax and corporation tax) this is predominantly due to the EU treaty freedoms. Although the tax sovereignty of Member States in the field of direct taxation is in general recognised by the Court of Justice of the European Union (CJ EU), the CJ EU case law has a huge impact on direct taxation. Research Theme 2 will explore the extent to which the tax sovereignty is limited by the EU treaty freedoms.

Issues that will be researched include:

- i) The issue whether and under which circumstances it may be prohibited to grant differential treatment to taxpayers of various Member States ('most favoured nation tax treatment' within the EU);
- ii) The influence of the EU treaty freedoms on the prevention of double taxation;

- iii) The influence of Community law on the tax treatment of a permanent establishment (i.e. a branch of an enterprise in another Member State) as compared to a resident company;
- iv) The correct balance between free movement within the EU and the right to levy tax, especially as regards the following questions:
 - Does the CJ EU assume competence in tax matters not covered by the attribution system of the Treaty on the Functioning of the European Union.
 - What balance does the CJ EU strike between free movement and tax sovereignty?
 - Do the usual discrimination and restriction concepts of the CJ EU suffice to assess national tax measures applying to cross border situations which by their nature have no look-alike in purely internal situations, such as arm's length transfer pricing rules, controlled foreign corporations rules and thin capitalization rules? Is there a fourth concept (dislocations) in between disparities on the one hand and discriminations and restrictions on the other?
 - Does the CJ EU leave sufficient room for the curbing of international tax avoidance? (tax base integrity)
 - What function and scope do the justifications for tax impediments have which the ECJ *in abstracto* allows, such as especially the fiscal territoriality principle, the concept of fiscal coherence, and the necessity of a balanced allocation of taxing powers?

Research theme 3: Influence of EU directives on tax sovereignty

Disparities between national tax laws are an impediment to the common market. These impediments may be removed by positive integration. This has been done in the area of indirect taxation (e.g. VAT). There are, however, only few harmonisation measures in the field of direct taxation. Research theme 3 will explore the correct scope and interpretation of the various EU directives in the area of direct and indirect tax law, including the interpretation of the VAT Directive, and the interpretation of the various directives in the area of direct taxation (the Merger, Interest and Royalty, Parent-Subsidiary

and Savings Directives). Furthermore, this theme will assess the (un)desirability of harmonization or uniforming of detailed areas of national taxation, such as cross border loss relief facilities, treatment of real estate, Home State taxation, Common Consolidated Corporate Base taxation, group taxation, dividend tax, etc.

3.4. Researchers

The research within this project is to be carried out by researchers who combine their scientific and practical experience in tax law with an in-depth knowledge and practical experience of international and European law. This permits conducting in-depth research at the intersection of international and European law and tax law.

4. Organisation

4.1. General

The director of the ACTL is prof. dr. Dennis Weber. In 2011, Astrid Cornelisse was appointed management assistant of the ACTL.

In 2011, the programme comprised 22 researchers (4.60 Fte). That is 6 researchers more compared to 2010. Four new part-time PhD researchers have strengthened the ACTL: Reinout de Boer, Marieke Koerts, Roel Monteiro and Martijn Nouwen. There is one new full-time PhD researcher (Shu Chien Chen; see further, page 10) and one new senior researcher, dr. E. Poelmann.

4.2. Table ACTL Fte

Research staff 'Tax Sovereignty versus Globalisation'

Name and present title	Fte	
Professors (6)	prof. dr. R.P.C. Cornelisse	0.24
	prof. dr. O.C.R. Marres	0.16
	prof. dr. B.J.M. Terra	0.00
	prof. dr. P.J. Wattel	0.08
	prof. dr. D.M. Weber	0.20
	prof. dr. S. van Weeghel	0.08
Assistant professors (9)	dr. M. van Dun	0.00
	mr. N. Idsinga	0.16
	mr. dr. S.J. Mol-Verver	0.24
	mr. drs. W.A.P. Nieuwenhuizen	0.00
	dr. E. Poelmann	0.08
	mr. dr. J.L. van de Streek	0.16
	dr. H. Vermeulen	0.08
	dr. W. de Wit	0.00
	mr. T. Mertens	0.00
PhD researcher (7)	Reinout de Boer	0.00
	Shu Chien Chen	0.80
	Marieke Koerts	0.00
	Roel Monteiro	0.16
	Martijn Nouwen	0.16
	Rita Szudoczky	1.00
	Bruno da Silva	1.00
Total research staff (22)	4.60	

