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Le Président
N° 94

Paris, le 25 novembre 2009

IASC Foundation
To the Trustees
FAO Tamara Oyé
Assistant Corporate Secretary
30 Cannon Street
London
EC4M 6XH

Ref: IASCF Constitution Review – Part 2

Dear Ms Oyé,

Thank you for giving us another opportunity to comment on the proposals of the Trustees for the review of the Constitution of the IASCF.

This review is to be considered in the light of the declarations of the G20 in favour of significant improvements to the governance of the IASB. Clearly the 14 proposals do not have equal importance : indeed some of them do not originate in the consultation that took place and most of them do not attain the objective which was fixed. This is why in introduction we would like to draw your attention to the following points we consider to be fundamental.

Whilst we can support the proposed modification by which the IASB will have to consult the Trustees and the SAC before drawing up its work programme, we still consider it totally insufficient to reduce the opacity which continues to surround the current process.

The IASB must effectively justify in these institutions why certain projects are taken onto its agenda or not and what level of priority they have. Much criticism has been made, and recently repeated at the Roundtables, about the lack of transparency in fixing the agenda. Some projects are kept on the agenda even though they may not necessarily have priority (for example, the project “Management commentary” a topic which has already been covered in depth by regulators) or without giving any tangible signs of progress (for example, the project relating to transactions under common control, which was a request from stakeholders).

The publication of the documents of the SAC does not seem likely to create a situation in which a proper debate on the work plan could take place; moreover we request a formal annual public consultation on the work plan and its priorities.

We also regret that the IASCF does not propose any substantial modification of the Constitution with respect to the monitoring role of the Trustees particularly in relation to the work of the IASB, although comments made on previous consultations emphasized the need for increased control of the IASB by the Trustees. We believe it is essential that the Trustees validate the main orientations, intervene in respect of the IASB's agenda or ensure that the IASB takes account of comments made by stakeholders during its consultations.

More fundamentally, we wish to stress that the control carried out by the Trustees should be part of a reporting process to the Monitoring Board, in particular in respect of fixing the agenda, the determination of agenda priorities, the work review and the replies made by the IASB to comments made during its consultations. The Trustees and the Monitoring Board (MB) must validate the main technical orientations, in particular those of the Framework, and contribute to the definition of the objectives of IFRSs. This institution should address concerns of general interest and should be able to draw attention to the fact that a draft standard could have a negative impact on the economy or on financial stability.

It is in this context that we repeat our request for a broader membership of the MB so that it will be really representative and able to carry out the monitoring of overall governance. The organizational rules of the MB must be determined with the participation of its members within a framework defined by the Constitution.

More generally, I refer you to our covering letter of the 26th March 2009 , which sets out the relationship between Trustees, the SAC, the IASB Board and the Monitoring Board and which you will find in Appendix 1 of this covering letter.

Please find in Appendix 2 the detailed replies to the 14 questions. I am naturally at your disposal to supply any further information you may require.

Yours sincerely.

The Chairman of the Conseil national de la Comptabilité



Jean-François LEPETIT



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Paris, le 26 mars 2009

Le Président

JFL/EP

n°21

IASCF
Constitution Review
 30 Cannon Street
 London EC4M 6XH
 UNITED KINGDOM

Dear Mr Zaim,

Ref: IASCF Constitution Review – Part 2

On behalf of the Conseil National de la Comptabilité (hereafter CNC), I would like to thank you for this other opportunity to comment on the Consitution of the IASCF, and to put forward some concrete directions in order to reinforce the accountability of the IASB. In this respect, I would like to draw your attention to the following fundamental issues.

Whilst the IASB's work plan is indeed made available to the public, the requests for comments numerous, the hearings frequent and the website profusely documented, such dialogue is, in a way, limited. Neither the way projects are added to the workplan, nor the way priorities are set clearly defined. And very often, they don't meet users' expectations.

