

SUMMARY RECORD

MEETING OF
THE ACCOUNTING REGULATORY COMMITTEE AND CONTACT COMMITTEE
OF 23 JULY 2007

I. MINUTES OF THE MEETING OF 6 JUNE

The Minutes were approved without any amendments.

II. SIMPLIFICATION OF ACCOUNTING RULES FOR SMALL AND MEDIUM-SIZED ENTERPRISES – POSSIBLE REVISION OF THE 4TH AND 7TH DIRECTIVES

First the Commission Services gave an overview of the consultative document, which was published on 12 July 2007. The communication from the Commission covers potential measures to facilitate a simplified business environment for companies in the areas of company law, accounting and auditing.

The main measures in the consultative document in the field of accounting are the following:

- Introduction of a new category of "micro entities" in order to facilitate substantial simplification for the smallest entities. It was made clear that the suggestion would be left to Member States to determine what to require for those entities in respect of accounting regime. E.g. Member States could even continue to require compliance with the accounting directives.
- Making the practical application of the SME thresholds more advantageous for these companies. The reasoning being that companies especially when in their start up phase might benefit from such a relaxation where they focus on creating new jobs.
- Relieve small entities from the requirement to publish their accounts. As this had repeatedly been mentioned by some stakeholders as a potential relief for small companies in particular it was added to the list of potential amendments.

Following the consultations, the Commission Services also propose to do amendments to the Directives in the following areas:

- Consolidation rules: Recent discussions have demonstrated different interpretations as to whether a de facto exemption from the consolidation requirements exists where all subsidiaries are not material (see agenda point VIII). The idea is to simplify by removing the consolidation requirement in cases where there are only immaterial subsidiaries.
- Accounting for deferred taxes: As many prepares and users seem not to use the deferred tax figures the idea is to abolish the requirement as currently existing in article 43 paragraph 1, number 11 of the fourth directive.

- Removal of certain disclosure requirements such as the following:
 - Disclosure of an explanation of formation expenses (article 34 paragraph 2)
 - Disclosure of the breakdown of net turnover into categories of activity and geographical markets (article 43 paragraph 1, number 8)

The second part of the Commission services' presentation focussed on a pilot study by Ramboll Management (the Ramboll study) on administrative costs of the EU Company Law acquis. Impact assessments are obligatory when the Commission presents legal proposals.

DG MARKT commissioned the Ramboll study. This study covers some company law Directives, including the 4th Directive. The methodology is basically to identify "activities" in the Directives and then assess the time required to do them. The corresponding cost is then calculated. Ramboll is assisted by a network of accountants as experts.

The report is structured in four sections. Section 1 provides an introduction. Section 2 gives an overview of the applied methodological approach and design of the study, including a summary of the activities within the main phases of the study, and a summary of the delimitation of the study with regard to the selection of requirements included. Section 3 details the output of the assessments made by the national experts with regard to administrative costs. An overview of the assessments of all selected requirements is followed by more detailed reporting on the assessments. Section 4 includes a summary of the outcome of discussions between the national experts on initiatives for rule simplification. All data collected by Ramboll is attached to the study as annex.

In the area of accounting, the summary of the results focus on recommendations for deregulation on condensed balance sheet, annual report and group account. As all experts involved in the study agree that the value of a condensed balance sheet is very limited it is recommended that for micro and small companies either the requirement be removed completely or that it be made mandatory to prepare a full annual report, so in fact deleting the Member State option in this respect.

The study does not see any possibilities for deregulation of requirements in the area of annual reports for medium, large and listed companies. Instead it is referred to potential savings by introducing digital solutions (e.g. XBRL).

With regard to the requirements for group accounts the option of raising thresholds and of relieving all companies from preparing group accounts unless they have more than 10 % of shareholders requiring such is discussed in general terms.

Views from Member States

One Member State commented on the results on the Ramboll study by stating that it was interesting to see that the deletion of the option to prepare a condensed balance sheet would decrease the administrative burden and agreed with that view.