4.3. ACTL Staff overview (including other employers)

Director

prof. dr. D. (Dennis) M. Weber

- Professor European Corporate Tax law
- Loyens & Loeff

Management-assistant ACTL

Astrid Cornelisse BA

Philip Baker during a Winter course session



Professors

prof. dr. R. (Rob) P.C. Cornelisse

- Professor tax law
- Loyens & Loeff

prof. dr. O. (Otto) C.R. Marres

- Professor Integrity of the corporate tax base
- Tax lawyer at KPMG Meijburg & Co
- Deputy judge at the Court of Appeals of the Hague

prof. dr. B. (Ben) J.M. Terra

- Professor Indirect Taxation University of Amsterdam and Lund (Sweden)

prof. dr. P. (Peter) J. Wattel

- Professor European Tax Law
- Advocate-General Netherlands Supreme Court
- Member of the board of trustees, Europäische Rechtsakademie, Trier (Germany)

prof. dr. S. (Stef) van Weeghel

- Professor International Tax Law
- PricewaterhouseCoopers

Assistant professors

dr. M. (Michel) van Dun

- Assistant professor International Tax Law
- Judge at the Court of Appeals of 's-Hertogenbosch

mr. N. (Nathalie) Idsinga

- Assistant professor Inheritance Tax
- Loyens & Loeff

mr. A. (Ton) Mertens

- Assistant professor Income Taxation
- Tax lawyer Loyens & Loeff N.V.
- Deputy judge 's-Hertogenbosch tax court of appeal

mr. dr. S. (Suzanne) J. Mol-Verver

- Assistant professor Corporate Taxation and Income Taxation

mr. drs. W. (Wilbert) A.P. Nieuwenhuizen

- Assistant professor VAT
- Nieuwenhuizen BTW adviseurs

dr. E. (Eric) Poelmann

- Assistant professor Formal Tax Law

mr. dr. J. (Jan) L. van de Streek
■ Assistant professor Corporate Taxation
■ Ernst & Young

dr. H. (Hein) Vermeulen
■ Assistant professor Corporate Taxation
■ PricewaterhouseCoopers

dr. W. (Walter) de Wit
■ Assistant professor European Tax Law and Indirect Taxation
■ Ernst & Young

PhD-researchers

Reinout de Boer
Shu Chien Chen
Marieke Koerts
Roel Monteiro
Martijn Nouwen
Rita Szudoczky
Bruno da Silva

4.4. Other activities

Membership of editorial/advisory board of academic publications and/or academic associations, etc.

R.P.C. Cornelisse

- Editorial board Fiscaal Tijdschrift FED
- Editorial board Maandblad Belasting-beschouwingen

O. Marres

- Editorial board Nederlands Tijdschrift Fiscaal Recht
- Editorial board Nederlandse Documentatie voor Fiscaal Recht

T. Mertens

- Chair committee 'Loonsomheffing' Vereniging voor Belastingwetenschap

E. Poelmann

- Editor Tijdschrift voor formeel belastingrecht
- Chief editor book Formeel belastingrecht almanak, 2011, Reed Business - Amsterdam

J.L. van de Streek

- Member of the editorial board of tijdschrift Fiscale Berichten voor het Notariaat (FBN).

R. Szudoczky

- IFA, Hungarian Branch

H. Vermeulen

- Editor Real Estate Review, Tax and Civil Law (Vastgoed Fiscaal & Civiel)
- Editor Fiscal notes for the notary public (Fiscale Berichten voor het Notariaat)
- Secretary, Commission on Collective Investment Vehicles of the Association of Tax Law Researchers (Vereniging voor Belastingwetenschap).

P. Wattel

- Editor, Netherlands Law Review (Nederlands Juristenblad)

D. Weber

- General editor of Highlights & Insights on European Taxation
- Coordinator of the International and European Tax Law program of the Nederlandse Orde van Belastingadviseurs (Netherlands Association of Tax Lawyers: NOB);
- Board member of the NOB's European tax law section;
- Lecturer in the European Tax Studies-course at the Erasmus University Rotterdam (direct and indirect taxation)
- Lecturer at the International Tax Center of Leiden (adv. LL.M Program in International Taxation)
- Lecturer at the Wirtschaft Universität Wien in Vienna

S. van Weeghel

- Chair of the Dutch branch of the International Fiscal Association
- Member of the permanent scientific committee of the International Fiscal Association
- Member Board of Trustees International Bureau for Fiscal Documentation
- Chair of the Dutch government committee on tax reform



New PHD Researcher: Shu-Chien Chen

Shu-Chien Chen obtained her LL.M in tax law from National Taiwan University. Her thesis "A Study of R&D Tax Incentives" earned the outstanding thesis award by the Chen Yung Memorial Foundation. She was also admitted to the Taiwanese Bar. During her studies, she was exchanged to Vrije University Amsterdam, and the period in the Netherlands further inspired her interests in European Union Law. After her studies she worked at the Customs, Ministry of Finance in Taiwan, as a government legal consultant for litigation on custom duties. In 2009, she was funded by the Taiwan government scholarship to pursue her master in European law in Leiden University.

