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INTOSAI



Appendix to ISSAI 11

Results of Case Studies

Purpose

Case studies are used to

- test SAI adherence to the draft Mexico Declaration on SAI Independence, taking into account the different systems of auditing;
- provide examples of safeguards that can be put in place in situations where a SAI is unable to meet certain independence application provisions that are part of a principle; and
- assist in the development of draft guidelines.

Methodology

The following preparatory work was done to acquire knowledge of the SAIs selected for case studies:

- Discussions were held between the INTOSAI Secretariat Staff and the Secretary Generals of the regions.
- The country reports prepared at the Vienna seminar on SAI Independence were reviewed
- Websites were reviewed.
- Other methods, such as interviews and SAI visits were used.

The following was kept in mind when the survey was prepared:

- Don't repeat questions from the previous independence surveys.
- Base questions on the draft application provisions discussed in Vienna in 2004.
- Use the same questions for all case studies.
- Test elements where there was partial agreement and complete disagreement from the working group discussion in Vienna.
- Provide space for comments on
 - cases where SAI has been able to improve its independence,
 - areas where the SAI believes it is most vulnerable with respect to independence, and
 - methods the SAI uses to mitigate risks to its independence

The following preparatory work was done before the case studies began

- Prepare a draft questionnaire.
- Distribute the questionnaire, methodology, and the choice of countries to all members of the subcommittee for their comments.
- Finalize the questionnaire.

- Provide the Professional Standards Committee with the list of countries selected for the case study and the methodology, which will be submitted to the INTOSAI Governing Board for its review and approval.
- Advise the SAIs and their regional secretariat that they have been selected for the case studies.
- Send the questionnaire to the selected SAIs.
- Conduct interviews and assess the case studies

Target population and return rates

The selected case studies were intended to cover all or most INTOSAI regions. All types of audit institutions (Court of accounts, Board of audit, Westminster type) and SAIs with different levels of independence were represented. In addition, only SAIs that showed real interest in participating were selected for the project.

The case studies were selected based on the suggestions from the secretaries general of the INTOSAI regional working groups. Only SAIs that volunteered were identified for the case studies. Out of the nine SAIs that volunteered, eight responded: Morocco, the Philippines, Micronesia, New Zealand, Tonga, Saint Lucia, Ghana, and Cyprus—a 90 percent response rate.

Results

Participants were asked to give detailed responses to the following four questions, based on the eight core principles on the *Draft Mexico Declaration on Independence*:

Question 1

Given the principles and the application provisions, are you of the view that you are meeting all or some of the requirements for an independent SAI and explain how?

On average, the participants responded that they generally meet the requirements for an independent SAI (percentages listed beside each principle). However, they acknowledge that some principles are not being met at all or require significant improvements. A very small percentage of participants think they meet all the requirements for an independent SAI. Another very small percentage of participants acknowledge that, while they meet only a few of the core principles, they believe that their ability to act independently of the government executive preserves their independence.

The following explanations of how participants feel they are meeting the requirements for independence are listed according to core principle.

Principle 1

The existence of an appropriate and effective constitutional/statutory/legal framework and of de facto provisions to apply this framework (75 percent felt they met this principle).

Most of the case study participants stated that their independence is clearly spelled out in legislation. Legislation frameworks vary depending on each country's acts. In almost all cases, the specified legislation spells out in detail how independent the SAI is, according to criteria such as

- performance of its functions, duties, and powers;
- organization and management of its resources; and
- organization and management of its mandate products and reports.

Most of the participants indicated that appropriate and effective legislation does exist. Some indicated that the Executive sometimes hinders the application and effectiveness of the legislation and gave the following reasons:

- political instability,
- the government's role in determining appropriations and funds allocation, and
- the government's influence on budgets and other resources.

Areas of vulnerability to the SAI's independence will be further discussed in question three of this section.

Principle 2

The Independence of SAI heads and "members" (in collegial institutions), including security of tenure and legal immunity in the normal discharge of their duties (75 percent felt they met this principle)

Most participants indicated that the heads of office are appointed, re-appointed, or removed by the Legislature, or by the Head of State with the approval of the Legislature. Such terms and conditions are specified in the participant's applicable legislation.