Another Member State criticised the whole project as in its mind there was no clear demand for the project, especially from the companies themselves. Therefore there is a risk to conduct a reform project which would be more driven by political considerations than by actual needs and the expectation of economic benefit, possibly even to some economic cost as a stable legal and administrative environment is always claimed to be essential for business. The Ramboll report is not fully understood in respect of overall approach and analysis, e.g. the methods do not seem clear as, for instance, what is outlined on page 11 of the document. Areas like requirements from

tax authorities have been ignored but are crucial for such a study. In general one has to wait and see what will come back from the consultation. As stated in previous meetings this Member State believes that the basic requirements need to be kept also for SME's as they face a number of minimal information obligations which can not be ignored, which are not excessive, which serve their own interest vis-à-vis various categories of external partners needing information on SMEs and have always been presented and seen as necessary and useful by all actors, and therefore constitute an essential contributions to the good functioning of the markets. Finally, to leave it to individual Member States to come out with their own individual requirements for micro entities might not be desirable from the perspective of the internal market.

A further Member State referring to the Ramboll study pointed out that the results in section 4 were not necessarily convincing and questioned in particular whether the businesses' and preparers' point of views had been covered to a sufficient extent. It was felt that the communication document did not incorporate all points raised in the earlier ARC meetings although the general idea of reducing administrative burdens was welcomed. A maximum flexibility should be left to Member States. The recommendation in respect of publication requirements should clarify whether they just refer to the publication in the register or the national gazette or both.

One Member State supported the view that areas like tax, statistics and individual values of separate requirements in the accounting directives are ignored in the Ramboll study and therefore the suggestions made by Ramboll might not be appropriate.

Another Member State welcomed the report and the simplification initiative although there is a need to identify and measure the potential drawback of individual measures to enhance the impact assessment of the recommendations. It was questioned whether the suggested amendment to the procedure for adapting thresholds would really speed up the future changes in light of the upcoming changes in the comitology procedures. The impact of the deletion of the publication requirements on the enforcement process should also be examined further.

One Member State commented that the consultative document is a good introduction in the crucial topic of achieving a reduction in the administrative burden for small and medium-sized entities. Hence the document is welcomed as a step in the right direction.

Another Member State asked for some further clarifications on the extension of certain exemptions so far limited to small companies to be also applicable for medium-sized companies and to companies without particular external users.

In answer to questions raised by Member States the Commission Services stated that the Ramboll study has to be considered as one preliminary element to the Commission project. It is by no means an official document stating the commission services' view on the various issues covered. It is agreed that the potential measures should be commented on not only from stakeholders with one particular background (e.g. accountants and auditors) but be based on broader views. That is exactly the purpose of the consultative document.

III. IAS 23 BORROWING COSTS-REVISED

The Chair pointed out that the purpose of this agenda point is to provide Member States with an update on the current state of play regarding the adoption of the amendment to IAS 23 in the EU. Document ARC/18/2007 has been sent to Member States as well as EFRAG's endorsement advice and the advice by SARG.

The Commission Services gave an overview. The IASB issued amendments to IAS 23 on 29 March 2007. The revisions to IAS 23 aim at reducing differences with US SFAS 34 Capitalization of Interest Cost. The project is part of the convergence program between the IASB and FASB. The main change is the removal of the option in IAS 23 of recognising borrowing costs immediately as an expense.

The revised Standard applies to borrowing costs relating to qualifying assets for which the commencement date for capitalisation is on or after 1 January 2009. Earlier application is permitted.

The revised IAS 23 is controversial and three IASB's members expressed dissenting views. Some users do not consider that the change provides informational benefits. Whereas the new wording of the standards implies significant implementation costs for all listed European companies, although only few of them are listed in the US (and can already use the capitalisation method). However, other commentators consider that the changes are limited in scope and are still in the direction of the convergence programme between IFRS and US GAAP.

