



IASC Foundation Constitution Committee

Next steps for the Constitution Review following initial consultation

22 March 2004

1 On 12 November 2003, the Trustees of the IASC Foundation announced that they had initiated a review of the organisation's Constitution, which governs the operating procedures of the Foundation and the International Accounting Standards Board (IASB). A Constitution Committee of seven members, chaired by Paul Volcker, was established to manage the review on behalf of the Trustees. Also, the Trustees published a consultation paper *Identifying Issues for the IASC Foundation Constitution Review*, which invited respondents to suggest issues for the Committee to review. The comment period ended on 11 February.

2 Since 11 February, the Constitution Committee has met three times—twice on its own and once with the Standards Advisory Council (SAC). This paper provides an update regarding:

- the responses to the consultation paper
- consultation with the Standards Advisory Council (SAC) and further consultations to come
- issues identified for the review
- additional steps to be taken and the future timeline

Responses to the consultation paper

3 The consultation paper invited interested parties to identify issues for the Constitution Committee to consider. The paper summarised the Constitution, and raised questions on particular issues, but emphasised that all aspects of the Constitution were open to review.

4 The comment period ended on 11 February. The Constitution Committee received 70 letters, all of which have been posted on the IASC Foundation Website and are freely available to the public.

5 On the basis of the comment letters, the Constitution Committee has listed the key issues to be taken up as part of the review. These issues are described later in this paper and are subject to change in the light of further consultation.

Consultation with the SAC and further consultation to come

Standards Advisory Council

6 Five members of the Constitution Committee (Paul Volcker, Roberto da Costa, Toru Hashimoto, Phil Laskawy and Sydney Lipworth) and three other Trustees (Charles Lee, Jens Røder and David Ruder) held a public meeting with the SAC on 23 February to discuss issues raised in the consultation paper. The meeting focused on the following issues:

- Whether the objectives of the IASC Foundation should expressly refer to the challenges facing small and medium-sized entities (SMEs)
- The role and oversight function of the Trustees
- The composition of the IASB (issues of geographical representation, full-time versus part-time members, number of members)
- The consultative procedures of the IASB
- Role, effectiveness and composition of the SAC.

7 In the light of the discussion, the Constitution Committee asked the SAC to set up a subcommittee to advise the Trustees on the Constitution from the perspective of interested external parties. This subcommittee is being established and when complete its membership will be posted on the IASC Foundation's Website. The SAC Constitution Subcommittee will offer suggestions on various options available to the Trustees and will comment on proposals made by the Constitution Committee. The Constitution Committee hopes to schedule a meeting of the SAC Subcommittee before the Trustees meeting in New York in June 2004.

8 The Constitution Committee also welcomed the SAC's initiative to conduct an internal review of its own operating procedures and asked the SAC to send a report to the Committee in advance of the Trustees meeting in June 2004.

Additional consultation

9 In its *Memorandum regarding the Constitutional Review Process* (see Appendix A) released on 12 November, the Constitution Committee indicated that it intended to take the initiative in consulting the following groups:

- international and regional organisations
- securities regulators
- other international regulatory organisations
- accounting standard-setters
- organisations representing the accountancy profession
- organisations representing business groups
- analyst groups and other investment organisations
- academic groups.

10 Although many of these groups have responded to the Invitation to Comment, the Constitution Committee believes that it would be useful to provide another opportunity for comment before publishing proposals, and has therefore proposed:

- **a meeting with liaison national standard-setters and the European Financial Reporting Advisory Group on the morning of Monday, 26 April in London.** The basis of discussion at the meeting will be the consultation paper, the responses received and any matters that the Committee wishes to raise in the light of the analysis of the comments.
- **a series of public hearings or round-tables.** Proposed public hearings or round-tables include:
 - **3 June in New York:** Public hearing or round-table with invited participants
 - **June in London (date and time to be decided):** Public hearing or round-table with invited participants
 - **Week of 13 July in Tokyo:** Public hearing or round-table with invited participants at a date to be confirmed
 - **Week of 4 October 4 (tentative):** Possible hearing or round-table with invited participants in Mexico City with Latin American standard-setters

The need for additional meetings will be considered at a later date.

11 The focus of these meetings will be the issues identified for the review in the section below. The Committee may offer some preliminary options and views on these issues to focus discussion. Participants at the public hearing or round-tables will be asked to provide written submissions in advance. More details about the arrangements for and participation in public hearings and round-tables will be posted on the IASC Foundation Website shortly.