Since September 2011 she has started her PhD research at University of Amsterdam. Her research topic is "Building a framework to combat tax avoidance in the common consolidated corporate tax base (CCCTB)". She will research on the new CCCTB Directive proposal and analyze the possible tax avoidance concerns in this new harmonization measure in EU corporate tax law. For tax base, consolidation, and the sharing mechanism under CCCTB, the different anti-avoidance rules will be analyzed respectively.

5. Funding

Most of the research in this programme is funded from the first flow of funds (government funds). In addition, ACTL seminars are usually sponsored due to which these remain cost-neutral. For 2011, ACTL has organised a Winter course on European Tax Law and a Winter course on International Tax Law in order, amongst others, to be less dependent on government funds or sponsors.

6. Location and Internet address

The address of the ACTL is:

University of Amsterdam (UvA)
Amsterdam Centre for Tax Law (ACTL)
Nieuwe Doelenstraat 15
1012 CP Amsterdam

The ACTL Internet page is www.jur.uva.nl/actl. This page is updated regularly. Publications of ACTL members are announced and free publications and downloads are made available.

The ACTL has a group in LinkedIn (linkedin.com). Persons who are interested in the activities of the ACTL are kept up to date. At the end of 2011, the group had over 1000 members.

7. Activities in 2011

7.1. New appointments

In 2011, the ACTL was pleased to welcome six new researchers and one management assistant. This is the strongest growth since the incorporation (2009) of the ACTL. Since 1 January 2011, five part-time PhD researchers have started their research: Reinout de Boer; Marieke Koerts; Martijn Nouwen and Roel Monteiro. On 1 September 2011, the ACTL's Ph.D. programme was expanded with another new Ph.D. researcher, Shu Chien Chen. Her Ph.D. will focus on building a framework to combat tax avoidance in the common consolidated corporate tax base (CCCTB). With the arrival of Shu Chien Chen, the ACTL now has seven Ph.D. researchers writing a thesis in the field of European and International Tax Law

On 1 February 2011, Dr. Otto Marres was appointed professor at the Faculty of Law of the University of Amsterdam. The appointment is on a part-time basis. His research will focus on the integrity of the corporate tax base, in particular in relation to tax base erosion (by e.g. interest deduction) in the context of international law and EU law.

On 1 September 2011, dr. Eric Poelmann started his research, on a part-time basis, on administrative aspects of the CCCTB. This initiative follows from the ACTL Conference on the CCCTB in June 2011. Dr. Eric Poelmann has published numerous articles on Netherlands procedural tax law and will now focus in this research on the formal aspects of the CCCTB.

At the beginning of 2011, Astrid Cornelisse was appointed as the new management assistant of the ACTL.

7.2. ACTL conferences

In 2011, the Amsterdam Centre for Tax Law (ACTL) organised three well-attended international conferences: i) Tax Treatment of interest for corporations, ii) CCCTB; Selected issues and iii) Taxing the financial sector: the Financial Transaction Tax and more.

Tax Treatment of interest for corporations

On 1 April 2011, the ACTL organised a conference on the tax treatment of interest for corporations. Topics of the conference included:

debt v equity; allocation of taxing rights; base erosion through interest payments (national and EU approaches); EU law and interest payments. The conference was chaired by Otto Marres. Speakers and moderators where: Nikolaj Bjørnholm (Hannes Snellman), Paulo Roberto Coimbra Silva (Tostes & Coimbra Advogados), Stephan Eilers (Freshfields), Frank Engelen (PwC/Leiden University), Eric Ginter (Sarrau; Paris), Fred de Hosson (Baker & McKenzie), Robert van der Jagt (KPMG Meijburg & Co), Vinod Kalloe (KPMG Meijburg & Co), Theo Keijzer (International Chamber of Commerce), Eric Kemmeren (Tilburg University/Ernst & Young), Otto Marres (ACTL/ KPMG Meijburg & Co), Bernard Peeters (University of Brussels), Hans Pijl (Deloitte), Ekkehart Reimer (University of Heidelberg), Thomas Schanzle (Flick Gocke Schaumburg), Henk Vording (Leiden University), Peter Wattel (ACTL/Netherlands Supreme Court), Dennis Weber (Director ACTL/Loyens & Loeff), Stef van Weeghel (ACTL/PwC). The conference was well attended by 130 people and a book with the conference papers is to be published by the IBFD.