EFRAG presented its positive endorsement advice of 23 June 2007. The discussion highlighted the technical arguments in favour and against the endorsement of the standards. Focussing on the endorsement criteria it was made clear why these are fulfilled and hence EFRAG came to a positive endorsement advice.

Subsequently SARG was asked to explain their advice to the Commission. The majority of the SARG members concluded that EFRAG's endorsement advice was neutral and independent and decided to issue a positive advice to the European Commission.

The Chair concluded that Commission Services believe that the issues involved are complex and therefore this preparatory discussion with Member States was needed before an endorsement vote. Therefore no vote will take place at this ARC meeting. Having considered Member States' comments, the Commission services may propose an endorsement vote at the ARC meeting on 1 October.

Views from Member States

One Member State commented that it would be important to see an impact assessment of the proposed change to IAS 23 and questioned whether the change leads to a prudent solution of an existing accounting problem.

Another Member State questioned the overall approach of the amendment as it is against the majority use of European firms. The current guidance in IAS 23 is very weak and even by deleting one alternative there will be a different use in practise. The issue however was not considered important enough to create another carve out.

EFRAG commented on the question of prudence in saying that it would be left to the appropriate application of the impairment test in accordance with IAS 36/39 whether the outcome is prudent or not. In general the capitalisation requirements were unchanged (compared to the current standard), so the revision is not changing things for the worse in this respect. In principal EFRAG views the deletion of options as positive step because it leads to an increase in comparability.

The Chair stated that the impact assessment had been part of the ongoing governance debate with the IASB who should in general perform an impact assessment. The IASB had promised to do an impact assessment two years after the implementation.

One Member State stated that it would look at the IASB promise but reiterated the need for a real impact assessment. There should be a clear distinction between any technical and political arguments.

Another Member State pointed out that the amendment to IAS 23 might result in some contradictions to the existing requirements in IAS 11 and 18. This view was not supported by EFRAG.

The Chair summarised the views of Member States, thanked them for their input so far and welcomed further comments in writing by mid September.

IV. IFRS 8 - current state of play

The Commission Services informed ARC members on the current state of play regarding the process of conducting the analysis of potential impact of adopting IFRS 8.

A public consultation was part of the exercise. One general questionnaire together with two specific questionnaires (one for preparers and another one for users) were published at the beginning of June 2007. Completed questionnaires were requested for the end of June 2007. The Commission received more than 200 responses.

The Commission Services are currently analysing the responses and drafting a report. In addition, the Commission Services also met with stakeholders particularly interested in this issue ("Publish what you pay" coalition, BusinessEurope, EFRAG and EFRAG user panel, FEE). Comments received will be used as input for the final report.

The report should be finalised and submitted to the European Parliament by beginning of September 2007.

Meanwhile, the IASB has committed itself to undertake a post-implementation review of IFRS 8 after a 2 years' application period. The Commission supports such an idea.

The Commission highlighted that currently it is not possible to apply IFRS 8 because IAS 14 is the endorsed standard in force. If the European Parliament supports adoption of IFRS 8 in autumn 2007, there would be little time to make sure that European companies can apply this standard for financial year ending 31 December 2007. Otherwise, they would be required to apply IAS 14 for 2007, which could create extra costs for some of them.

One Member State asked for precise details regarding the IFRS 8 adoption schedule. The Commission Services answered that the Commission report should be provided to the European Parliament beginning of September. Afterwards, the schedule will depend on the reaction of the Parliament, although the Commission hopes for an answer by end of October 2007.

V. IFRIC 12

The Commission Services informed ARC members that the Commission is continuing working on a solution concerning this issue which should be consensual and avoid creating splits between

Member States. Therefore, the Commission did not propose to vote on an adoption proposal at this meeting. Member States are nevertheless invited to express their thoughts on the subject.

One Member State considered that IFRIC 12 does not meet European objectives and that a solution should be found within IAS 18 (on revenue). This requires the drafting of a new standard that is not provided by IFRIC 12. This Member State will continue legal analysis and joint working with the Commission on the issue of IFRIC 12.

