

SUMMARY RECORD

MEETING OF THE ACCOUNTING REGULATORY COMMITTEE AND CONTACT COMMITTEE OF 7 JULY 2006

Mr Madziar, Head of the Accounting Unit, DG Internal Market and Services chaired the twenty-first meeting of the Accounting Regulatory Committee and the third meeting of the Contact Committee in 2006.

DISCUSSION AT THE MEETING

I. APPROVAL OF MINUTES OF THE MEETING OF 24 APRIL 2006

The Minutes were approved after taking account of certain amendments which had been proposed by Member States.

II. CONSISTENT APPLICATION - ROUNDTABLE

The Commission informed delegations of the discussions which took place at the Roundtable meeting of 17 May and the work currently underway for the next meeting in September.

At that meeting three items were identified as being of common concern among the different groups of participants. One of these was the issue of "de facto control". One group of participants agreed to draft a technical paper to prepare for the subsequent discussion leading to a possible recommendation for referral to the IASB at the next Roundtable. Two other issues: "puts on minority interests" and "classification of a financial Instrument" had already been referred to IFRIC and interpretations (or rejections) are urgently awaited. The Commission services had therefore offered to examine the current status of both of these matters and in June wrote to the IASB to highlight the need for a prompt resolution of these issues and to meet, at staff level, with a view to finding a suitable way forward.

III. IFRIC WORKING PROCEDURES AND DUE PROCESS

On 4 May the IASC Foundation issued a draft IFRIC Due Process Handbook for public comment. It sets out the procedures and arrangements that IFRIC currently undertake for its due process (the comment period ends on 30 September).

The Commission invited EFRAG to give a presentation of its draft comment letter on this matter.

Views from Member States

One Member State agreed with the comments in EFRAG's letter. This Member State asked if the Commission would also be drafting a letter to the IASB and if so it should allow Member States to comment.

The Commission explained that it too would be responding with comments to the IASB. The Commission invited Member States to quickly (within the next two-three weeks) provide

comments which could then be included in its own comment letter. The Commission will then finalise the comment letter and forward it to the IASB in September.

One Member State thought that the Commission should first draft and then circulate the comment letter to Member States for their views (and not vice versa).

A crucial point for another Member State was that we have to make sure, after the comment period has passed, that our concerns are fully taken up by the IASB. This Member State asked what the Commission would be doing in this regard. The Commission replied that much depended on the extent of support from Member States.

Another Member State also indicated its support for the comments in EFRAG's letter. This Member State was particularly concerned about the way decisions are taken in the Agenda Committee in its closed meetings. A simple majority of three out of the five members is sufficient to determine whether or not IFRIC should take up an issue. This Member State believes we simply have to respond on that point. Another Member State agreed.

One Member State also raised the issue regarding the legal status of IFRIC decisions when they have not passed through due process. In this Member State's view they should not have any legal standing. This was an important matter for EU markets and EU law. Another Member State also expressed concern if rejections were to be given special status. This Member State gave the example of IFRIC rejecting an issue on the basis that the standard was already clear. However, if IFRIC's view of what the standard means, as expressed in its rejection wording, were to differ from the view(s) taken by regulators problems would arise.

Another Member State also saw the composition and proceedings of the Agenda Committee as being very important. As regards to its decisions, this Member State thought it was important that a rejection had to be accompanied by the reason, otherwise doubts would remain. However, this Member State agreed that a special procedure should be established for this wording of the rejection to be scrutinised before it is made final.

IV. EQUIVALENCE BETWEEN IFRS AND THIRD COUNTRY GAAP IN PARTICULAR US GAAP

The Commission gave an update of developments on this area and referred to the new working documents concerning the transitional exemptions for certain third country issuers which ARC Members had received. Transitional exemptions for two years are now under consideration in the European Parliament and European Securities Committee for:

- third country issuers using Canadian, Japanese or US GAAP, and;
- issuers of other third countries, whose financial statements contain an explicit and unreserved statement that they comply with IFRS, and;
- issuers of other third countries whose financial statements do not contain such a statement but whose country is publicly committed to converging to IFRS and already has a work programme to this effect.

Views from Member States

One Member State explained that its views had already been made clear at the previous meeting. The problem was one of finding the global legal framework which was most suitable for the European Union. If we do go ahead and grant the two year extension then it is vital that the conditions for this are clearly set out, namely that the EU would apply to foreign issuers at least the same reconciliation obligations as those applying in their home state to EU

issuers. This Member State explained that it was insufficient for such conditions to be in the recitals of our legislative instruments, they had to be in the main legal text. This Member State then quoted from a recent speech by a SEC official which indicates that the SEC raises conditions that have not really been discussed among Member States and is even further keeping open the possibility of adding further conditions for ending the reconciliation requirement to US GAAP.