CCCTB; Selected issues

In March 2011, the European Commission published a proposal for a Common Consolidated Corporate Tax Base (CCCTB). This is one of the most important proposals that has ever been made in the area of direct taxation. In June 2011, a two-day conference was devoted to this subject. Dennis Weber chaired the conference. Speakers and moderators were: Rob Cornelisse (ACTL/ Loyens & Loeff), Arjo van Eijnsden (Ernst & Young), Malcolm Gammie (UK Special Commissioner), Daniel Gutmann (Sorbonne), Peter Harris (University of Cambridge), Walter Hellerstein (University of Georgia School of Law; USA), Theo Keijzer (International Chamber of Commerce), Ben Kiekebeld (Ernst & Young), Tom Neale (European Commission/ Head of Unit: Company Tax Initiatives), Kees van Raad (International Tax Center Leiden/ Loyens & Loeff), Antonio Russo (Baker and McKenzie), Ronald Russo (Tilburg University), Thies Sanders (Loyens & Loeff), Thomas Schanzle (Flick Gocke Schaumburg), Paul Simonis (Loyens & Loeff), Claus Staringer (Vienna University/Freshfields), Jan van de Streek (ACTL/Ernst & Young), Mario Tenore



CCCTB Selected issues

(Maisto e Associati), Hein Vermeulen (ACTL/PwC), Matthijs Vogel (Loyens & Loeff), Peter Wattel (ACTL/Netherlands Supreme Court), Joann Weiner (Georg Washington University; USA), Bertil Wiman (Uppsala University). The papers from the conference were published by Kluwer Law International.

Taxing the financial sector: the Financial Transaction Tax and more

On 28 September 2011, the European Commission issued a proposal for a Financial Transaction Tax (FTT) within the EU. This FTT proposal itself as well as the relation with EU law and the similarity/overlap and differences with Bank Taxes and Financial Activities Taxes (FAT), was the subject of a conference in December 2011. The conference was chaired by Dennis Weber and Otto Marres. Speakers/moderators were: Oskar Henkow (University of Lund), Rob Cornelisse (ACTL/Loyens & Loeff), Thornton Matheson (IMF), Martine Peters (IBFD/Court of Appeal Arnhem), Mark Elzenga, Paolo Ludovici (Maisto e Associati), Barry Larking (KPMG Meijburg), Niels Groothuizen (KPMG Meijburg), Daniel Smit (Tilburg University/Ernst & Young), Raymond Luja (University of Maastricht), Liesl Fichardt (Berwin Leighton Paisner), Prof. Peter Wattel (ACTL/Supreme Court), Stef van Weeghel (ACTL/PwC), Daniel Shaviro (New York University), Catalina Hoyos Jiménez (Godoy & Hoyos), Niels Muller (Loyens & Loeff), and Rene van der Paardt (Loyens & Loeff). The conference book is to be published by IBFD.

The ACTL is one of the founders of the Group for Research on European and International Taxation (GREIT), a collaboration between the ACTL and researchers from Lisbon University (Portugal), Lund University (Sweden) and Vienna University (Austria). In June 2011, the 6th annual GREIT conference was held in Lisbon, on the subject "Tax Mobility", covering selected issues currently under debate at both academic and practical levels on an interdisciplinary basis combining tax expertise, as well as contributions from corporate & insolvency law specialists.

The conference had panels with renowned speakers on the following topics: (i) Tax Policy for the European Monetary Union; (ii) Transfer of Corporate Residence & Insolvency

Proceedings; (iii) Transfer of Tax Residence, Shareholders Residence & Exit Taxes; (iv) The Merger Directives; (v) Social Security Issues & Taxation of Frontier Workers; (vi) Common Consolidated Corporate Tax Base: General Issues & VAT Groups; and (vii) Common Consolidated Corporate Tax Base: Selected Issues of Technical Proposal. The papers of the conference are to be published by IBFD.