Another Member State asked the Commission to inform Member States of solution the Commission could have in mind. The Commission explained that Member States will be presented with any tentative solution for discussion at least one ARC meeting before the presentation of a vote proposal. This means that there will be no vote proposal at least before November 2007.

VI. Equivalence - Report on convergence between IFRS and third country GAAPs; SEC's public consultation; Equivalence Mechanism

First Report to the European Securities Committee and to the European Parliament on Convergence between IFRS and third country national GAAPs (Convergence Report) & SEC's public consultation

The Commission Services informed ARC members that the Commission adopted the Convergence report on 6 July and it has been published on the Commission's website. The Commission Services pointed out, in particular, the recent developments in the U.S. with the proposal, published in June, regarding the admissibility of IFRS accounts without any reconciliation requirement.

On 3 July the SEC published for public comments a proposal to eliminate the current requirement that foreign private issuers, filing their financial statements using IFRS as published by the IASB also file a reconciliation of those financial statements to US GAAP¹. The Commission Services informed ARC members that they intend to respond to this call for comments and asked ARC members for their opinion. They would also be consulted on the content of the EU response.

As regards the intention of the Commission to reply to the SEC's public consultation, one Member State asked the Commission whether it could specify the possible positive and negative consequences such a step might have. The Commission Services clarified that the positive aspect is to be seen in the fact that a formal position on behalf of the EU would have greater weight, while a negative one might be that by fixing its position the EU could to some extent lose room for manoeuvre in the later stage of the discussions.

No Member State opposed the idea that the Commission should submit a formal reply to the SEC's public consultation.

The Commission Services will send ARC members a draft response to SEC's public consultation at the beginning of September. It will have to be discussed by written procedure in order to meet the deadline (the comment period ends on 24 September).

¹ At the same time the SEC is inviting views on key elements including overall quality of IFRS, the convergence process, consistent application of IFRS, IASB due process and governance, significant differences of IFRS and US GAAP or compliance with "full IFRS".

No discussion took place as regards the Convergence report itself, although the matter was discussed in substance in the course of the discussion about equivalence.

Draft Commission Regulation establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directive 2003/71/EC and 2004/109/EC of the European Parliament and of the Council

The Commission Services summarized the main objective and elements of the proposal for a Commission regulation. The main objective of the proposed text is to establish the definition of equivalence and the mechanism for the determination of equivalence, taking into account the advice delivered by CESR.

The definition of equivalence is based on the proposal of CESR. It is focussed on the behaviour of an investor and stipulates that a third country GAAP should be considered equivalent if it enables the investor to make a similar assessment of the financial situation of the issuer as had the financial statements for the same period been drawn up in accordance with IFRS as adopted in the EU, with the result that the investor is likely to make the same investment or divestment decisions. The assessment of equivalence also contains a notion of reciprocity whereby the possibility for EU issuers to file IFRS accounts without any reconciliation in the third country in question should also be taken into account. The Commission Services explained that this question of reciprocity had been the subject of debate in the ESC. Some Member States regarded it as a fundamental element of the assessment of equivalence which should be included as a condition under Article 3 of the draft Regulation, while others wanted to move it from the legislative text to the recitals. ARC members were asked specifically for their views on this point.

As regards the equivalence mechanism, the text provides that the Commission may decide on the equivalence of a third country upon application of a competent authority of a Member State or on its own initiative. Under specified conditions, instead of making an equivalence determination the Commission may decide to allow the use of particular third country GAAPs in the EU for a further transitional period ending before 1st January 2012 at the latest. The conditions for a further transitional exemption consist either in the existence of a realistic and effectively implemented programme to converge the third country GAAP in question with IFRS before the end of 2011, or in the decision of the respective third country to adopt IFRS before that date.

