



Topic

Constitutional Review (Part 2)

**IASCF REVIEW OF THE CONSTITUTION
IDENTIFYING ISSUES FOR PART 2 OF THE CONSTITUTIONAL REVIEW**

Preliminary Staff Analysis

of

Comment Letters

on

Second Part of the Constitution Review

Proposals for change

Discussion document issued in December 2008

April 2009

**Based upon letters received
through 14 April 2009**

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This paper has been prepared for discussion at a public meeting of the Standards Advisory Council of the IASB.

The views expressed in this paper are those of the authors.

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EXECUTIVE SUMMARY

The Trustees began the second part of their review of the Constitution at their meeting in October 2008 in Beijing. A discussion document was published in December 2008. This paper summarises the comments received from the 67 respondents from around the globe. The remainder of the review will be progressed in accordance with the timetable in Appendix II to this document.

In general the replies received from commentators demonstrated significant consensus on the issues raised by the Trustees. At the same time, variations emerged in emphasis and tone and reflected differences in perspectives.

Most commentators noted that maintaining the independence of the IASC Foundation and the IASB was paramount to ensure the development of high quality accounting standards. Many of the commentators emphasized the need for global adoption of IFRSs and commended the IASB and the Trustees for their efforts in helping to achieve widespread adoption in a relatively short period.

However, for IFRSs to have global endorsement and to be of a consistent high quality, many stressed the requirement to be accountable and transparent and the need for the standards remain relevant to preparers and users. Consequently, most commentators focused their attention on two main areas: namely the IASB's agenda-setting process and the effectiveness of the IASB's due process, more generally.

Many commentators expressed their concern that despite the robust procedures that are in place and followed, the IASB does not sufficiently take into account stakeholder input. Similar to the past review, commentators (particularly from the preparer community) urged the Trustees (and now the Monitoring Board) to play a greater role in ensuring that the IASB is more responsive to external views and then provides appropriate feedback.

Recently, the topic of an expedited due process was raised. Most commentators expressed significant concern about the introduction of a 'fast-track' due process procedure, but recognised that such a procedure may be necessary in times of crisis. Commentators concluded that if such an emergency procedure were to be invoked it should only be permitted in very limited circumstances and under defined conditions. As a minimum, prior Trustee authorisation and at least 30 day's consultation should be mandatory. Already, a 30-day due process period is permitted.

Commentators welcomed recent efforts aimed at improving the governance and strengthening the transparency and accountability of the IASB, following the first part of the Constitutional Review. The Trustees were urged to further strengthen the independence of the IASC Foundation by ensuring a stable and sustainable funding base in the form of government sponsored levy systems.

I General Summary

Sixty-seven comment letters were received. Respondents from Europe accounted for more than half of the submissions.

What follows is a staff analysis of the comment letters that have been received as of 14 April 2009. Copies of each and every comment letter are on the IASB's Website.

Comment letters analysed by geographic and industry segments

The numbers within the chart refer to the numbers assigned to the specific organisations listed out in Appendix 1.



Topic

Constitutional Review (Part 2)

	Asia Excl. Japan	Japan	Australia/ New Zealand	Europe	North America	South America and Africa	International	TOTAL
Government bodies and Regulators			1	2	2		2	7
Professional body of accountants	1		1	8	2			12
Accounting Firms							6	6
Preparers			2	12			3	17
Standard-setters	5		4	3		2		14
Users				6	2			8
Other							1	1
Academics and Individuals					2			2
TOTAL	6		8	31	8	2	12	67

The responses in the submissions did not lend themselves to statistical analysis. This analysis therefore focuses on the major themes identified.

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Topic

Constitutional Review (Part 2)

Major views and concerns**II Analysis on comments received on the Trustees identified questions**

This section of the report provides detailed analysis on the 14 specific questions and issues raised by the Constitution Committee and reaction to the December 2008 consultation paper. Major findings on each question follows:

General observations:

In reviewing the responses, the Trustees should note that the second part of the Constitution Review was sent out for consultation before the conclusion of the first part of the Constitution Review. Accordingly, some of the comments received do not take into account the subsequent changes that were made to the Constitution on 1 February 2009.

In general consensus existed among commentators on many of the issues identified. At the same time, variations emerged in emphasis and tone and reflected differences in perspective. A distinction could be drawn between those commentators from the preparer community as compared to those representing standard-setters and regulators.

Most commentators focused their attention on two main areas: namely the IASB's agenda-setting process and the effectiveness of the IASB's due process, more generally. Included within this, as a subsidiary element, was a discussion of the "fast-track" due process procedures in emergency situations.

The following represent some of the concerns raised by commentators particularly from Europe:

- **Trustees oversight of the IASB, Independence and Due Process**

Most commentators noted that maintaining the independence of the IASC Foundation and the IASB was paramount to ensure the development of high quality accounting standards. Also most stressed the need to strengthen the resources and capacity of the IASB to become a global standard-setter. However, within that broad objective, the view was often expressed that Trustees should do more to demonstrate their effective oversight of the IASB, and many called for the

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Trustees to play a role in the agenda setting process to ensure that the IASB's work remains relevant and practical.