This Member State repeated its concern that the proposals seemed fragile from a legal perspective. This Member State requested a note from the Commission's legal service explaining that proceeding on the basis of the texts as currently presented would not carry risks for European laws. The Commission explained that the proposals had been made after consulting and receiving approval from its legal service.

Two Member States took the view that the Commission should do more than simply monitor developments in relevant third countries over the two years during which the transitional exemption is granted. One of these Member States explained that there should also be specific negotiations with the SEC and, possibly, the EU should even develop its own roadmap. One Member State believed that the EU should continue to encourage third countries to end their reconciliation requirements but refrain from using the argument of retaliatory action.

Three Member States welcomed the fact that we were no longer limiting the two year transitional period only to issuers using Canadian, Japanese or US GAAP.

There was then a discussion as to what could happen in 2009. One Member State thought it important that the Commission should already start working on this. Two Member States believe the SEC will not end the reconciliation requirement for European issuers using IFRS. One of these Member States explained that if the US does not end the requirement in 2009 we will face two choices. We can take a tough position and force US issuers to move/reconcile to IFRS. However, it will be harder to achieve this at that stage than it would have been now (i.e. 2007). Alternatively we could prolong for a further period and as a result lose all credibility. Another Member State thought that there was no clear strategy for 2009 and beyond. This Member State thought that the time was now right to discuss what was meant by equivalence. This Member State added that CESR's report on equivalence had never been formally discussed.

Two Member States explained that whilst they supported the approach now being discussed, they had some important comments on the drafting of the texts. The Commission invited these (and any other) Member States to present such comments in writing. Another Member State noted that the matter now needed to be resolved as a matter of urgency.

V. IASB FINANCING

The Commission advised that it was very pleased with the outcome of the discussions in the Economic and Financial Committee which resulted in an agreed text of the Declaration on IASB financing for the ECOFIN on 11 July. The EU, as one of the principal users of IFRS, has a strong interest in the IASB being able to provide high-quality standards. The Commission described the key elements of the Declaration.

Views from Member States

Two Member States asked why there was a section referring to the financing of EFRAG in a text which related to IASB financing. The Commission explained that this had been the result of a political compromise.

One Member State thought some care should be taken on the use of the language of the text. Using words such as 'must' and 'should' could lead outsiders and notably third countries to assume that a much closer relationship between the EU and the IASB exists than is actually the case.

One Member State emphasised that the funding system had to be fair and equitable to all companies and flexible enough for Member States to implement it easily through their existing administrative and legal structures.

Another Member State enquired as to the practical effects of adopting this document. Two Member States assumed that this document did not impose any obligation on Member States. The Commission replied that this document was a necessary political signal expressing encouragement and support for a voluntary scheme in the short term which the private sector is currently working on.

VI. UPDATE ON THE CURRENT WORK ON CONSOLIDATION AND LANGUAGE REVISION OF ENDORSED IFRS

The Commission gave an update of the current work and explained that the consolidation will be achieved by publication (and endorsement, following the normal due process) of a new Regulation, which will supersede the previous Regulations. This will enable constituents to refer to only one Regulation as it will contain all endorsed IFRS. The Commission services are aware of translation errors in the existing legal texts and the consolidation project will be a good opportunity for correcting these as well.

VII. STANDARDS ADVICE REVIEW GROUP (FORMERLY REFERRED TO AS "HIGH LEVEL GROUP")

The Commission explained that the draft Decision creating this expert Group of the Commission would shortly be adopted and, afterwards, the Commission would proceed with the selection of the Group's members. The Commission would continue to keep Member States informed of developments.

Views of Member States

Some Member States asked why they had not received a copy of the draft Commission Decision creating the Group. They said they needed this to understand how it would actually function as well as its composition.

Two Member States expressed outright opposition to the creation of the Group with one of these explaining that it did not understand the Commission's decision to proceed with a proposal which had been clearly criticised by Member States. This Member State recalled the reasons of the critics: the new body proposed would neither have a technical role nor a political role, it would infringe on the competencies of existing bodies, have no legitimacy and inevitably lengthen the process. Others were generally sceptical about its value especially since they had not seen any documents on its creation, working arrangements or composition.

One Member State expressed concerns on the impact which this Group could have on the endorsement process.

One Member State said that the Commission intended to proceed without the slightest regard of concerns raised by Member States at this and previous ARC meetings. This Member State stressed that not one Member State had ever spoken in favour of this Group. Two Member States said in such circumstances they will push for this issue to be raised at Council as this was a clear example, in their view, that the Commission simply proceeds with its intentions without any consideration for the concerns of Member States. One of these Member States also added that the Commission cannot simply argue that this Group was only an internal Commission matter. This was because, by inserting this Group into the endorsement procedure, it would have real practical consequences for Member States and European industry as it would, among other things, prolong the length of the endorsement procedure.