The Commission Services informed the ARC that the ESC members had already discussed the Commission's proposal at the meeting on 12 July, and they had generally expressed very positive views towards it. As indicated above, one of the more contentious issues was the weight and location of the reciprocity clause in the draft text. Opinions of the ESC members diverged on this issue, some arguing for a reinforcement of this clause and others for its deletion. The Commission agrees with the comments of several ESC and ARC members that if this clause is retained in the legal text, the most appropriate place is Article 3 on the equivalence mechanism (and not the definition of equivalence in Article 2).

The Commission Services also clarified that the procedure to be followed for the determination of equivalence of third country GAAPs will be under comitology, meaning that ESC will vote on such a proposal and the EP will be consulted.

One Member State reiterated its concerns regarding the reciprocity clause and emphasized that it is an indispensable element of the assessment of equivalence. Another Member State

emphasized the importance of clarifying that reciprocity and equivalence should refer to IFRS as adopted in the EU.

Another Member State noted the disparity between the text of Article 3 and recital Nr. 3, in that the recital refers to an assessment of equivalence at the request of a third country issuer, while the text of Article 3 does not provide for this. The Commission Services agree that the recital is inconsistent with the operative text. Article 3 represents the intended policy, and recital 3 should be adjusted accordingly.

Another Member State asked for clarification of the text on definition of equivalence. The CESR advice refers to the ability of an investor to make a "similar" decision, while Article 2 of the proposed Regulation refers to the "same" decision. Did this represent an intention on the part of the Commission to impose a more stringent test? Another Member State questioned whether the decision made by the investor was the appropriate test. The focus should be on the analysis of the issuer's financial situation and prospects rather than on the resulting transaction. This Member State also queried how a condition of reciprocity could be consistent with a test of equivalence based on the ability to make a similar assessment of the issuer's position. Logically, reciprocity could only be relevant if the third country has an inferior system to IFRS. CESR clarified that its proposed definition of equivalence is outcome based and took into account the fact that a certain number of reparations could be made to the relevant GAAP in order to allow investors could make a similar assessment.

One Member State repeated its opposition to the idea of an extension of the current transitional period that now extended until the end of 2009 ; in his view, this resulted from the refusal of the Commission to adopt in the first place a clear and simple "mutual recognition approach" that would have settled all these issues to the benefit of all since long. However, at present, we still need to develop a clear strategy. First, on "convergence", that Member State mentioned the need to establish even closer contacts with the IASB so as to better influence the creation of financial reporting standards essentially applied in the EU for the time being and to develop a strategy to defend the European interest. It is necessary in this regard to insist on some basic principles (for example the insufficient clarity of IAS 23 should not occur). The existence of a real discussion between the EU and the IASB on the IASB's working programme is also essential to acquire greater clarity and more certainty that the right decisions have been made. There is room for improvement in these fields. Second, on "equivalence" : this Member State stressed the need for a symmetrical approach as regards the US. He made clear that the Commission should not accept reciprocity from third States on a different basis than "IFRS as adopted in the EU". On equivalence, this Member State also voiced further concerns about the protection of investors in the EU, who would be faced with financial information in more than one set of standards. Even if reciprocity is accepted in principle, the question persists as to how to ensure that investors benefit effectively, in a manner technically secure, from the same level of protection when accounts are presented in non-IFRS GAAPs as when they are drawn up on IFRS. The concern about the definition of equivalence as proposed is obvious, as it is very vague. In that regard, it is also important to ensure that the accountants in Europe conduct the same kind of work with IFRS or non-IFRS GAAP. In general, this Member State asked the Commission to clarify more precisely the conditions for the envisaged extension of the transitional period.. Third, it is also essential for the Commission to concentrate on implementation ; that notably means to ensure that U.S. does not approach IFRS in the same way as U.S. GAAP imposing an unjustified "legalistic" perspective. In a nutshell, the SEC should not be permitted to determine how IFRS is interpreted.