Similarly, other issues were raised, namely:

- **Taking Appropriate Account of Feedback**

Many commentators expressed their concern that despite the robust procedures that are in place and followed, the IASB does not sufficiently take into account stakeholder input.

- **Meeting the needs of Interested Parties**

Commentators suggested that the need for IFRSs to better reflect the needs of businesses and other stakeholders.

The following were concerns raised by commentators from around the world:

- **Jurisdictional Issues**

Australian commentators specifically noted that changes to the standards often did not take into account the legal environment in which they had to operate and the consequences of sudden changes. In certain jurisdictions, retrospective changes were prohibited by legislation and retrospective IFRS changes meant that IFRSs could not be applied as the IASB had intended. The Trustees should be aware that a practical issue in Australia regarding the implementation date arose following the October 2008 reclassification amendment.

On the other hand, it has been noted that it would be difficult to take into account every particular legal regime.

- **Translations**

Many commentators called for greater emphasis on accurate and timely translations of exposure drafts, other consultation documents and the standards themselves, to augment and enhance due process and ensure effective implementation and operation of the standards.

- **Complexity**

Many commented that the length and complexity of financial statements prepared in accordance with IFRSs are causing difficulties for users and leading to misapplication and lowering of standards.

OBJECTIVES OF THE ORGANISATION

Q1 Objectives of the organisation

The Constitution defines the organisation's primary objective in the following manner:

“to develop, in the public interest, a single set of high quality, understandable and enforceable global accounting 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.”

In fulfilling that objective, the organisation is

“to take account of, as appropriate, the special needs of small and medium-sized entities and emerging economies”.

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?

The replies to this question suggested differences in views.

The majority of respondents supported the main thrust of the currently drafted objective of the IASC Foundation and its emphasis on providing standards for the world's capital markets and listed entities, but thereafter went on to suggest ways in which the objectives could be amended to either be clearer, more neutral, consistent, reflective of the interests of the stakeholders they represented or broadened to meet the needs of numerous stakeholders.

A minority of respondents, particular from Australia and New Zealand, called for an expansion of the organisation's objectives to make the standards sector neutral.

Within this broad support, the following were some further observations:

Clarity

- Some commentators called for the Constitution to emphasise the primary objective over the supporting objectives. The commentator therefore suggested making a change to highlight the primary objective as being the attainment of “...globally accepted set of high quality, understandable and enforceable accounting standards...”.

Small and medium-sized entities and emerging economies

- Most welcomed the creation of standards for non-publically accountable entities.
- Some noted that this proposed standards should not be an end in itself, but that the IASC Foundation should continue to monitor the standard and cater for the need for implementation activity around the standard.

- Some commented that reference to “small and medium-sized entities and emerging economies” is confusing as the needs of SMEs are different from those of emerging economies and they should not be lumped together. Of course the current wording does not necessarily indicate that the needs are the same.
- At the same time, some noted that economic scale does not change the economic nature of transactions and as such there is no need to make specific reference to small and medium-sized entities and emerging economies.

Meeting the needs of Investors and Users

- Those that represented the investor community all commented that the objectives of the IASC Foundation should be altered to better meet their users’ needs. This, however, seems to be accounted for in the current wording.

Q2 Principles-based standards

In the opinion of the Trustees, the commitment to drafting standards based upon clear principles remains vitally important and should be enshrined in the Constitution. Should the Constitution make specific reference to the emphasis on a principle-based approach?

All commentators supported the IASB’s practical emphasis on principle-based standards, but differences in opinion arose as to whether this should be expressly stated in the Constitution. Consequently the responses received were mixed; but evenly balanced.

Some commentators strongly supported including specific mention of principles-based approach.

Amongst those who were of the opinion that it was not appropriate to include such a statement in the Constitution, their reasons were largely based on one of the following factors:

- It was inappropriate to include this level of detail in the Constitution. It would therefore be better placed in the Due Process Handbook.
- There is no clarity as to the meaning and full scope of the term “principle-based approach”.

Q3 Priority of Financial Reporting Standards for Listed Companies

The Constitution and the IASB’s *Framework* place priority on developing financial reporting standards for listed companies. 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. Since then some commentators have said that standards governing the valuation sector would also be of assistance. The Trustees and the IASB have limited their focus primarily to financial reporting by private sector companies, partly because of the need to set clear priorities in the early years of the organisation. The Trustees would

appreciate views on this point and indeed whether the IASB should extend its remit beyond the current focus of the organisation.

Almost all commentators were of the view that given the IASB's very full agenda and the number of issues that need to be dealt with as a matter of priority, it would be inappropriate for the IASB to extend its mandate to the not-for-profit and public sector at this time. The IASB needs to focus on private sector capital markets.