Issues for the Review

12 The Constitution Committee has identified ten main issues for consideration. The Committee has yet to reach any conclusions on them. The issues are listed below in order of their appearance in the Constitution (which may not reflect their relative importance).

- (1) **Whether the objectives of the IASC Foundation should expressly refer to the challenges facing small- and medium-sized entities (SMEs):** Comments on the need for such a provision in the Constitution were mixed and the Committee will need to decide whether the language of the Constitution adequately addresses the position of SMEs and emerging economies.
- (2) **Number of Trustees and their geographical and professional distribution:** Some respondents argued for greater representation from the Asia-Oceania region as well as emerging economies; many respondents referred to what was felt to be the over-representation of certain regions. One possibility raised would be to provide for equal numbers of Trustees from Asia-Oceania, Europe and North America. The Trustees will also need to consider the appointment process for choosing new Trustees, including the Chairman.

- (3) **The oversight role of the Trustees:** There is a view that the Trustees should strengthen the language regarding their oversight (particularly over the IASB's deliberative procedures), and demonstrate more clearly how they are fulfilling this function. The Committee has not reached conclusions on this matter, but the suggestions of establishing an internal compliance committee and holding additional direct consultations with the SAC were raised.
- (4) **Funding of the IASC Foundation:** The Committee or another group of the Trustees will need to examine the funding structure of the IASC Foundation. It is noted that a long-term funding committee of the Trustees has already been established and is examining options.
- (5) **The composition of the IASB:** The Committee has not taken a position on the geographical background of IASB members, but noted that the majority of respondents called for the Committee to examine the issue. The Committee will need to analyse further the questions of the appropriate mix of professional backgrounds and full-time versus part-time members
- (6) **The appropriateness of the IASB's existing formal liaison relationships:** The Committee needs to assess the appropriateness of the existing formal liaison relationships and whether more guidance is needed in the Constitution regarding the role that liaison relationships play.
- (7) **Consultative arrangements of the IASB:** The Committee will need to examine the IASB's consultative arrangements, including the mandatory steps of the IASB's due process. The Committee notes that it may not be desirable to enshrine in the Constitution detailed steps regarding due process. The IASB at its own initiative will soon be releasing a document on its Website that sets out proposed interim improvements in its consultative arrangements, and the Committee and the other Trustees will monitor the response to that document.
- (8) **Voting procedures of the IASB:** At present the approval of a standard requires a simple majority of the IASB. Many respondents have called for the IASB to adopt a 'super-majority' approach.
- (9) **Resources and effectiveness of the International Financial Reporting Interpretations Committee (IFRIC):** The Committee has not had the opportunity to address issues related to the IFRIC raised by respondents. The IFRIC is already conducting an internal review of its procedures, and recommendations will be made to the Trustees. However, given the likely increase in demand for IFRIC Interpretations, the Committee will need to decide whether the present constitutional arrangements for the IFRIC are adequate. Members of the SAC noted a tension that possibly exists between, on the one hand, an IFRIC that responds to the growing demand for timely guidance and, on the other hand, the desire to maintain a principles-based approach to standard-setting.
- (10) **The composition, role, and effectiveness of the SAC:** The responses showed that there was a widespread belief that the IASC Foundation and the IASB could make better use of the SAC. The Committee has asked the SAC to make recommendations on its role and operations. The Committee has agreed to examine whether an independent chairman of the SAC is needed and whether that chairman would need to commit a significant amount of time to the role.

The Committee will consider adding additional issues based on further discussions.

Completion of the Review

13 The Constitution requires the Trustees to complete the review by 6 February 2006. The Committee recognises the need to balance the desire to expedite the completion of the review with the need to follow the due process set out in the Constitution and in the Committee's memorandum of 12 November (see Appendix A). The process requires any proposed changes in the Constitution to be published for public comment. Comment periods generally are at least three months.

14 Both the Committee and many interested parties, however, believe that it could be useful to complete the review before then. After considering its due process requirements, the proposed consultations listed above, and its desire to complete the review expeditiously, the Committee believes that review should be completed sometime during the first quarter of 2005.

15 The Committee will continue to post updates about its progress on the IASC Foundation's Website.

APPENDIX A

Memorandum regarding the Constitutional Review Process

IASC Foundation Constitution Committee

12 November 2003

The Trustees of the International Accounting Standards Committee (IASC) Foundation have initiated a review of the organisation's constitutional arrangements, which govern the operating procedures of the Foundation and the International Accounting Standards Board (IASB). At their meeting on 4 November 2003, the Trustees agreed to a preliminary process for conducting the review.