Three bodies need to see their role reinforced to achieve this objective. First, the role assigned to the Trustees needs to go beyond that of the monitoring of procedures to which they are in effect restricted: the Trustees need to have a direct say in the agenda-setting, in the definition of priorities with respect to the projects on the agenda, as well as in the review of the IASB's work and responses. In order to maximize the Trustees' efficiency in this respect, the recently reformed SAC will provide its direct and active support. Regarding the SAC, I wish for its success but consider that it does need to focus on strategic issues and define the fundamental directions in technical terms. The Trustees actions should be subject to the control of the Monitoring Board (hereafter MB), whose role should be to ensure that the Trustees carry out their role effectively regarding agenda-setting and prioritisation. Due process should provide for the Trustees or the MB ensuring that responses are formulated to the counter-arguments developed by the IASB's constituents and the IASB should be required to respond to the SAC's position.

Furthermore, I would like to reiterate that it is fundamental that the membership of the MB be extended to official organisations that ensure financial stability on the one hand and to those responsible for prudential supervision of regulated financial industries, in view of their implication and contribution to the stability and efficient performance of the financial markets. I can only regret that the exclusion of the Worldbank and the IMF from the MB's membership was decided without providing any form of explanation, especially since the IASCF had considered including their membership in the previous consultation during the summer of 2008 .

By no means is it our intention to question the Board's independence. However, a wider implication of all of the constituents should reinforce the legitimacy of the accounting standards and contribute to the first objective assigned by the Constitution to the IASCF which is to promote the standards for the widest economic area possible.

The articulation of the Trustees', the SAC's, the Board's and the MB's respective roles needs to be simple and understandable. Their prerogatives need to be reinforced, with the Board remaining at the center of the system and the sole body in charge of the technical development of accounting standards.

The current proposals clearly do not meet the objectives mentioned, thus more ambitious changes need to be put forward.

The detailed answers to the fourteen questions asked in the consultation document are provided in the enclosed Appendix. I am of course available to expand on any of the issues raised in this letter if needed.

Yours sincerely,

Chairman of the Conseil National de la Comptabilité

A handwritten signature in black ink, appearing to read 'J. Lepetit', with a long horizontal flourish extending to the right.

Jean-François LEPETIT

Appendix

1- Objectives of the organisation

1) Does the emphasis on helping "participants in the world's capital markets and other users make economic decisions", with consideration of "the special needs of small and medium-sized entities and emerging economies", remain appropriate?

Since the objective of accounting is to give an account of an entity's realised financial performance, the objective of developing a set of international accounting standards is indeed to enable investors and other users of financial statements to make decisions.

However, in our mind, it does not follow that a single set of accounting standards be developed whilst attempting to take into account the specific needs of medium-sized entities, for those entities who run their business in a territory which has a well-established, robust accounting framework, with a proven record, for both individual and consolidated accounts¹.

Finally, the objective being to provide information to capital providers acting on financial markets, the IASB should therefore continue to focus on the comparability of the consolidated financial statements for those entities who already apply IFRS. It should also devote its resources to meet this objective, taking into account its rather full agenda (financial crisis, 2011 target date, ...).

2) Should the Constitution make specific reference to the emphasis on a principle-based approach ?

A system based on principles is more economical, understandable and robust. Thus it also commends accounting practices which are more respectful of economic reality and avoids an overload of requirements, which may lead to contradictions and arbitrations. Achieving the objective of high quality standards is only possible when all the types of constituents respect the same set of principles. Therefore, referring to generally accepted accounting principles within the Constitution will most certainly lead in the right direction.

Achieving this objective however supposes that the review of the Conceptual Framework be continued so that any new standard or amendment to a standard can be confronted to the principles defined in the Conceptual Framework, thus reducing any risk of inconsistency.

In view of the convergence process in place with US GAAP, which are rule-based, a principle-based approach as well as consistent application is all the more necessary and should prevail over anti-abuse requirements.