Respondents indicated that terms of office take the form of a fixed number of years, a lifetime appointment, or have an age limit. However, 25 percent of the participants pointed out that the term for their Head of SAI is very short and, therefore, does not give the Head enough time to effectively fulfil its mandate.

Finally, most of the participants indicated that they lack protection from legal prosecution for any acts resulting from the normal discharge of their duties. Only one respondent indicated having such immunity in its Legislation.

Principle 3

A sufficiently broad mandate and full discretion in the discharge of SAI functions (87.5 percent felt they met this principle)

Most or all of the participants of the case studies indicated that they have a sufficiently broad mandate and full discretion to perform their function effectively, efficiently, and independently, including the power to audit the

- use of public monies or assets;
- collection of revenues owed to the government;
- legality of government accounts and entities;
- quality of financial management and reporting;

- economy, efficiency, and effectiveness of government operations; and
- government policy implementation (restricted to implementation only)

Fifty percent of the participants admit that their mandates cover only the effectiveness and efficiency of government operations. However, adding the power to audit the economy of government to their mandate is a work-in-progress.

In most cases, the participants' mandate includes the freedom of direction and interference from the Legislature, in the selection of audit issues and in the planning, programming, conduct, reporting, and follow-ups of audits. Respondents in 25 percent of the cases answered that the annual work plan (audit issues) is annually discussed with the Legislature before implementation and its implementation is very much dependent on the availability of the resources given by the Legislature and/or the consent of the Executive. Although most of the participants indicated that they were free from direction and interference from the Legislature in how they organized and managed their offices, 50 percent indicated that they didn't control the resources, which they needed to do to have complete power and independence over their office.

Most participants indicated that they were not involved in the management of the organizations and did not develop a close relationship with the entities they audited. However, 25 percent indicated that this was an area of vulnerability, due to their lack of resources and the clients' lack of expertise.

All of the participants responded that they make use of appropriate work and audit standards and apply a code of ethics to their own operations and those of the organizations they audit.

Principle 4

Unrestricted access to information (100 percent felt they met this principle)

All participants indicated that they have timely, unfettered, full, direct, and free access to all of the documents and information that they need to meet their responsibilities. They also indicated that they have the power needed to obtain these documents and information from the people or entities that have them.

Principle 5

The right and obligation to report on work (86 percent felt they met this principle)

Most participants indicated that they are not restricted in reporting the results of their audit work. In fact, most indicated that they are required by law to (at a minimum) report the results annually. At least 25 percent of those who are not required by law to do so also attempt to report annually. However, long delays are frequent due to the lack of resources, and in one case, due to political interference.

Principle 6

The freedom to decide on the content and timing of audit reports and to publish and disseminate them (86 percent felt they met this principle)

Most of the respondents indicated that they have the freedom to decide on the contents of their audit reports, although one SAI indicated that it is sometimes influenced, depending on the

sensitivity of the issue. All SAIs stated that they are free to make observations and recommendations in their audit reports.

Most of the participants indicated that they have statutory time limits for submitting annual results to the Legislature. However, they do not have time limits for publishing audit reports. A little more than 10 percent added that, due to lack of resources and backlogged audits, submission of audit reports can be difficult to manage.

Finally, all respondents indicated that they are free to publish and disseminate their reports, once they have been formally tabled (as required by law).

Principle 7

The existence of effective follow-up mechanisms on SAI recommendations (86 percent felt they met this principle)

Participants indicated that some audit reports are submitted to the Legislature or Governing Board for review and for follow-up. All participants also indicated that they have an internal system to follow up on audits and ensure that their observations and recommendations as well as those of the Legislature have been properly addressed by the audited entities. Interestingly, one SAI pointed out that, under its country's *Audit Service*

Act, the audited entity is required to set up an Audit Report Implementation Committee to follow up and ensure that the audit recommendations are implemented.

Principle 8

Financial and managerial/administrative autonomy and the availability of appropriate human, material, and monetary resources (38 percent felt they met this principle)

This principle is the area where most of the participants felt most vulnerable (with regards to independence). Only 38 percent of the respondents indicated that they have

- fiscal autonomy,
- their annual appropriations approved and automatically released by the Legislature,
- full power to manage their own budget and are free to allocate it as appropriate, and
- the right of direct appeal to the Legislature if the resources provided are insufficient to fulfil their mandate.