7.3. ACTL courses

In 2011, the ACTL organized a new edition of the Winter Course on European Direct Tax Law (January 2011). Speakers were: Willibrord Egelie (Dutch Tax Administration), Antonio Barba (Cuatrecasas), Clemens Schindler (Wolf Thies), Martien Pelinck (ACTL/Loyens & Loeff), Bruno da Silva (ACTL/Loyens & Loeff), Dr. Jan van de Streek (ACTL/Ernst & Young), Richard Lyal (European Commission), Rita Szudoczky (ACTL/Loyens & Loeff), Prof. Raymond Luja (Maastricht University), Prof. Dennis Weber (ACTL/Loyens & Loeff) and Prof. Peter Wattel (ACTL/Dutch Supreme Court).

Also in January 2011, ACTL organized a new edition of the Winter Course on International Tax Law. Speakers were: Kees van Raad (ITC), Mary Bennett (OECD Head of Tax Treaty and transfer pricing division), Rita Szudoczky (ACTL/Loyens & Loeff), Prof. Otto Marres (ACTL/KPMG Meijburg), Prof. Stef van Weeghel (ACTL/PwC), Leo Zuliani (Dutch Tax Administration), Ernst Bunders (Tax Treaty Advisor), Prof. Tanja Bender (PwC/Leiden University), Prof. Luc de Broe (K.U. Leuven/Laga), Antonio Russo (Baker & McKenzie), Renata Fontana (OECD), Dr. Gijb Fibbe (Erasmus University/PwC), Prof. Peter Wattel (ACTL/Dutch Supreme Court), Bruno da Silva (ACTL/Loyens & Loeff), Raffaele Russo (OECD), Ton Stevens (Erasmus Univ/Loyens & Loeff)

7.4. Activities of various ACTL members

In 2011, ACTL Professor of EU Tax Law, Peter J. Wattel, was awarded the Hofstra award. The "Prof. mr H.J. Hofstrapenning" award is named after the renowned former Netherlands Minister of Finance and Leiden University professor of tax Law. The award is presented once every two to four years to "a person who demonstrated in their writing the ability to unlock and solve fiscal

issues by subtle analysis and lucid argumentation in a balanced integration of theoretical basis and practical feasibility.” Peter Wattel was commended by the jury for his leading publications on international tax law, judicial protection, and especially EU law and direct taxes.

ACTL Professor of EU Tax Law Peter J. Wattel was also appointed Member of the Royal Netherlands Academy of Arts and Sciences in 2011. The Academy is a learned society of outstanding Netherlands scientists and scholars. Membership is awarded on the basis of scientific and scholarly achievement. Members are appointed for life. The Academy appoints a maximum of sixteen new members a year. Academy membership is considered a great honour in the Netherlands. Prof. Wattel was inducted in Amsterdam on 26 September 2011.

7.5. Key publications in 2011

- Prof. mr. O.C.R. Marres / Prof. mr. P.J. Wattel *Dividendbelasting*, 4de druk, Kluwer, 2011, blz 284.
- J.L. van de Streek (samen met J.A.R. van Eijdsen en S.A.W.J. Strik), *Common Consolidated Corporate Tax Base (Fed Fiscale Brochure)*, Kluwer, Deventer, 2011.
- Hein Vermeulen, *The Tax Treatment of Directly Held Real Estate under the Proposed CCCTB Directive*. *European Taxation* 2011, p 533-544.
- Otto Marres, *The principle of territoriality and cross-border loss compensation*, *Intertax*, vol. 39, issue 3, p. 112-125.
- Bruno da Silva, *Granting Tax Treaty benefits to Collective Investment Vehicles: A review the OECD report and the 2010 amendments to the Model Tax Convention*, *Intertax*, April issue 2011.
- Dennis Weber and Bruno da Silva, editors of ‘*From Marks & Spencer to X Holding: The Future of Cross-Border Group Taxation*’, *EUCOTAX series on European Taxation*, Kluwer Law International, 2011, 250 pp.
- Dennis Weber and Stef van Weeghel, editors of ‘*The 2010 OECD Updates: Model Tax Convention and Transfer Pricing Guidelines - A Critical Review*’, *Series on International Taxation* no. 38, Kluwer, 2011, 227 pp.

8. Research Output

Otto Marres, Bruno da Silva, Jan van de Streek, Rita Szudoczky, Hein Vermeulen, Peter Wattel, Dennis Weber and Stef van Weeghel have acted as speakers at many (international) conferences. In addition, attention must also be focused on Hein Vermeulen. Vermeulen, who came to strengthen the ACTL in 2010, had with nine academic and five professional publications in 2011 a very high research output.