The reasons for this conclusion varied, however, and included the following:

- Some commentators felt that this should only be a long term aim and not take up immediate IASB time, which should be focusing on its current urgent workload. These commentators were of the view that in the long term, the IASB should work closely with the International Public Sector Accounting Standards Board (IPSASB) to develop standards for the not-for-profit and public sector in order to develop standards in a transaction neutral way which would allow for a more expanded role and facilitate wider use. One commentator said that eventually the IASB should become the global standard-setter for all sectors, and to achieve that, close liaison with the IPSASB was paramount. This would also facilitate better use of limited standard-setting resources. This should be identified in the Constitution to set the clear lines of responsibility.
- One commentator said that it would be far better for the IASB to leave not-for-profit and public sector standard-setting to national standard-setters, possibly in coordination with the IASB, in order to develop regimes along the broad principles of IFRS. This would avoid the need to invest large amounts of IASB time and resources, which should be conserved.
- Finally there were those who were of the view that the IPSASB currently achieves this function effectively, and it would be inappropriate for the IASB to extend its remit at all. One commentator noted that the current governance arrangements and composition of both the IASB and the Trustees are such that standards developed for the not-for-profit and the public sector by the current IASB would lack legitimacy.

Q4 Collaboration with other organisations

There are other organisations that establish standards that are either based upon or have a close relationship with IFRSs. The IASC Foundation already recognises the need to have close collaboration with accounting standard-setting bodies. 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?

Again, there was strong unanimity in the replies given to this question. Most commentators confirmed the need for the IASC Foundation to collaborate and consult with a wide range of organisations, which have similar interests and goals to the IASC Foundation. Many also confirmed that this principle should be enshrined in the Constitution. Those commentators representing certain sectors naturally urged closer collaboration with bodies that supported the sector they were representing.

The main reason given is that wide consultation is imperative to reinforce the legitimacy of accounting standards, to take into account all interests and concerns and to fulfill the first objective of the organisation, namely to ensure global, high quality international accounting standards. Furthermore, in consulting widely, the IASC Foundation will be recognising the role that the IASB and its standards play within the broader financial regulatory framework.

Within this, a few European commentators expressed the need for the IASC Foundation to consult with official organisations responsible for ensuring prudential supervision over regulated financial industries and financial stability so that accounting standards and prudential regulation combine thus making them more robust and legitimate.

A number of commentators noted that it would not be possible to list every type of organisation that the IASC Foundation should form a close relationship with, and an organisation needs sufficient flexibility to allow for change. Therefore it was recommended that the Constitution should merely include general, principle-based wording that allows some flexibility to the IASC Foundation and the IASB to collaborate with bodies when that would further their objectives without endangering their independence and other processes. Notwithstanding this point, some commentators who urged flexible and open-ended wording said that it would however be appropriate for the Constitution to make specific reference to the IASB's close working relationship with the IPSASB.

Some however warned that the IASB should proceed with caution as partnerships and consultation are resource intensive and may distract rather than enhance existing arrangements.

GOVERNANCE OF THE ORGANISATION

Q5 Reflection of the Monitoring Board in the Constitution

The first part of the review of the Constitution proposed the establishment a formal link to a Monitoring Group. Under this arrangement, the governance of the organisation would still primarily rest with the Trustees. Although the first part of the review has not yet been completed, the Trustees would welcome views on whether the language of Section 3 should be modified to reflect more accurately the creation of the Monitoring Group and its proposed role.

Many commentators used this question to comment and raise points following on from the first part of the Constitution Review.

Many congratulated the Trustees for taking the necessary steps to improve the governance of the IASC Foundation by creating a Monitoring Board (MB) that would help to provide public assurance regarding the transparency and accountability of the Trustees and the IASB.

Many European commentators and some commentators representing particular sectors noted that they perceive the mandate and the membership of the Monitoring Board as

too narrow. They also called for meetings to be held more frequently and for the Memorandum of Understanding and the internal rules to be better reflective of the language used in the Constitution.

Beyond this, most commentators were of the view that the Constitution needed to be updated appropriately to reflect more accurately the creation of the Monitoring Board and its proposed role and the separation of its functions from the Trustees and the IASB. Some commentators were concerned that the Constitution should expressly provide that the Monitoring Board will safeguard the independence of the IASB and the IASC Foundation, free of jurisdictional or other bias so as ensure the maintenance of high quality accounting standards that appropriately meet the needs of users.

It was recommended that the following amendments should be reflected in the Constitution:

- The role and objectives of the Monitoring Board;
- The processes and mechanisms that ensure a reasonable degree of transparency;
- A statement of the principles that define the relationship between the Monitoring Board and the Trustees;
- The nature of reporting between the Monitoring Board and the Trustees; and
- All elements of due process;

There were also some commentators who said that there should be appropriate checks and balances in place in order to ensure that the Monitoring Board would not be capable of inappropriately exerting their political interests. Aligned to this point, one commentator pointed out that it was important to avoid the situation where the creation of the Monitoring Board leads to the imposition of a financial stability objective in the standard-setting process.

Once again, the Trustees should note that many of the comments had been received prior to the commentators becoming aware of the changes made to the Constitution on 1 February 2009, following the conclusion of the first part of the Constitution Review.