The Commission Services affirmed that their intention is to stay as close as possible to CESR's advice as regards the definition of equivalence, and that the starting point for equivalence should be IFRS as applied in the EU. The Commission Services will resolve the issue of the wording

and placing of the reciprocity clause in the draft text and will align recital 3 with Article 3 by deleting the reference to a request for an equivalence assessment from a third country issuer.

As regards the taking into account of "qualified" convergence programmes, the Commission expressed its view that it is in the interest of the EU to attract third countries to converge with IFRS and create conditions for such.

The Commission concluded the discussion by asking the ARC members to send their written comments by mid August so it can take them into account in the next version of the draft regulation which will be circulated at the beginning of September for discussion in the ESC meeting in mid September and in the ARC meeting at the beginning of October. The Commission noted that it is essential to prepare a new draft of the proposal as soon as possible since the Commission regulation has to be adopted before the expiry of the comitology powers under the Prospectus Directive at the end of 2007.

VII. Update on IASCF/IASB governance and financing

The Commission informed ARC members that, following the presentation of the second Commission report on IASB governance and financing to the Council and the European Parliament, the Council adopted conclusions on IASB governance and financing at its ECOFIN meeting on 10 July 2007. These conclusions, together with the second Commission report and a table describing the state of play in governance of the IASB, requested by ARC members at the last meeting, were sent to ARC members.

The Council requested the IASB/IASCF to take the following actions concerning governance:

- to set up an appropriate work-plan in order to implement measures decided by the Trustees and the IASB to improve its governance structure;
- to fully take into account comments from the Roundtable on Consistent Application of IFRS in the EU in work of the IASB on standards and interpretations;
- to carry out rigorous ex-ante impact analysis for any new standards and ex-post analysis of the impact and functioning of issued standards and interpretations;
- to regularly inform Member States and the European Parliament at an early stage about their (IASB) intention to issue new standards, and (by the Trustees) on governance developments in the IASCF;
- (the IASCF) to proceed swiftly with the review of the working methods of the Standards Advisory Council (SAC) and give more prominence to its role.

Further, the Council repeated the need to ensure:

- Full transparency by the IASB at all stages of the process of international accounting standards convergence;
- Geographically balanced representation in all key Committees of the IASCF/IASB; and
- Adequate representation of stakeholders in the IASCF, IASB and International Financial Reporting Interpretations Committee (IFRIC) governing bodies.

On financing, the Council was generally satisfied with the IASCF efforts to provide stable and secure funding. It nevertheless encouraged the Trustees to:

- seek a broad international base of contributors, also including smaller jurisdictions;

- liaise with European and national business and other relevant organisations to support private sector efforts to create a broad-based voluntary financing system;
- demonstrate that other parts of the world are contributing equitably to the funding system;
- agree modalities for regular evaluation of the working of the future funding system with the aim to ensure its efficiency and stability.

The Commission will be closely monitoring the governance and funding situation and report to the Council on whether progress has been made by the IASCF/IASB on the above-mentioned issues. The next report will be presented in January 2008.

Before giving the floor to Member States, the Commission Services added that the European Union should put in place the resources needed to provide valuable technical inputs in the accounting debate in order to be more influential.

One Member State noted that there was a gap between the Commission report and the conclusions of the Council. This Member State questioned the strength of the message sent to the IASCF/IASB. On convergence programme, the Commission should effectively exercise its right of examination. It should be more demanding on the European presence in the system as time is running against Europe, and more active in the implementation of the new funding system which can not be sustainably based on voluntary contributions from companies. In general, the Commission should be much more firm towards the IASB. This Member State added that commitment of the IASB to provide ex-ante and ex-post impact analysis is a progress, but these are still only methods' proposals which have been asked to the IASB for no less than 4 years and need to be implemented. This implementation should be followed up carefully. The template is very useful to summarize requirements and answers, but a column is missing concerning demands expressed following the endorsement of IAS 39 in 2003, which have not been addressed.

The Commission Services answered that the Commission is willing to pursue its efforts and achieve effective results in influencing the IASB's work and strengthen its influence in the IASCF structures.

