

Ms Tamara Oyre
Assistant Corporate Secretary
IASB Foundation
Email: toyre@iasb.org

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Part 2 of the Constitution Review – Proposals for Enhanced Public Accountability

Dear Ms Oyre,

Thank you for the opportunity to comment on the IASC Foundation's *Proposals for Enhanced Public Accountability*, which were published at the end of September 2009.

Improvements in the governance of the IASC Foundation and a strengthening of the Board's responsibility and accountability are essential, in our view, to ensuring the long-term global acceptance and reputation of the IASB. We therefore welcome and have long supported the Constitution Review project.

We nevertheless have doubts as to whether the proposals in their present form really address the key problems of governance, responsibility and accountability at the IASB. In our opinion, many of the proposed changes concern issues of a formal nature. This applies, for instance, to the proposed name changes (questions 1 and 2), the appointment of two vice-chairmen of the Trustees and Board (questions 6 and 9) and the length of Board members' terms of appointment (question 10). We agree that it makes good sense for formal arrangements of this kind to be discussed and possibly modified in the course of the Constitutional Review. The problem is, however, that these formal adjustments currently make up the bulk of the proposed constitutional amendments; only a few proposals, by contrast, concern fundamental changes. In our view, therefore, the proposals submitted for consultation are most certainly steps in the right direction and we largely support them. We are not, however, convinced that such changes will permanently solve central questions such as the division of responsibilities between the Trustees and the Monitoring Board or between the IASB and IFRIC, the transparency of the agenda-setting-process and the (regional) balance in the membership of bodies and staff.

Our replies to the questions posed in the consultation document are as follows:

Question 1:

The Trustees seek views on the proposal to change the name of the organisation to the *“International Financial Reporting Standards Foundation”*, which will be abbreviated to *“IFRS Foundation”*. The Trustees also seek views on the proposal to mirror this change by renaming the International Accounting Standards Board (IASB) as the *“International Financial Reporting Standards Board”*, which will be abbreviated to *“IFRS Board”*.

Do you support this change in name? Is there any reason why this change of name might be inappropriate?

We see no reason to object to the proposed name change, which we consider a follow-up change to the renaming of *International Accounting Standards (IAS)* as *International Financial Reporting Standards (IFRS)*.

Question 2:

The Trustees seek views on the proposal to replace all references to *“accounting standard”* with *“financial reporting standards”* throughout the Constitution. This would accord with the name change of the Foundation, the Board and the formal standards developed by the IASB—International Financial Reporting Standards (IFRSs).

Do you support this change?

As we understand this proposal, the term *accounting standards* is to be replaced with *financial reporting standards* throughout the Constitution. We agree with the proposed adjustment. We would not, however, support changing the name of existing standards from *international accounting standard* to *international financial reporting standard*. This would be unnecessarily confusing, in our view.

Question 3:

The Trustees seek views on their proposal to change section 2 as follows:

The objectives of the ~~IASB~~ IFRS Foundation are:

- (a) to develop, in the public interest, a single set of high quality, understandable, and enforceable and globally accepted accounting financial reporting standards that require high quality, transparent and comparable information in financial statements and other financial reporting to help participants in the world’s capital markets and other users make economic decisions;*

- (b) to promote the use and rigorous application of those standards;*
- (c) in fulfilling the objectives associated with (a) and (b), to take account of emerging economies and, as appropriate, the special needs of small and medium-sized entities and emerging economies; and*
- (d) to bring about convergence of national accounting standards and ~~International Accounting Standards~~ and International Financial Reporting Standards (IFRSs, being the standards and interpretations issued by the IFRS Board) to high quality solutions.*

Do you support the changes aimed at clarity?

Please also see our comments of 30 March 2009 on the discussion document *Review of the Constitution – Identifying Issues for Part 2 of the Review*.

We basically agree with the proposed wording, which we believe accurately reflects the main objectives of the IASC Foundation. The term “globally accepted” seems rather vague, however. It is not clear whose acceptance is meant. We would like to reiterate the proposal we made in our comments of 30 March 2009 and suggest enshrining practicability as an “overriding principle”. The practicability of the standards is a key prerequisite for their desired global acceptance. One aspect of practicability, in our view, is that the number of proposed changes and exposure drafts should be limited to what is really necessary. The last couple of years have seen a veritable avalanche of exposure drafts – doubtless prompted at least in part by the financial crisis. Preparers of financial statements will not be able to keep up with this pace of change permanently.

With this in mind, we would also like to reiterate our proposal to explicitly include a cost-benefit criterion as an ancillary principle in the description of objectives. Implementing new standards normally requires extensive adjustments and reprogramming of IT systems as well as substantial time and staff resources. Greater consideration should therefore be given to cost-benefit factors when setting or revising standards.

We find it regrettable that the Trustees have decided against explicitly including a principles-based approach to standard-setting as an overriding principle. A firm commitment in the Constitution to principles-based standards would, in our opinion, help to halt and reverse the undesirable trend towards a rules-based accounting regime.