3) During the previous review of the Constitution some commentators recommended that the IASB should develop financial reporting standards for not-for-profit entities and the public sector. The Trustees would appreciate views on this point and indeed whether the IASB should extend its remit beyond the current focus of the organisation.

In view of its very full agenda and the number of issues that need to be dealt with as a matter of priority, such an extension of the IASB's mandate is not appropriate. The IASB has neither the resources nor the skills to deal with public sector and not for profit entities; nor is it appropriate to increase its resources to achieve such an objective.

¹ Surveys carried out in France on a significant sample of medium-sized entities have evidenced very little appetite from those medium-sized entities to move to international standards and only a few minority expressed their need to have accounting data that is comparable internationally. Furthermore, the cost/benefit ratio of such data for such medium-sized entities would not be favourable since the complexity of IFRS would require significant implementation efforts and investments.

4) Should the Constitution be amended to allow for the possibility of closer collaboration with a wider range of organisations, whose objectives are compatible with the IASC Foundation's objectives? If so, should there be any defined limitations?

The wide implication of all of the constituents is fundamental to reinforce the legitimacy of accounting standards and fulfill the first objective assigned by the Constitution to the IASB which is to promote the standards over the widest economic area possible.

Financial stability-related issues are not necessarily different from or antinomic to those related to financial reporting, as long as the information provided to a long term investor is taken into account, as opposed to only the information provided to a short term investor.

In such a context, the contribution of official organisations ensuring prudential supervision over regulated financial industries on the one hand and financial stability on the other hand should be sought, so that accounting standards and prudential regulation are apprehended in a combined manner, thus making them more robust and legitimate.

2- Governance of the organisation

5) The Trustees would welcome views on whether the language of Section 3 should be modified to reflect more accurately the creation of the Monitoring Board [Group] and its proposed role.

Mentioning the MB's role would prove useful. Paragraphs 18 and following of the Constitution in its 1st February 2009 version which are dedicated to the MB actually refer to the role of the Trustees.

As regards the MB, we regret that its role is restricted and that, in particular it may not engage in a discussion with the Trustees on general interest issues such as the impact of proposed accounting standards on the economy. Its membership is too restrictive as, in view of their role, implication and contribution to the stability of financial markets, official organisations in charge of the prudential supervision of regulated financial industries are not included. We also regret that the meetings will not be held on a regular basis and that the proposed MoU and internal rules lag behind the revised Constitution. Finally, as opposed to the proposals in the draft internal rules, it would be useful that the MB be granted a budget which will enable it to fulfill its role.

3- Trustees

6) The Trustees are appointed according to a largely fixed geographical distribution. Is such a fixed distribution appropriate, or does the current distribution need review ?

Geographical diversity of Trustees is fundamental. However, geographical areas where IFRS are the most widely applied should have sufficient representation in order to continue to ensure their constituents' wide support.

7) Sections 13 and 15 set out the responsibilities of the Trustees. The intention of these provisions is to protect the independence of the standard-setting process while ensuring sufficient due process and consultation; the fundamental operating principle of the organisation. In addition to these constitutional provisions, the Trustees have taken steps to enhance their oversight function over the IASB and other IASC Foundation activities. The Trustees would welcome comments on Sections 13 and 15, and more generally on the effectiveness of their oversight activities.

Workplan and timetables should systematically be subject to public consultation. This would enable to : better understand users' needs, provide justification as to why a given project should be carried out (is it to solve a loophole in the standard, to improve it in view of established practice, to reinforce its consistency with other standards ?..), define and set priorities, pursue those projects for which a Discussion Paper is necessary, or set realistic deadlines. Such consultations could be organised by the SAC who would then set up working groups to assist it in this task.

The Trustees should ensure that the results of such consultations are taken into account. In particular, they should ensure that answers are formulated to the counter-arguments developed by the IASB's constituents, explaining why such arguments were not taken into account. The MB should then evaluate the effectiveness of the Trustees' review.

Also, constituents or the MB should be able to refer major general interest-related issues to the Chairman of the Trustees.