VIII. Miscellaneous

Relationship between the IAS Regulation and the 4th and 7th Company Law Directives: consolidation rules under the 7th Directive and IFRS

At the last meeting, the Commission presented Document ARC/16/2007 in which it set out its view on the relationship between the IAS Regulation and the 7th Company Law Directive when consolidation rules are concerned. During the discussion, one delegation indicated it would be submitting its observations in writing. These written observations were subsequently provided to the Commission, which sent them to ARC members. This delegation was invited to present them to other ARC members.

This delegation considered that the main question that should be answered is whether a parent company that controls only subsidiaries considered as non significant should draw up consolidated accounts. They noted that the IAS Regulation does not determine which company should draw up consolidated accounts and that the 7th Directive too is primarily about consolidated accounts. They also highlighted that Article 13 of the 7th Directive is included in Section 1 "Conditions for the preparation of consolidated accounts", which is the Section that determine whether a company is obliged to draw up consolidated accounts. Therefore, they

considered that, even if only Articles 1 to 12 of the 7th Directive explicitly refer to the obligation to draw up consolidated accounts or to exemption to this obligation, Article 13 should be seen in substance as a test to determine if parent companies are obliged to draw up consolidated accounts, depending if there still are material subsidiaries within the scope of consolidation. This delegation finally noted the practical outcomes of an interpretation obliging parent companies which have only non material subsidiaries to prepare consolidated accounts under IFRS. They considered that the resulting consolidated accounts will provide no additional meaningful information that was not in the parent company accounts. This may even create confusion by providing redundant but dissimilar information with individual company accounts set up using national GAAP.

Many Member States supported the position and legal analysis of the Commission. One Member State noted that one of the main objectives of the IAS Regulation is to make financial information disclosed by listed companies comparable. Therefore, they should not be given the possibility to avoid providing financial information not comparable to those from other listed companies. Financial information using IFRS has an added value. There will be no additional information compared to annual (individual) accounts if consolidated ones are prepared under national GAAP when there is no material subsidiary. Therefore, the political objective of applying IFRS to all listed companies should be supported. As national GAAP applying to annual (individual) accounts remain different, this would not create fiscal problem. Another Member State agreed with this opinion and disagreed with the reasoning of the first delegation. This Member State noted that annual accounts of listed companies using national GAAP would be very different from consolidated accounts under IFRS, which would undermine comparability. This Member State highlighted the contradiction to endorse IAS 27 on one side and to try to avoid applying it using the 7th Directive on the other side. Finally, one Member State highlighted that the question is of legal nature. Therefore, the response should not be driven only by practical considerations. The same Member State wondered if there would be so many companies impacted by the opinion expressed by the Commission. If it is the case, potential impacts in terms of transparency objectives should be taken into account before proposing regulatory changes, so that beyond legal and practical considerations altogether there would be issues of principle at stake.

Many other Member States supported this point of view. One Member State noted that Article 13 also provides exemption to the consolidation scope when shares of a subsidiary are held exclusively with a view to their subsequent resale, which should also be applied. This Member State added that comparability is in any case not completely ensured as the IAS Regulation does not oblige IFRS to be applied to annual (individual) accounts. One Member State noted that its considerations were not only practical but legal in terms of determining where there are exemptions to the obligation to draw up consolidated accounts, which could contradict a political objective to extend the implementation scope of IFRS. Another Member State highlighted that negotiations related to the elaboration of the IAS Regulation resulted in not making use of IFRS compulsory for unlisted companies or for annual (individual) accounts. Finally, one Member State noted that in Annex 4 section 5 of its communication on simplification, the Commission proposes to clarify whether a parent company with only non material subsidiaries should fall under the IAS Regulation and prepare its consolidated accounts using IFRS.