Question 4:

The Trustees seek views on the proposal to amend section 3 of the Constitution as follows:

The governance of the ~~IASC~~ IFRS Foundation shall primarily rest with the Trustees and such other governing organs as may be appointed by the Trustees in accordance with the provisions of this Constitution. A Monitoring Board (described further in sections 18–23) shall provide a formal link between the Trustees and public authorities. The Trustees shall use their best endeavours to ensure that the requirements of this Constitution are observed; however, they ~~are empowered to~~ may make minor variations in the interest of feasibility of operation if such variations are agreed by 75 per cent of ~~all~~ the Trustees.

Do you support this clarifying amendment?

We agree with the proposed clarifying amendment.

Question 5:

The Trustees seek views on the proposal to amend section 6 of the Constitution as follows to include one Trustee from each of Africa and South America:

All Trustees shall be required to show a firm commitment to the IFRS ~~IASC~~ Foundation and the IFRS Board ~~IASB~~ as a high quality global standard-setter, to be financially knowledgeable, and to have an ability to meet the time commitment. Each Trustee shall have an understanding of, and be sensitive to, the challenges associated with the adoption and application of high quality global ~~accounting~~ financial reporting standards developed for use in the world's capital markets and by other users. The mix of Trustees shall broadly reflect the world's capital markets and diversity of geographical and professional backgrounds. The Trustees shall be required to commit themselves formally to acting in the public interest in all matters. In order to ensure a broad international basis, there shall be:

- (a) six Trustees appointed from the Asia/Oceania region;*
- (b) six Trustees appointed from Europe;*
- (c) six Trustees appointed from North America; ~~and~~*
- (d) one Trustee appointed from Africa;*
- (e) one Trustee appointed from South America; and*
- (f) ~~(d)~~ two ~~four~~ Trustees appointed from any area, subject to maintaining ~~establishing~~ overall geographical balance.*

Do you support the specific recognition of Africa and South America?

We support giving Africa and South America a permanent seat each in the IASC Foundation.

But we do not, by contrast, agree with reducing from four to two the number of seats for Trustees appointed from any region. Seats that are not pre-allocated to a specific region can be used, among other things, to establish a certain geographical balance. The fixed allocation of the 18 seats under section 5(a) to (c) is not, in our view, sufficient in itself to ensure such a balance. Yet two seats are not enough to allow possible imbalances to be effectively rectified. For related reasons, we are also critical of changing the phrase *...establishing overall geographical balance* into *...maintaining overall geographical balance*. We prefer the old wording because it makes clear that a geographical balance cannot necessarily be created by means of the fixed allocation of seats.

Question 6:

The Trustees seek views on the proposal to amend section 10 of the Constitution as follows to allow up to two Trustees to be appointed as vice-chairmen of the Trustees.

The Chairman of the Trustees, and up to two Vice-Chairmen, shall be appointed by the Trustees from among their own number, subject to the approval of the Monitoring Board. With the agreement of the Trustees, regardless of prior service as a Trustee, the appointee may serve as the Chairman or a Vice-Chairman for a term of three years, renewable once, from the date of appointment as Chairman or Vice-Chairman.

Do you support the constitutional language providing for up to two Vice-Chairmen?

We basically agree with the proposal. A prerequisite for the appointment of more than one vice-chairman is a clear division of roles and responsibilities, in our view.

Question 7:

The Trustees seek views on the proposal to make no specific amendments to sections 13 and 15, but to address the valid and important concerns raised by commentators by way of enhanced accountability, consultation, reporting and ongoing internal due process improvements.

We see no need to amend sections 13 and 15 at this stage and therefore agree with the proposal. The creation of the Monitoring Board has changed the role and function of the Trustees to some extent. A revised agenda-setting process may give rise to further changes (see our reply to question 12). With this in mind, we believe the effectiveness of the Trustees' oversight function should be revisited at a later date.

Question 8:

Section 28 would be amended as follows:

The ~~IASB~~ IFRS Board will, in consultation with the Trustees, be expected to establish and maintain liaison with national standard-setters and other official bodies concerned with an interest in standard-setting in order to assist in the development of IFRSs and to promote the convergence of national accounting standards and ~~International Accounting Standards and International Financial Reporting Standards~~ IFRSs.

Do you support the changes aimed at encouraging liaison with a broad range of official organisations with an interest in accounting standard-setting?

We agree with the proposed changes. An exchange of views and cooperation with national standard-setters and other bodies with an interest in accounting are vital to the long-term acceptance of the standards. Such liaison arrangements are already in place today. The important point is that full responsibility for standard-setting should remain with the IASB and not be shifted to other bodies. It should also be ensured that working relationships are established and/or maintained with all the relevant bodies around the world with an interest in accounting standards and not just with a random selection.

Question 9:

The Trustees seek views on the proposal to amend section 30 of the Constitution as follows to permit the appointment of up to two Board members to act as vice chairmen of the IASB.