The other respondents indicated that, currently, this principle is not being met and noted that it remains an area in need of great improvement. (See questions 3 and 4 for more detail.)

Question 2

If you are not meeting all or some of the requirements as stated in the principles and applications provisions, do you achieve the same objectives but through different means, using different kinds of safeguards to achieve independence? If so, please explain how you meet the objective and explain why, in your view, these safeguards are a means to independence?

Very few participants responded to this question because if they are unable to meet the requirements, significant barriers hinder them from achieving the same safeguarding objectives through different means.

The few SAIs that did respond to this question consider themselves to be vulnerable in certain areas, but able to encompass this risk by applying different safeguards to achieve independence.

One of the respondents indicated that while there are no formal mechanisms in their SAI for follow-up of recommendations, there are

- strong relationships with select audit committees, which are used for briefings and presentations to committees on the reports and recommendations; and
- some informal mechanisms for drawing reports and recommendations to the attention of the Executive, such as regular meetings between the Executive, government departments, the Treasury, and the Cabinet.

Question 3

Is there any area where you think you are more vulnerable with respect to independence and, if so explain?

The following are believed to be challenges, barriers, or risks to independence of SAIs:

- The government has a role in determining appropriations and funds allocation and influences budgets and other resources.
- Very short terms for heads of SAIs mean they do not provide have enough time to effectively implement their audit plans or to efficiently carry out their mandates.
- There is no legal immunity from prosecution for any act that results from the normal discharge of duties.
- Legislative change is required.
- The SAI organizes and manages the office within the limitation of the budget availability.
- The lack of control by the Legislature over the SAI's resources enables the SAI to have complete power and independence over the organization and management of its office.
- The lack of resources sometimes forces the auditors to risk their independence and integrity.
- The clients' lack of expertise and the size of the SAI may hinder the objectivity and independence of the auditors.
- The lack of proper, competent resources affects report timing, which, in turn, creates a backlog in audit results.
- Issues that are considered more sensitive in nature sometimes influence the writing of the report and the content.
- There is no parliamentary forum in which SAIs can be sure that their audit reports will receive parliamentary attention.
- The Executive is not required to respond to Parliament on the recommendations of reports.

- There is a lack of adequate and predictable financial resources.
- The independence of SAIs is limited, since they do not have the authority or freedom to acquire the resources they need to effectively exercise mandates on its own.
- Substantial discrepancies exist between the annual budget and proposals and actual allocation, including problems with timing and actual releases of funds by the Treasury.
- The Executive exerts a lot of influence on the budget approval process, which leads to significant cuts in the budget proposals.
- Although SAIs have the right to direct appeal, the appeal is usually rejected.

Question 4

Describe for us the cases where you have been able to improve independence in your SAI and tell us how you were able to achieve this.

Although participants have indicated important challenges, barriers, and risks to their SAI's independence, they have also indicated their ability to improve their level of independence. The following are isolated cases in which specific SAIs have been able to make such improvements.

Enhancing professional independence requirements

- There is work-in-progress for a proposed Bill to improve the structural framework of the SAI, especially its relationship with the Executive and Legislature, and mandate for performance auditing. Review of legislative frameworks.
- The SAI has adopted organizational behaviour to appear more independent from the Executive by engaging with them only for audit work, effectively distancing themselves from their political masters.
- The SAI is implementing an internal system to follow up on recommendations.

Conclusion

This report summarizes the responses of the case studies in reference to the adherence to the draft Mexico Declaration on Independence and to summarize their responses in regards to the four questions contained in the questionnaire prepared by the Subcommittee.

The participants of the case studies are of the opinion that they are generally meeting the requirements for an independent SAI. However, many still indicated that they have challenges in meeting principles of the draft Mexico Declaration on Independence. These challenges are considered by some as barriers to their independence and by others as opportunities for improvement. In most cases, participants have raised similar concerns regarding vulnerabilities from financial and managerial autonomy and effective follow up on SAI recommendations, the two principles that are considered the most challenging for the SAIs.

Finally, although most or all of the participants indicated that there is room for improvement, very few responded to question 4, which asks them to describe a situation in which their SAI was able to improve its independence and the method it used to do so.