8) The Trustees would welcome comments on the progress and the future of the organisation's financing.

The bases of a reformed financing system have been put in place. More time and hindsight are required to assess how effectively it is performing.

4- IASB

9) The Trustees would welcome views on the IASB's agenda-setting process and would appreciate it if, in setting out views, respondents would discuss any potential impact on the IASB's independence.

The IASB's workplan needs to be defined with more transparency and not simply be the result of the Board's own willingness to deal or not with a question. In our mind, this does not put the IASB's independence into question in terms of developing, revising or interpreting a standard.

As previously mentioned, the Trustees' role is currently limited to a formal review of the workplan.

10) The Constitution describes the principles and elements of required due process for the IASB. The IASB's procedures are set out in more detail in the IASB Due Process Handbook. If respondents do not believe the procedures laid out in the Constitution are sufficient, what should be added? If respondents believe that the procedures require too much time, what part of the existing procedures should be shortened or eliminated? The Trustees would also welcome comments on recent enhancements in the IASB's due process (such as post-implementation reviews, feedback statements, and effect analyses) and on the IASB Due Process Handbook.

In order to reinforce the legitimacy of accounting standards, consultation principles and due process need to be reinforced through a much stronger implication on the part of the Trustees. A better management of the timing of consultations is needed to avoid that consultations are simultaneously carried out on a number of major subjects, and that consultations are launched with very little notice and with very short deadlines which do not enable constituents to carry out an in depth analysis of the issues.

The reasons for which observations and major comments made during the consultation process are not taken into account should be explained, without this affecting the IASB's independence in any way.

There is also a case for the implementation of a quality control review of the standards issued by the IASB, through an independent consultation process ; the Trustees should carry out such this exercise, with the support of staff that is independent from that of the IASB.

11) Should a separate "fast track" procedure be created for changes in IFRSs in cases of great urgency? What elements should be part of a "fast track" procedure?

Such a procedure is definitely useful (it has been made use of for the first phase of the Constitution review as well as for the revision of IAS 39 in October 2008). It must however be flexible (criteria enabling its implementation should not paralyse the process), decided on a case-by-case basis after either the MB' or the Trustees' intervention, in order to ensure that it answers the concerns of a majority of constituents. Public consultation is, however, mandatory whatever the degree of urgency.

5- SAC

12) Are the current procedures and composition, in terms of numbers and professional backgrounds, of the Standards Advisory Council (SAC) satisfactory? Is the SAC able to accomplish its objectives as defined in Section 38 ?

The reformed SAC has just been implemented and has to operate for a little while before any judgment can be made regarding the procedures in place as well as its membership. However, a membership of 45 already appears to be a maximum for such an institution.

The Trustees should ensure that the IASB follows up on the opinions expressed by the SAC regarding its workplan and its priorities. The MB would then be entrusted to checking that the Trustees effectively carry out their oversight role in this respect.

13) Attached to this discussion document are the terms of reference for the SAC, which describe the procedures in greater detail. Are there elements of the terms of reference that should be changed?

The SAC's agenda should be prepared by a restricted committee so that it focuses on a limited number of strategic issues. Four or five topics at the utmost must be on the agenda for a meeting. These topics should be introduced by short and simple papers, specifically prepared for the SAC by other people than the IASB's staff. The papers should lead in to a debate which would enable clear position to be formulated towards the IASB, who should then be required to respond to the SAC's position.

In advance of the meetings, supplementary educative sessions could be organised for those SAC members who wish to attend, as well as preparatory documents could be written. In the long run, the SAC should be granted a minimum level of independent resources.

6- Other issues

14) Should the Trustees consider any other issues as part of this stage of their review of the Constitution?

It would be helpful to reconsider the timing of effective dates. Some developments of or amendments to standards are applicable a short while after their being issued by the IASB and/or by the European endorsement process, which may result in a certain level of legal instability and makes the restatement of comparative information difficult. The minimum time span between the date the standard is issued by the IASB and that of its effective date could be extended and the amendments could be made to require prospective application.