8.1. Academic publications

R. de Boer

- *Taxation of Intercompany Dividends Under Tax Treaties and EU Law - country chapter for the Netherlands*
- Reinout de Boer (together with Frederik Boulogne), in prof. Guglielmo Maisto, *Taxation of Intercompany Dividends Under Tax Treaties and EU Law, EC and International Tax Law Series*, Vol. 8, IBFD Amsterdam 2012 (expected).

O. Marres

- *Dividendbelasting*, Prof. mr. O.C.R. Marres / Prof. mr. P.J. Wattel, 4de druk, Kluwer, 2011, blz 284.
- *Exit heffing?*, NTFR Beschouwingen 2011/16.
- *From Bosal Holding to X Holding*, in: Prof. dr. Dennis Weber and Bruno da Silva, *From Marks & Spencer to X Holding: The Future of Cross-Border Group Taxation*, *EUCOTAX series on European Taxation*, Kluwer Law International, 2011, 250 pp.
- *The principle of territoriality and cross-border loss compensation*, *Intertax*, vol. 39, issue 3, p. 112-125.

B. da Silva

- *Granting Tax Treaty benefits to Collective Investment Vehicles: A review the OECD report and the 2010 amendments to the Model Tax Convention*, *Intertax*, April issue 2011.
- *From Marks & Spencer to X Holding: The future of cross-border group taxation within the EU*, (*Intertax*, May issue, 2011).
- “*From Marks & Spencer to X Holding: a critical review and some open issues*”, in *From Marks & Spencer to X Holding: The*

Future of Cross-Border Group Taxation, EUCOTAX series of Kluwer Law International, 2011.

- Characterization and Tax Treaty issues of Collective Investment Vehicles: A Review of the OECD Report and the 2010 Amendments to the Model Tax Convention, in *“The 2010 OECD Updates: Model Tax Convention & Transfer Pricing Guidelines - A Critical Review”* (eds. Stef van Weeghel and Dennis Weber), Series on International Taxation of Kluwer Law International, 2011

J.L. van de Streek

- De moeizame symbiose tussen het flexibele BV-recht en de aanmerkelijkbelangregeling in de Wet IB 2001, in: 40 jaar Cursus Belastingrecht, Kluwer, Deventer, 2010, blz. 213-220.
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P. Wattel

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D. Weber

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S. van Weeghel

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8.2. Professional publications

R. de Boer

Article

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O. Marres

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T. Mertens

Book

- *Het beginsel van de minste pijn; een inleiding tot de loonheffingen* Ars Aequi Libri, 6e druk 2011.

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Articles

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B. Terra

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- Creditable Input Tax and Shares in the EU - Attribution, Apportionment and Allocation, in: Christine Peacock (ed.), *GST in Australia; Looking forward from the first decade*, Thomson Reuters Australia, 2011, pp. 179-200.

H. Vermeulen

Articles

- UCITS IV. Over masters en feeders in een Nederlandse context, *NTFR* 2011/1529, pp. 5-10.
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- Vastgoed in de winstfeer: inkomstenbelasting, *Taxspecial 2011 PropertyNL*, pp. 195-252.
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- Annotatie bij HvJ EU 10 februari 2011, gevoegde zaken C-436/08 en C-437/08, *Haribo GmbH en Salinen AG*, *BNB* 2011/165, blz. 3040-3050.

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- *Haircut!* (wel gedekt houden graag); Vooraf, NJB 2011/17, blz. 1107.
- Personae miserabiles tractatu; WFR 2011/6903, blz. 522-523.
- *Perp Walk*; Vooraf, NJB 2011/21, blz. 1373.
- *Schuldenbremse*; Vooraf, NJB 2011/28, blz. 1854.
- Vertrouwen in rechtspraak en rechters; Vooraf, NJB 2011/36, blz. 2425.
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- Hoofdstuk 0 (inleiding) en hoofdstuk 6.10 (De invloed van het EG-recht op het belastingrecht) in R.L.R. Henuin (red.): Hoofdzaken Belastingrecht, 13^e druk, Boom Den Haag 2011, blzz. 23-35 en 359-372.

D. Weber

Books

- Hfst 1 t/m 5 (145pp) in Europees belastingrecht, studenteneditie 2011-2012, Kluwer 2011.
- European Direct Taxation; Case Law and Regulations, Kluwer Law International, 2011 (third edition), 1562 pp.

Prof. dr. Otto Marres, dr. Suzanne Mol-Verver, dr. Jan van de Streek (red.)