TRUSTEES

Q6 Geographic distribution of the Trustees

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

There was a great deal of consistency in the replies relating to this topic. Most were of the view that the current distribution of the Trustees is reasonable. Many said that the geographic allocation of Trustees was subsidiary to their professional competence, relevant experience, independence, ability to work in the public interest and history of public service.

Many did note the inconsistency of the defined geographic allocation of the Trustees compared to the recent changes made to the suggested geographic allocation of the IASB, specifically as it related to Trustees from Africa and South America.

A number of commentators noted that all major regions should have a specific assignment of members, rather than some regions being treated as residual. For this reason, in addition to Africa and South America, it was suggested that the Caribbean and the Middle East should also be mentioned.

Some commentators expressed the need for flexibility in order to allow for growth and development.

One commentator recommended appointment of representatives from key international institutions, such as the World Bank, International Monetary Fund, Basel Committee and International Organisations of Securities Commissions, be included.

Some commentators expressed concern that the geographical quota system may create “representative” Trustees composed of individuals that are more likely to perceive their role as promoters of the narrow public interests of the region they represent, rather than promoters of improving financial accounting and reporting that best serves the needs of investors.

Q7 Effectiveness of Trustee’s oversight activities

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.

The answers to this question were closely linked to the questions relating to the due process procedures of the IASB and the proposed ‘fast-track’ processes. Thus there was a fair amount of overlap.

There was a strong sense in the responses that the Trustees should play a greater role in assessing the IASB’s effectiveness, should be more active in the agenda setting process, and should demonstrate their review of the IASB’s due process.

Many commentators expressed their concern that despite the robust procedures that are in place and followed, the IASB does not sufficiently take into account stakeholder input. Many European commentators expressed frustration with their perception that the IASB was sometimes unwilling to understand views of commentators sufficiently and its reluctance to change in the face of opposition.

Many letters urged and the Trustees to encourage the IASB to adopt a consensus-building approach to its engagement with stakeholders.

Very similar to the comments received in respect of the IASB’s due process, commentators were in general agreement with the duties and powers set out in sections 13 and 15, but expressed concern about the Trustees’ effectiveness in discharging these duties and powers. It was noted that the Constitution is silent on

evaluating the performance of the organisation and as such it would be useful for the Trustees to articulate how they will assess the effectiveness of the IASB in more detail. Related to this was the suggested need for there to be an element of external independence to the due process procedures.

Q8 Funding

The Trustees are responsible for ensuring the financing of the IASC Foundation and the IASB. Since the completion of the previous review of the Constitution, the Trustees have made progress towards the establishment of a broad-based funding system that helps to ensure the independence and sustainability of the standard-setting process. (For an update on the funding status, see <http://www.iasb.org/About+Us/About+the+IASC+Foundation/Funding.htm>) However, the Trustees have no authority to impose a funding system on users of IFRSs. The Trustees would welcome comments on the progress and the future of the organisation's financing.

Once again there was almost unanimity in the responses received to this question. Almost all commentators argued that in order for IFRSs to be of a consistent high quality and for them to be globally adopted, the Trustees must find long term, sustainable funding in the form of some government sponsored levy based systems or defined and compulsory country based contributions.

There was emphasis on the fact that no one contributor should become dominant, and therefore jeopardise the IASB's independence. In this regard, a number of commentators expressed what is a misunderstanding that the major accounting firms provide a weighty majority of the IASC Foundation's funding.

It was also noted that the current situation in which only a few jurisdictions bear a large part of the funding should be reconsidered and altered. Concern was expressed that contributions from the United States requires attention and that the Trustees should endeavour to put in place appropriate equivalent long term funding arrangements.

One commentator expressed concern that the IASC Foundation would set specific funding requirements for each country. It was suggested that rather it should be for each country to retain the discretion to develop the most appropriate funding system based upon national need and circumstance.

The work of the Trustees to date in establishing national funding regimes for the IASC Foundation was commended and many expressed support for the four principles for the funding of the IASC Foundation which were put in place in 2008.

Many noted that the work of the IASB is a global public good and as a consequence, appropriate consistent global, governmental funding should be of primary importance.

Within this topic, it was noted that since IFRS will become more widespread and globally adopted, the Trustees are under an obligation to equip the organisation in a manner that is appropriate to a global standard-setter. It is therefore essential for the

Trustees to draw up and consider a five-year projection for the future, which would include not just governance matters, but also, resources and funding.

INTERNATIONAL ACCOUNTING STANDARDS BOARD (IASB)

Q9 IASB's standard-setting process

Commentators have raised issues related to the IASB's standard-setting process. The Constitution gives the IASB 'full discretion in developing and pursuing its technical agenda'. The Trustees have regularly reaffirmed that position as an essential element of preserving the independence of the standard-setting process. However, they 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.

Most commentators noted that maintaining the independence of the IASC Foundation and the IASB was paramount to ensure the development of high quality accounting standards.

However, a large majority of commentators from the user community express concern regarding the relevance of some of the IASB's work.