The Commission Services answered that, as indicated in the previous meeting, they have addressed this question related to relationship between two legal texts primarily from a legal point of view. Practical aspects as well as political objectives have not been given prominence. Commission Services have carefully analysed the observations by one Member State and have noted two main arguments raised by that delegation. The first main argument is that Article 13 of the 7th Directive is included in Section 1 "Conditions for the preparation of consolidated accounts", that the delegation considers as a section dealing with circumstances under which companies shall draw up consolidated accounts. The second main argument is that there is no

obligation to draw up consolidated accounts, both from a legal basis and from a usefulness perspective, when there is nothing else than the parent company to consolidate.

Concerning the first main argument, the opinion of the Commission Services is that Section 1 of the 7th Directive does not deal exclusively with circumstances under which a company shall draw up consolidated accounts. As the note presented by the Commission at the previous meeting already highlighted, some articles included in this Section 1 "require...to draw up consolidated accounts" (Articles 1 and 12) or are related to the application of these articles (Articles 2, 3 and 4.1). Other Articles include "exemption from the obligation imposed in Article 1.1" (Articles 4.2, 5, 6, 7, 8 and 11) or are related to the application of these articles (Article 9 and 10). Articles 13 and 15 (as well as Article 14, which has been removed) do not include such wordings. The opinion of the Commission Services is that the wording concerning exemption from obligation to draw up consolidated accounts has been repeated by the legislator to make it clear that the concerned articles provide such exemption. The fact that there is not the same wording in Articles 13 to 15 is not an accident. It does mean that the purpose of these articles is not to provide an exemption to draw up consolidated accounts, but only to provide some exemption to the scope of consolidation. In most cases, the application of Article 13 will not result in having no material subsidiary to consolidate, and hence there will be no doubt that consolidated accounts should be drawn up. Some Member States have interpreted the application of Article 13 resulting in no material subsidiaries to consolidate as an additional exemption from the obligation to draw up consolidated accounts. This interpretation has been made before the IAS Regulation exists and therefore without taking the impact of the relationship between the IAS Regulation and the 7th Directive into account. As the IAS Regulation is now in force, its impact should be fully taken into consideration. The second main argument raised by the first delegation should be analysed in such a perspective.

The second main argument that a scope of consolidation including only non material subsidiaries would allow exemption to draw up consolidated accounts is an interpretation of the Directive that cannot be made before the scope of consolidation is determined. The opinion of the Commission Services, as explained above, is that the determination of the consolidation scope is not part of the conditions to the general obligation to draw up consolidated accounts, but the first milestone of the preparation of the consolidated accounts. As the IAS Regulation requires listed companies to prepare their consolidated accounts using endorsed IFRS, the Commission Services believe that listed European parent companies which control other companies as defined by Article 1.1 of the 7th Directive and are not subject to the exemptions provided by Article 4.2, 5, 6, 7, 8 or 11 of this Directive must determine their scope of consolidation in conformity with endorsed IFRS. This opinion is reinforced by the fact that in some circumstances, the determination of the scope of consolidation via provisions of the 7th Directive or via provisions of endorsed IFRS will not achieve the same result. This could be the case when shares of a subsidiary are held exclusively with a view to their subsequent resale. As noted by one Member State Article 13 of the 7th Directive provides a general exemption to consolidate such entities. IAS 27 is more restrictive in accepting this exemption (it refers to the strict conditions of IFRS 5 on discontinued operations). Another case could be the inclusion of Special Purpose Entities in the consolidation scope. Interpretation SIC 12 may result in a large consolidation scope in this perspective. Therefore, application of provisions of endorsed IFRS to determine the consolidation scope could result in having material entities included in this scope where application of provisions of the 7th Directive to the same parent company could result in no material entity to be consolidated. Finally, if the application of endorsed IFRS results in no material subsidiary to be included in the consolidation scope, the question whether the parent company is then obliged to prepare consolidation accounts is a matter of interpretation of IFRS. As the policy of the Commission is not to interpret IFRS, this question should be rather submitted to the IFRIC.

Next meeting

The next ARC meeting was scheduled for 1 October.