Book

- Hoofdzaken Belastingrecht, Boom, 2011 (dertiende druk), 445 pp.

8.3. Presentations

O. Marres

- 1 April 2011, chair of the ACTL Conference Tax Treatment of Interest for Corporations, Amsterdam
- 26 May 2011, at the Conference 'Belastingverdragen' of the NOB, presentation on 'Belastingverdragen en EU-recht' (Tax Treaties and EU Law), Zeist
- 24 June 2011, at the GREIT Conference on Tax Mobility, presentation on 'Exit taxes on companies', Lisbon, Portugal

- 23 September 2011, Speaker at the LOF Conference, presentation on 'Winstdrainage in de CCCTB' ('Base erosion in the CCCTB'), Amsterdam
- 24 November 2011, at the Conference of the Jonge Orde van Belastingadviseurs (JOB), presentation on 'Renteaftrek anno 2012' (Interest deduction in 2012), Amsterdam
- 9 December 2011, chair of the ACTL conference Taxing the financial sector: the Financial Transaction Tax and more, Amsterdam

T. Mertens

- 25 November 2011, Expertmeeting 'werkkostenregeling', Amsterdam, Eggen Instituut.

E. Poelmann

- 24 October 2011, Universiteit van Tilburg, mastervak taks assurance, gastcollege Tax assurance, van horizontaal toezicht en de algemene beginselen van behoorlijk bestuur.

B. da Silva

- 10 June 2011, at the CIOT Conference, presentation on 'EU Tax Law Developments', Amsterdam.
- 7 July 2011, at the HLB International Tax Conference, presentation on 'Attribution of Profits to Permanent Establishments', London.
- 25 August 2011, at the International Tax Center Alumni Seminar, chairman of the panel on 'Case Law on Tax Treaty Interpretation', Leiden University.
- 28 October 2011, at the International Tax Conference, presentation on 'The New Article 7 of the OECD MC, Moscow, Russia.
- 11 November 2011, at the EU Tax Law Group, presentation on "Group Taxation and Tax Treaty discrimination", Copenhagen, Denmark.

J.L. van de Streek

- 25 januari 2011, Exit Taxation in the EU, Wintercourse, UvA, Amsterdam.
- 4 maart 2011, Verkoopklaarmaken van bedrijfsonderdelen, Symposium Groninger Fiscale Eenheid 'Fusie en Overname'.
- 26 maart 2011, Deelnemingsvrijstelling 2011, PAOB-cursus, Utrecht.
- 10 juni 2011, Leaving the CCCTB, ACTL-congress 'CCCTB: Some Selected Issues', UvA, Amsterdam.



Dr. Hein Vermeulen during the CCCTB Conference

- 23 juni 2011, EU Case Law Merger Directive, 3TH GREIT Lisbon Summer Course, Lissabon
- 24 juni 2011, The Conjunction of the EU Merger Directive and teh CCCTB Proposal, 6th GREIT Conference on Tax Mobility, Lissabon.
- 23 september 2011, Voorzitterschap LOF-Congres 2011 'CCCTB: wil de echte fiscalist opstaan', Amsterdam.
- 14 november 2011, Actualiteiten vennootschapsbelasting, PAOB-cursus, Utrecht.
- 16 november 2011, De robuustheid van de vennootschapsbelasting, Congres T.F.V. De Smeetskring 'Verschuiving van directe naar indirecte belastingen', Tilburg.
- 21 november 2011, Fiscale aspecten flexibel bv-recht, Belastingdienst, Arnhem

R. Szudoczky

- 10 June 2011, at the ACTL Conference 'CCCTB - some selected issues', presentation on 'Subsidiarity discussion on the CCCTB proposal'.
- 19 - 23 June 2011, at the GREIT Summer Course on European Tax Law, presentation on 'Anti-abuse clauses under the Direct Tax Directives', Lisbon, Portugal.

- 24 - 25 November 2011, PhD Seminar and Conference "Fiscal State Aid and its Quantification and recovery", Leiden, presentation "The Relationship of the EU State aid rules and the Fundamental Freedoms".

H. Vermeulen

- 23 June 2011, at the Conference of the Jonge Orde van Belastingadviseurs (JOB/NOB), presentation on 'Ontwikkelingen in de overdrachtsbelasting omtrent de verkrijging van aandelen in onroerend goed lichamen', Amsterdam.
- 10 June 2011, at the ACTL Conference 'CCCTB - some selected issues', presentation on 'Tax Base: Depreciation', Amsterdam.