Appendix 2

Question 1 :

The main objective of the IASB, the acronym widely used since the reform of 2001, must be to develop robust accounting standards. Its work plan is already very full and its resources limited. The changes of name, not suggested before the current consultation, seem to imply an extension of its responsibilities which we find undesirable and therefore inappropriate.

Question 2 :

This minor modification is not a priority.

Question 3 :

We agree with the proposed modification but request that reference should be made explicitly in the Constitution to the fact that IFRSs are principles-based (see our response to question 2 of 26th March 2009 in Appendix 1) and that the purpose of developing a set of international accounting standards is also to enable other users of financial statements to make decisions and to help prevent systemic risks.

Question 4 :

We agree with the proposed modifications but stress that they are not sufficient to enable the Monitoring Board to fulfil its function of ensuring accountability as we described in our covering letter of the 26th March 2009 which is attached .It is essential for the membership of the MB, with voting rights, to be extended to those participants that ensure on the one hand financial stability and on the other hand prudential supervision of regulated financial industries through their involvement in and contribution to the stability and efficiency of markets.

Question 5 :

We agree with the proposed modifications but stress that the zones in which IFRS are the most widely applied must be sufficiently represented to ensure the full support of all stakeholders.

Question 6 :

This proposal which is not derived from the comments of stakeholders only makes sense if it goes with a clarification of the role of the Trustees (see response to question 7 below). Under this assumption, nominations must reinforce the representation of geographical zones in which IFRS are effectively applied.

Question 7 :

The lack of a Constitution review is an inadequate response to the many comments on the need for a clarification of the role of the Trustees. These comments reflect the lack of effective control by the Trustees on the basis of the 2005 Constitution review, which leads to a request for a re-definition of their mission.

In this context we stress that the Trustees should in particular validate the main orientations , ensure that the results of consultations are taken into account in respect of the work plan and its timetable and more particularly that responses are made to the counter arguments of different stakeholders indicating why these arguments were not adopted. It is the Monitoring Board's role to ensure the effectiveness of the oversight of the Trustees.

Question 8 :

We agree with the proposed modifications which will enable the IASB to cooperate more regularly and closely with NSS as well as with other organisations such as the Financial Stability Board (FSB).

Question 9 :

We can support this proposed modification provided that the respective roles are clarified and that the nominations reflect a balanced representation of the geographical zones within which IFRS are applied and ensure a better balance in the representation of the accounting professions and users

Question 10 :

We support this proposed modification because it maintains a balance between technical competence derived from the recent practice of IFRS and the necessary continuity within the Board but there is no justification for not applying it to the president (or if applicable to the vice presidents) of the Board. Reducing the length of a second term of office is not the only way to ensure that Board members have recent practical experience, this objective can also be attained by applying appropriate selection criteria.

Question 11 :

We agree with the proposed modification.

Question 12 :

The proposed modification is inadequate. Firstly , it is essential that the members of the Monitoring Board can also be consulted with respect to the work plan or that they ensure that the Trustees have correctly fulfilled their mission and have not just carried out a formal review of the agenda. Moreover, like other commentators we request a systematic annual public consultation in respect of the work plan and timetable in order to better appraise the needs of users of IFRSs, to justify the reasons for carrying out a project, to determine the order of priorities, to select topics for which a Discussion Paper is essential, or to fix realistic deadlines (see point 7 of our response of 26th March 2009). These amendments do not affect the way in which the contents of standards are drawn up and do not jeopardize the independence of the IASB.

Question 13 :

The proposal to maintain the status quo is acceptable at this stage, but we wish to stress that the SAC must concentrate on a limited number of strategic issues, introduced by papers written for the SAC, possibly by someone other than IASB staff, which enable a debate to take place and comments to be made. The IASB should then subsequently respond by a precise written summary of the SAC's main comments with an indication of how these comments have been taken into account.

Question 14 :

We agree with the proposed modifications.