The Trustees shall appoint one of the full-time members as Chairman of the ~~IASB~~ IFRS Board, who shall also be the Chief Executive of the ~~IASB~~ IFRS Foundation. ~~One~~ Up to two of the full-time members of the ~~IASB~~ IFRS Board ~~shall~~ may also be designated by the Trustees as a Vice-Chairman, whose role shall be to chair meetings of the ~~IASB~~ IFRS Board in the absence of the Chairman or to represent the Chairman in external contacts in unusual circumstances (such as illness). The appointment of the Chairman and the designation as Vice-Chairman shall be for such term as the Trustees decide. The title of Vice-Chairman would not imply that the ~~individual~~ member (or members) concerned is (or are) the Chairman-elect.

We basically agree with the proposal. A prerequisite for the appointment of more than one vice-chairman is a clear division of roles and responsibilities, in our view (see our reply to question 6).

Question 10:

The Trustees seek views on the proposal to amend section 31 to allow for altered terms of appointment for IASB members appointed after 2 July 2009.

The proposed amendment is to allow for Board members to be appointed initially for a term of five years, with the option for renewal for a further three-year term. This will not apply to the Chairman and Vice-Chairman, who may be appointed for a second five-year term. The Chairman or Vice-Chairman may not serve for longer than ten consecutive years.

The proposed amendments to section 31 are as follows:

Members of the ~~IASB~~ IFRS Board appointed before 2 July 2009 shall be appointed for a term of up to five years, renewable once for a further term of five years. Members of the IFRS Board appointed after 2 July 2009 shall be appointed initially for a term of up to five years. Terms are renewable once for a further term of three years, with the exception of the Chairman and a Vice-Chairman. The Chairman and a Vice-Chairman may serve a second term of five years, but may not exceed ten years in total length of service as a member of the IFRS Board.

Do you support the change in proposed term lengths?

No comments.

Question 11:

The Trustees seek views on the proposal to insert in section 37 (to become section 38) of the Constitution an additional subsection as follows to allow the Trustees, in exceptional circumstances, to authorise a shorter due process period. Authority would be given only after the IASB had made a formal request. The due process periods could be reduced but never dispensed with completely.

The ~~IASB~~ IFRS Board shall:

(a) ...

(b) ...

(c) in exceptional circumstances, and only after formally requesting and receiving prior approval from the Trustees, reduce, but not eliminate, the period of public comment on an exposure draft below that described as the minimum in the Due Process Handbook.

The financial crisis has demonstrated that it may sometimes be necessary to make changes to standards at very short notice. In principle, we therefore welcome the proposed additional subsection providing for a shorter due process period in exceptional circumstances. We agree that use of the “fast-track due process” should be conditional on meeting strict prerequisites

and receiving prior approval from the Trustees. The wording of the new subsection should be reconsidered, however. Section 100 of the Due Process Handbook already permits the normal 120-day consultation period to be shortened. We consider it essential to set an absolute minimum period for consultations and believe that this minimum period should be at least 30 days. This could be spelled out in the Constitution and/or the Due Process Handbook. Section 37(c) should be adjusted accordingly.

Question 12:

The Trustees seek views on the proposal to amend section 37(d) (to become section 38) of the Constitution as follows to expressly provide that the IASB must consult the Trustees and the SAC when developing its technical agenda.

The ~~IASB~~ IFRS Board shall:

~~(c)~~(d) have full discretion in developing and pursuing the technical agenda of the ~~IASB~~ IFRS Board, after consulting the Trustees (consistently with section 15(c)) and the SAC (consistently with section 44(a)), and over project assignments on technical matters: in organising the conduct of its work, the ~~IASB~~ IFRS Board may outsource detailed research or other work to national standard-setters or other organisations;

We see a pressing need to improve the transparency of the agenda-setting process at the IASB (see our comments of 30 March 2009). The proposed amendment to section 37(d) is definitely a step in the right direction and is seen by us in a positive light. We nevertheless consider it open to question whether this amendment will be sufficient in itself to ensure that the agenda-setting process is always open and transparent. The IASB should at least be required to explain to stakeholders why certain projects have been included on its agenda or postponed. An “explanation requirement” to this effect should be included in section 37(d).

Question 13:

Trustees seek views on the proposal to make no amendment to sections 44 and 45 (renumbered as 45 and 46), which are the provisions relating to the SAC, at this time.

Given that the SAC was reconstituted only at the beginning of this year, we see no need to amend sections 44 or 45 at this time. The role and functioning of the SAC and the interaction between the various bodies of the IASC Foundation (Board, IFRIC, SAC, Trustees, Monitoring Group) should be reviewed in due course.

Question 14:


The Trustees seek views on the proposal to amend section 48 by removing specific staff titles and replacing it with the term 'the senior staff management team'. Accordingly section 49 should be deleted.

The Trustees also seek comment on the proposal to update the Constitution by removing all historical references that relate to when the organisation was established in 2001.

No comments.

Yours sincerely,


Dirk Jäger


Silvia Schütte