P. Wattel

- January 2011, Amsterdam: Overview of the ECJ case law on direct taxes; ACTL Winter course on European Direct Tax Law.
- January 2011, Amsterdam: Cross-border loss relief; ACTL Winter course on European Direct Tax Law.
- January 2011, Amsterdam: Tax Treaty Interpretation; ACTL Winter course on International Tax Law.

- 1 April 2011, Amsterdam: chair panel 1, Debt vs equity, ACTL seminar “Tax treatment of interest for corporations”.
- 12 April 2011, Rotterdam: De onzakelijke lening; Loyens & Loeff in house pao.
- 5 May 2011, Willemstad, Curaçao: Inter-lichamelijke, interlandelijke, internationale en communautaire aspecten van het belasting-regime van de BES; Nederlandse Vereniging van Advocaten-belastingkundigen.
- 10/11 June 2011, Amsterdam: chair, panel Administrative Issues, Comitology and Legal Protection; ACTL-seminar “CCCTB: Some selected issues”.
- 19 June 2011, Lisboa, Portugal: Exit taxes and EU Law, GREIT Summer Course on European Tax Law, Instituto de Direito Económico, Financiero e Fiscal da Faculdade de Direito de Lisboa.
- 13 September 2011, Paris, France: chair seminar D, Double Taxation and EU Law; IFA (International Fiscal Association) Congress.
- 1 October 2011, Milano, Italy: Taxation of Intercompany Dividends and EU Law; Three Surprising Aspects of the Recent Case Law of the European Court; Seminar, Ventennale Maïsto e Associati: “Taxation of Intercompany Dividends under Tax Treaties and EU Law”.
- 23 November 2011, Trier, Germany: Exit Taxation for Individuals and Companies; Annual Conference on European Direct Taxation Law 2011; Europäische Rechtsakademie.
- 9 December 2011, Amsterdam: Bank Taxes, Financial Transaction Tax, and Financial Activities Tax in National legislation; Lessons to be learned; ACTL seminar “Taxing the financial sector”.

D. Weber

- 25 March 2011, Exit taxes and the impact of taxation on cross-border business restructuring, MIM Annual International Taxation conference 2011, Malta
- 1 April 2011, Scheuten Solar and limitation of interest deduction rules, ACTL-seminar Treatment of interest for corporations, Amsterdam
- 1 April 2011, moderator panel EU law and interest, ACTL-seminar Treatment of interest for corporations, Amsterdam
- 27 May 2011, Selected issues on cross-border workers, Fiscalis 2013 Programme, Case-law

of the Court of Justice of the EU on cross-border taxation of EU citizens, Luxembourg

- 10 and 11 June 2011, chair of the ACTL Conference ‘CCCTB - some selected issues’, Amsterdam.
- 24 June 2011, at the GREIT Conference on Tax Mobility, presentation on ‘Exit taxation in the EU’, Lisbon, Portugal.
- 1 July 2011, at the EATI Conference, presentation on ‘Withholding tax and EU law’, Barcelona, Spain.
- 12 September 2011, chair of the conference on recent developments in EU Tax Law, EU Tax Law Group, IFA, Paris, France.
- 23 September 2011, Speaker at the LOF Conference, introduction to the CCCTB, Amsterdam.
- 28 October 2011, Speaker at the International Tax Conference organized by the Russian Ministry of Finance, presentation on ‘CCCTB in Europe’, Moscow, Russia.
- 3 November 2011, Anti-Avoidance under EU Tax Law, Conference on preventing tax avoidance: national and international tax law measures, Koç Üniversitesi Hukuk Fakültesi, Istanbul
- 9 December 2011, Moderator panel ‘Assessing from an EU perspective’ during the ACTL conference “Taxing the financial sector: the Financial Transaction Tax and more”

S. van Weeghel

- 1 June 2011, Rondetafel gesprek Fiscaal Verdragsbeleid met vaste commissie voor financiën Tweede Kamer, Den Haag.
- 11 June 2011, Conference on Tax Havens, Florence, Italy.
- 15 June 2011, Member of the jury Hofstrapping, Den Haag.
- 20 July 2011, Teacher ITC Summer Course: Beneficial ownership & tax treaty anti-avoidance provisions.
- 23 September 2011, at the LOF Conference, presentation on ‘International aspects of the CCCTB’, Amsterdam.
- 30 September 2011, at the Seminar ‘Taxation of intercompany dividends under tax treaties and EU law’, presentation on ‘Domestic and treaty anti-abuse rules and principles as applied to dividends’, Milan, Italy.



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