The comment process on the Constitution Review discussion document revealed concerns regarding the substance of the IASB's agenda and also the process of agenda-setting. In terms of the Constitutional review process, the focus should be on the latter, but one should pay attention to the substantive concerns as possible symptoms of perceived problems.

A significant portion of commentators raised issues related to the relevance of the IASB's existing work and the emphasis placed on its convergence work.

Commentators did differentiate between the process of setting the agenda and the process of writing the standards. Many were of the opinion that the IASB's independence would be enhanced and receive greater legitimacy if the agenda-setting process become more transparent and the IASB become more accountable, including providing explanations and justifications for their prioritisation of the agenda. The Trustees were therefore urged to make appropriate changes to the Constitution, whilst preserving the IASB's independence in making decisions. In addition, the Trustees were urged to satisfy themselves that the agenda reflects the public interest.

In suggesting approaches to the issue, some have argued for the IASB to have public consultations on its agenda and priorities on an annual basis or when new issues arise in addition to the current formal process already utilized. On the other hand, adding additional formal consultation steps may risk the ability to respond to issues in a timely manner and be viewed as bureaucratic.

Others have suggested that the SAC could play a role in helping the Trustees evaluate the IASB's performance regarding its agenda-setting and priorities. Of course, there would be a need to establish appropriate criteria.

Some commentators, mainly commentator outside Europe, urged against the Trustees interfering with the agenda-setting process or the IASB's independence.

Q10 IASB's due process procedures

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*.

Many commended the due process procedures of the IASB and welcomed the enhancements of the IASB's due process procedures in the form of feedback statements, post-implementation reviews and effect analysis, noting that they were appropriate for a global standard-setting body. A commentator from the banking sector credited the IASB with having gained wide global acceptance of IFRSs in a relatively short existence. However, in making these observations, many of the commentators said that there is room for greater improvement.

Some noted that the problem in their mind lies with the execution of the procedures and policies as opposed to the lack of procedures.

As noted previously, many European commentators were critical of the IASB's consultations. Many expressed the view that the IASB largely disregards the feedback it receives and proceeds with its intended proposals.

Commentators therefore urged the Trustees to demonstrate enhanced oversight over of the IASB to ensure that the IASB takes account of feedback, cannot over-rule overwhelming opposition. A commentator from the financial sector went further by recommending a review by the Monitoring Board of the IASB's current due process arrangements and the effectiveness of Trustee oversight of the IASB's due process. Many said that if the Trustees extend their remit in the ways suggested, this will not impinge upon the independence of the IASB, which remains of paramount importance and it will enhance the global viability and respect of IFRSs.

Commentators from other parts of the world were largely supportive of the current due process procedures of the IASB, However they too made some suggestions for improvements, which, *inter alia*, included:

- The Monitoring Board should have the power to refer matters to the IASB for consideration.
- More information and feedback is required on analysis of comment letters.
- The IASB should take informal soundings from the large accounting firms before proceeding with an exposure draft to ascertain in advance whether there will be majority support. This will save time in the long term.

Some noted that due process procedures should be set out in the Due Process Handbook rather than the Constitution.

Many used this question as an opportunity to comment on the October 2008 decision to suspend due process, commenting that this deviation was not welcomed or helpful and that it displayed an IASB that was out of touch with its stakeholders.

Q11 “Fast track” due process procedures

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?

The comments in response to this question varied greatly.

Many were against the proposed inclusion of a ‘fast track’ due process procedure in the Constitution, because there was fear that it would be used capriciously and/or used to achieve a predetermined outcome. Many commentators noted that the Due Process Handbook already provides for a 30-day consultation period, and that this is sufficient as a ‘fast-track’ process in itself. One commentator said that the circumstances justifying suspension of normal due process would be so rare as to nullify the need for any express wording in the Constitution. There was also the view that it would be difficult to account for every eventuality when a ‘fast track’ procedure would be justified and as a consequence it would be far better to continue to require the use on a case by case basis, with prior Trustee approval. Furthermore there was concern that a ‘fast track’ process represents “a cutting of corners” which in itself may result in a loss of standards and diminish appropriate consultation and opportunity for comment.

However, it was largely accepted that in cases of great urgency, it was essential to have a certain defined ‘fast track’ process in place provided that certain assurances are put in place. The Trustees should ensure minimum due process and set down clear and specific criteria as to when due process may be partially suspended to prevent future abuse or inconsistent application. As a result, almost all commentators suggested the following minimum criteria for any proposed ‘fast track’ procedure:

- An appropriate “trigger” mechanism, pre-authorised by the Trustees and/or the Monitoring Board. This would include the circumstances that constitute an emergency or urgent situation, which by definition would need to be rare and exceptional circumstances;
- At a minimum there should always be an Exposure Draft for consultation and the periods given should be anything from 30-60 days, but nothing less.

Some commentators went on to suggest further limitations, namely that the “fast track” process should only be used to cancel or defer an existing requirement, but not used to set a new standard. Others suggested an additional assurance of compulsory consultation with the SAC and that nothing should have retrospective effect, unless relief is being provided from an existing requirement.