The Commission replied by recalling the reasons for the need for such a Group which had already been explained at previous meetings. The creation of the Group was foreseen in the Commission-EFRAG Working Arrangement signed earlier this year. It had not been possible to formally adopt EFRAG as a technical committee of the Commission and this Working Arrangement had been the alternative, suitable compromise. Concerns about the independence of EFRAG's advice had been voiced in the past by e.g. certain MEPs. The Commission must also address the issue of perception of independence. From the legal standpoint the creation of the Group does not change the endorsement process in any way.

VIII. SERVICE CONCESSION ARRANGEMENTS

The Commission explained that IFRIC issued draft Interpretations on service concession arrangements early last year. The Commission then invited EFRAG to give a presentation. EFRAG expected IFRIC to issue an interpretation by the end of this year.

Views of Member States

One Member State referred to the very specific legal rules and legal guarantees that existed in the operation of service concessions. Another Member State agreed and added that this was a very important but complicated type of activity in Europe. This Member State doubted that this could be solved by a simple IFRIC interpretation and six months was simply not enough time. We need to advance carefully. This Member State also referred to the Commission's press release on the IASB-FASB work programme (IP/06/237 of 27/02/2006). This Member State deplored the fact that in that press release reference was made to service concessions and that this had been done without consulting Member States beforehand. The Commission replied that the idea to refer to service concessions in the press release had come from the consultation of Member States on the actual IASB-FASB work programme itself.

Another Member State believed that what is actually needed are accounting rules specifically tailored to take account of the unique situation of service concessions.

IX. SEGMENTAL REPORTING

The Commission invited EFRAG to give a presentation on this area as well as its comment letter.

One Member State advised that some listed SMEs oppose the disclosure details set out in the Exposure Draft (ED8 Operating Segments) as they would mean revealing certain sensitive information about their business. Similar concerns had also been brought to the attention of the Commission. EFRAG replied that this point had not been made during the consultation period of EFRAG's comment letter.

Views of Member States

One Member State raised a technical issue to EFRAG. After some initial discussion it was agreed that the matter would be best handled through a bilateral discussion. If appropriate, ARC Members could be informed of the outcome of that future discussion.

X. MISCELLANEOUS

One Member State presented a paper which raised questions in relation to the interaction between the IAS Regulation and the 4th and 7th Company Law Directives. The key issue raised in the paper was that the term 'Annual Accounts' seems to be in need clarification for those companies which prepare their financial statements in accordance with IFRS as adopted by the EU. Another Member state agreed and there was a general sentiment that the Commission should draft a paper for discussion at a subsequent ARC meeting.

Next meeting

The next ARC meeting was planned for 26 September.

ACCOUNTING REGULATORY COMMITTEE AND CONTACT COMMITTEE

Meeting of 7 July 2006

PARTICIPANTS' LIST

Austria

Ministry of Justice

Belgium

Commissie Boekhoudkundige Normen

FOD Economie

Cyprus

Permanent Representation to the EU

Czech Republic

Ministry of Finance

Denmark

Danish FSA

Commerce and Companies Agency

Ministry of Economic and Business Affairs

Estonia

Ministry of Finance

France

Conseil National de la Comptabilité (CNC)

Ministère de l'Economie, des Finances et de l'Industrie (Trésor)

Finland

Ministry of Finance

Germany

Bundesministerium des Justiz

Greece

Greek Accounting and Auditing Oversight Board

Ministry of Economy and Finance

Hungary

Ministry of Finance

Hungarian Financial Supervisory Authority

Permanent Representation to the EU

Ireland

Department of Enterprise, Trade and Employment

Italy

**Ministry of Economy and Finance
CONSOB
ISVAP**

Latvia

Ministry of Finance

Lithuania

Ministry of Finance

Luxembourg

Commission de surveillance du secteur financier

Malta

**Accounting Board
Ministry of Finance**

The Netherlands

**Ministry of Justice
Ministry of Finance**

Poland

Ministry of Finance

Portugal

CNC

CMVM

Slovakia

Ministry of Finance

Slovenia

Spain

**Banco de España
ICAC**

Sweden

United Kingdom

Department of Trade and Industry

OBSERVERS

Iceland

Ministry of Finance

Icelandic Mission to the EU

Liechtenstein

Norway

Ministry of Finance

Romania

Bulgaria

Ministry of Finance

European Institutions/Committees

Committee of European Banking Supervisors (CEBS)

Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS)

Committee of European Securities Regulators (CESR)

European Financial Reporting Advisory Group (EFRAG)

Commission

Piotr Madziar, Head of Unit F3: "Accounting",

Ulf Linder, Deputy Head of Unit F3 "Accounting"

Remo Croci, Secretary to the ARC/F3

Philippe Bui/F3

Annette Davis/F3

Arto Leppilahti/F3

Martin Maxa/F3

Elzbieta Depukat/F3

Ruth Walker/G3 "Securities markets"