Background

After a period of extended public consultation, the Board of the former IASC (the IASC Foundation's predecessor body) in March 2000 and the members of IASC on 24 May 2000 approved the Constitution in its original form.

At its meeting in December 1999, the IASC Board appointed a Nominating Committee to select the first Trustees, who would become the Trustees of the IASC Foundation. Those Trustees were nominated on 22 May 2000 and took office on 24 May 2000 as a result of the approval of the Constitution.

In execution of their duties under the Constitution, the Trustees formed the IASC Foundation on 6 February 2001. As a consequence of a resolution by the Trustees, Part C (relating to the operating arrangements of the former IASC) of the Constitution approved on 24 May 2000 ceased to have effect.

Reflecting the Trustees' decision to create the International Financial Reporting Interpretations Committee, and following public consultation, the Constitution was revised on 5 March 2002 to define the mandate of that Committee. Subsequently the Trustees made certain editorial amendments to the Constitution, with effect from 8 July 2002, to reflect other changes that had taken place since the formation of the IASC Foundation.

The Constitution states that the Trustees should undertake:

“a review of the entire structure of the IASC Foundation and its effectiveness, such review to include consideration of changing the geographical distribution of Trustees in response to changing global economic conditions, and publishing the proposals of that review for public comment, the review commencing three years after the coming into force of this Constitution, with the objective of implementing any agreed changes five years after the coming into force of this Constitution (6 February 2006, five years after the date of the incorporation of the IASC Foundation)” (Section 18 (b))

The current broad review is being initiated consistent with Section 18 of the Constitution.

Establishment of a Constitution Committee

At their meeting in July 2003, the Trustees agreed that they should initiate the review as soon as possible and should consider the full range of issues raised by the Constitution. The

Trustees have now established a Constitution Committee, which comprises the following Trustees:

Paul Volcker, Chairman
John Biggs
Roberto Teixeira da Costa
Toru Hashimoto
Cornelius Herkströter
Philip Laskawy
Sir Sydney Lipworth

The Committee is responsible for coordinating the review and for making any recommendations regarding constitutional changes to the full Trustees.

Process for Reviewing the Constitution

At their meeting on 4 November 2003, the Trustees discussed the need to consult interested parties on the full range of issues raised by the Constitution, and agreed on various aspects of the review, including the procedures for conducting the review, the extent of consultation, staffing, and the issues to be discussed.

Transparency of the Process

The Trustees agreed to the following procedural issues for the Constitution Committee:

- The Committee will make non-binding recommendations to the Trustees, and the Trustees as a whole will make final decisions regarding any changes in the Constitution.
- Meetings of the Committee when considering possible recommendations to be made to the Trustees for changes in the Constitution will be open to the public.
- Any discussions related to the Constitution during the full Trustees' meetings will be held during the public sessions of Trustees' meetings.
- The Committee will engage in intensive public consultations before making recommendations to the full Trustees. The consultations will include:
 - an opportunity for interested parties to identify issues that should be addressed (see below).
 - discussions with interested parties
 - possibly, public meetings or roundtable discussions
 - the publication of papers to assist those attending the public discussions of the Trustees or the Committee to follow the deliberations.

- the publication of all proposals with a period for public comment before the Trustees reach a conclusion.

Extent of Consultation with Interested Parties

The Committee has begun to identify organisations that it should take the initiative in consulting. They include:

- **international and regional organisations**
- **securities regulators**
- **other international regulatory organisations**
- **accounting standard-setters**
- **organisations representing the accountancy profession**
- **organisations representing business groups**
- **analyst groups and other investment organisations**
- **academic groups.**

Additionally, the Trustees will actively engage the Standards Advisory Council (SAC) in the process. At its meeting in November 2003 the SAC will be briefed on the decisions reached so far, and the Committee will arrange to discuss specific issues related to the Constitution with the SAC at its February 2004 meeting.

Staffing of the Review

Recognising the need for extensive consultation and the possibility that this would require significant staff resources dedicated to the task, the Trustees have agreed to the possibility of recruiting a staff member to assist the Constitution Committee and the Director of Operations, who serves as the Secretary to the Trustees, in the administration of the review. The Committee will develop a job description for such a position and will advertise the position if it becomes necessary to appoint such a person.

Identification of Issues for the Review

The Committee has developed a list of issues addressed in the Constitution, and some preliminary questions to pose to those interested in participating in the review. This list will be published under separate cover, and interested parties will be given 90 days to identify issues that should be addressed by the Committee.

The list and questions will be posted on the IASC Foundation/IASB Website.