There were a few commentators who expressed surprise that the IASB does not already have in place a facility for introducing or revising its requirements without an extended consultative process over a period of many months. This was considered to

be a major gap in the IASB's toolbox and urged immediate amendment to the Due Process Handbook, rather than awaiting the finalisation of the Constitution process.

Beyond this, there were a number of other suggestions:

- The IASC Foundation should consult with national standard-setters to create a 'fast track' procedure, since they are well equipped to advise in this regard.
- If there is need to have a 'fast track' due process procedure, it should not be in the Constitution. It should be in the Due Process Handbook.
- The IASB and the FASB should have the same 'fast track' due process procedure.

STANDARDS ADVISORY COUNCIL (SAC)

Q12 Procedures and composition of SAC

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?

And

Q13 Terms of reference for the SAC

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?

Responses to these two questions were often tied together. It is therefore appropriate to analyse the responses received together and treat them as a single answer:

Many commentators noted that it might be too early in the process to determine whether the new SAC is working optimally or whether there is room for improvement. Accordingly, many said that they would reserve their position until a later date.

Many commentators commended the IASC Foundation for strengthening and improving this valuable stakeholder consultation forum. Those from the investor community expressed their appreciation for the creation of an investor sub-group in the SAC to allow for better engagement with the investor community.

On the whole, most commentators were of the opinion that the current terms of reference and professional background requirements for the SAC are acceptable and achieve the SAC's objectives and that it is appropriate for the Trustees to continue to monitor and review the SAC's effectiveness. However, one or two commentators felt that the SAC is not functioning as intended and that, as a consequence, a considerable number of professional accountants and practitioners should be added to the presently constituted SAC.

Some European commentators tied their concerns with the governance and due process of the organisation to the role of the SAC, and therefore suggested that the SAC should play a greater role in the governance of the organisation. One commentator said that the SAC should be modified to act as an extended arm of the Trustees to improve governance and due process. Related to this were the following recommendations:

- That the SAC should play an enhanced role in providing relevant consultation and feedback to the IASB when setting its agenda and the IASB should provide feedback to the SAC.
- The IASC Foundation should make greater use of formal polls to indicate the extent of support for the IASB's proposals.
- The Trustees were urged to take account of the key issues raised at the SAC and bear this in mind when scrutinising the effectiveness of the IASB and its responses to stakeholders.
- The SAC should be required to draw up the IASB work programme rather than just monitor it.

Other European commentators made the following comments:

- To remain efficient no more than 30 should be on SAC. As such the currently constituted SAC is too large;
- The SAC has too few meetings;
- The SAC requires more guidelines concerning meetings and needs clarity as to how the IASB integrates the suggestions made by SAC or why.
- The SAC agenda should be prepared by a restricted committee so that it focuses on a limited number of strategic issues. Supplementary educative sessions could be organised for those SAC members who wish to attend and preparatory documents should be prepared in advance.
- The SAC should be granted a minimum level of independent resources.

Some commentators suggested that the SAC members should be given an allocated time in which to make presentations on outstanding issues from their particular jurisdiction and that the IASB technical directors should be present to take note of this feedback. Related to this was the need to ensure an effective IASB feedback mechanism so that issues could be followed up and appropriate guidance may be provided transparently.

Other issues

Q14 Other matters

Should the Trustees consider any other issues as part of this stage of their review of the Constitution?
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Beyond the matters noted above, the following points were raised as additional matters of concern. They are listed in no particular order:

- **IASB Chair/CEO of IASCF:** The Constitution should call for a separation of the two roles to preserve the independence of the organisation. The CEO is increasingly dealing with political issues which might impinge on the independence of the IASB and the two roles are so busy that one person serving both functions only serves to detract from both.
- **Retrospectivity:** Many commentators from Australia and New Zealand urged the Trustees to incorporate into the Constitution a prohibition on mandatory retrospective application of new or revised standards as being both good standard-setting and necessary to support the adoption of IFRSs world-wide. The Trustees must recognise that in some jurisdictions, retrospective rulemaking is prohibited.
- **IFRS brand:** The IASC Foundation must protect the IFRS brand so that only those countries that adopt IFRS in full can claim IFRS compliance.
- **Complexity:** There is increasing concern at the length and complexity of financial statements prepared in accordance with IFRS. Efforts should be made to make standard-setting less complex so as to ensure that it is understood and complied with.
- **IFRIC:** The IASC Foundation should strengthen the functions of IFRIC considerably.
- **Review following the financial crisis:** Some commentators noted that the financial crisis has led some to question the possible role of accounting requirements in the development of the crisis. As a consequence, one commentator suggested that the process of standard-setting should be reviewed in depth to identify whether some areas need to be improved in light of the experience.
- **Further comments on Due Process:** A number commented in greater detail on due process elements. These included the following:
 - **Procedures on re-exposure:** There have been cases in the past where the IASB has made very significant changes to the proposals published in an exposure draft but not exposed those revised proposals for comment. Decisions have sometimes been based on expediency or on the grounds that nothing new will be learned from re-exposure. Further consultation should be viewed as an opportunity and not as a burden. Trustees should therefore put in place an appropriate mechanism that ensures re-exposure in these circumstances. The Trustees and the IASB remain obligated to be accountable, in order to maintain the success and longevity of IFRSs.
 - **Field Testing and Effect Analysis:** A number of commentators urged the IASB to assess fully the impact of the standards prior to adoption through field testing and other quantitative and qualitative methods to ensure that proposed standards are practicable and workable in all environments.

- **Presumption of Openness:** A number of commentators also urged there to be a clear statement of presumptive openness for the IASB and all advisory and working groups. There is also need for formal dialogue mechanisms between the IASB and stakeholders as proposed standards are being developed.
- **Accessibility of IASB Meetings:** Whilst most Board meetings are webcast live and very helpful, this is a difficulty for some stakeholders who live in different time zones. Accordingly, it would be most if public IASB meetings were recorded and archived to improve communication.
- **Translations:** High quality translations should be made available to stakeholders whose mother tongue is not English to allow for full participation in due process.
- **Cost and uncertainty arising from frequent IFRS changes:** There is need to avoid the cost and uncertainty associated with frequent changes to IFRSs. This is a particular concern given the focus on implementing changes by 2011 related to the US GAAP/IFRS convergence programme. Consideration should also be given to the timing between the date a standard is issued by the IASB and the effective date for application. At present the time scales given are very tight and can result in legal instability and makes the restatement of comparative information difficult. The IASB should adopt an approach to major change that is evolutionary, structured, well-understood and manageable for preparers and users.

- **Convergence vs High Standards**

Many commentators noted that Trustees should be more focused towards improving the quality of financial reporting through a globally accepted set of accounting standards rather than working towards convergence. Convergence of national accounting standards and IFRSs should not be an objective of the Foundation, but rather one of the means by which a set of high quality, globally accepted standards could be enhanced.

- **Senior IASB staff appointments:** The Constitution should refer to the attributes required of senior IASB staff, and the procedures for appointments, including the need to advertise posts externally.
- **The name of the IASC Foundation and the IASB:** Currently the name of the IASC Foundation and the IASB do not reflect the IFRS standards issued by them. Consideration should be given to aligning the names to the standards produced by the organisation.
- **Regional Offices:** Consideration should be given to the possibility of establishing regional IASB offices in North America and Asia, which would facilitate discussions on critical projects and initiatives

APPENDIX 1

LIST OF CONTRIBUTORS

Name	Country or Region	Date Received	Industry	Number allocation
FER Swiss GAAP	European Switzerland	13/02/09	Standard-setter	1
Australian Accounting Standards Board (AASB)	Australia	13/03/09	Standard-setter	2
Financial Reporting Council (FRC)	European UK	13/03/09	Regulator	3
The American Institute of Certified Public Accountants (AICPA)	North America	17/03/09	Professional Body	4
Australian Heads of Treasuries Accounting and Reporting Advisory Committee	Australia	18/03/09	Preparer	5
Canadian Accounting Standards Oversight Council and the Accounting Standards Board regarding the IASC Foundation (IASCF)	North America	18/03/09	Regulator	6
Institute der Wirtschaftsprüfer - IDW	European Germany	19/03/09	Professional Body	7
F Hoffman-La Roche AG	International	20/03/09	Preparer	8
ACTEO and AFEP - Association Française des Entreprises Privées	European France	25/03/09	Preparer	9
Group of 100- Australia	Australia	24/03/09	Preparer	10
The Association of Investment Companies (AIC)	European UK	25/03/09	User	11
Grant Thornton	International	25/03/09	Accounting Firm	12
Hong Kong Institute of Certified Public Accountants	Asia	26/03/09	Standard-setter	13
Japanese Institute of Certified Public Accountants (JICPA)	Japan	26/03/09	Professional body	14
Dutch Accounting Standards Board (DASB)	European Holland	26/03/09	Standard-setter	15
Conseil National de la Comptabilité (CNC)	European France		Professional body	16
International Federation of Accountants (IFAC)	North America	26/03/09	Professional body	17
Council of Institutional Investors	North America	26/03/09	User	18

Name	Country or Region	Date Received	Industry	Number allocation
Federation of European Accountants (FEE)	European UK	27/03/09	Professional body	19
Swiss Holdings	European Switzerland	27/03/09	User	20
Bankenverband (Bundesverband deutscher Banken) (German Banking Federation)	European Germany	30/03/09	Preparer	21
French Banking Federation (FBF)	European France	30/03/09	Preparer	22
British Bankers' Association (BBA)	European UK	30/03/09	Preparer	23
Institute of Chartered Accountants of England and Wales (ICAEW)	European England	30/03/09	Professional body	24
New Zealand Institute of Chartered Accountants - Financial Reporting Standards Board (FRSB)	Australia	30/03/09	Standard-setter	25
Australian Government	Australia	31/03/09	Regulator	26
Financial Reporting Council (FRC) of Australia	Australia	30/03/09	Standard-setter	27
International Corporate Governance Network (ICGN).	European UK	31/03/09	User	28
Accounting Standards Review Board – New Zealand (ASRB)	New Zealand	31/03/09	Standard-setter	29
Korea Accounting Standards Board (KASB)	Asia	31/03/09	Standard-setter	30
Singapore Accounting Standards Council (Singapore ASC)	Asia	31/03/09	Standard-setter	31
South African Institute of Chartered Accountants (SAICA)	Africa	31/03/09	Standard-setter	32
Swedish Enterprise Accounting Group (SEAG)	European Sweden	31/03/09	Preparer	33
Quoted Companies Alliance (QCA)	European UK	31/03/09	Preparer	34
Institute of Chartered Accountants of Scotland	European Scotland	31/03/09	Professional body	35
KPMG IFRG Limited	International	31/03/09	Accounting Firm	36
Institute of Certified Public Accountants in Ireland	European Ireland	31/03/09	Professional body	37

Name	Country or Region	Date Received	Industry	Number allocation
ACCA – The Association of Chartered Certified Accountants.	European UK	31/03/09	Professional body	38
American Council of Life Insurers, American Insurance Association, Group of North American Insurance Enterprises, The Life Insurance Association of Japan, Property Casualty Insurers Association of America, National Association of Mutual Insurance Companies, Reinsurance Association of America.	International	31/03/09	Preparer	39
BusinessEurope	European UK	31/03/09	Preparer	40
Ernst & Young	International	31/03/09	Accounting Firm	41
Association for the Participation in the Development of Accounting Regulations for Family-owned Entities (VMEBF)	European UK	31/03/09	Preparer	42
London Investment Banking Association (LIBA)	European England	31/03/09	User	43
Basel Committee	International	31/03/09	Regulator	44
Association of British Insurers (ABI)	European UK	31/03/09	Preparer	45
International Actuarial Association	European UK	31/03/09	Professional body	46
PriceWaterhouseCoopers	International	31/03/09	Accounting Firm	47
UBS AG	International	31/03/09	Preparer	48
Investors Technical Advisory Committee (ITAC)	International	31/03/09	User	49
Institute of Chartered Accountants Australia (CPA Australia)	Australia	01/04/09	Professional body	50
Deloitte Touche Tohmatsu's	International	01/04/09	Accounting firm	51
Malaysian Accounting Standards Board (MASB)	Asia	01/04/09	Standard-setter	52
Swedish Financial Report Board	Europe	02/04/09	Standard-setter	53

Name	Country or Region	Date Received	Industry	Number allocation
Ministry of Finance – British Columbia	North America	03/04/09	Regulator	54
International Banking Federation's ('IBFed')	International	03/04/09	Preparer	55
Ministry of Finance and China Accounting Standards Board (CASC)	Asia	03/04/09	Standard-setter	56
International Swaps and Derivates Association, Inc	European UK	06/04/09	User	57
Confederation of British Industry (CBI)	European UK	06/04/09	Preparer	58
The accounting standards setter body in México (CINIF)	South America	07/04/09	Standard-setter	59
EFRAG	Europe	08/04/09	Regulator	60
Prof Dr. Ing Hans-Peter Keitel	European Germany,	09/04/09	Individual	61
Investment Management Association	European UK	14/04/09	User	62
The World Bank	International	14/04/09	Other	63
Dr Joanne Locke Dr Nicholas Rowbottom Mrs. Anne Ullathorne	European UK	14/04/09	Academic (Birmingham University)	64
International Organisation of Securities Commissions	International	14/04/09	Regulator	65
European Issuers	European Belgium	15/04/09	Preparer	66
Mazars	International	20/04/09	Accounting Firm	67

A list of the comment letters received and the date upon which they were received with a link to the comment letter can be found at:

<http://www.iasb.org/IASCFCMS/Templates/Project/LetterList.aspx?NRMODE=Published&NRNODEGUID=%7bFD0E3250-0014-4C07-AC68-E4BFAF4BFF87%7d&NRORIGINALURL=%2fAbout%2bUs%2fAbout%2bthe%2bIASC%2bFoundation%2fConstitution%2fConstitution%2bReview%2fPart%2bTwo%2bdiscussion%2bdocument%2fComment%2bLetters%2fComment%2bLetters%2htm&NRCACHEHINT=Guest>

APPENDIX II

TIMETABLE FOR THE SECOND PART OF THE REVIEW OF THE CONSTITUTION

Date	Action step
December 2008 – 31 March 2009	Trustees publish a discussion document inviting views on other issues to be included in the second part of the review.
October 2008–January 2009	Trustees meet interested parties to discuss the second part of the review.
February 2009	Trustees develop list of issues and the Constitution Committee develops proposals.
April 2009	Trustees publish other constitutional proposals on issues identified.
April–October 2009	Trustees hold a series of meetings, possibly including public round-table discussions, on proposals
October–November 2009	Conclusion of the review of the Constitution. Any changes will take effect from 1 January 2010—six months earlier than required.

