

Project proposal: Forum of SAIs with Jurisdictional functions

November 28th 2018

PART A: PROJECT IDENTITY

Description	Information					
Project number and title as per SDP	2.12					
Working title(s) for the new pronouncement(s)	Principles of jurisdictional activities of SAIs –INTOSAI P XX					
Project aim	To provide an internationally recognized pronouncement to the jurisdictional activities of SAIs. This initiative is considered as a part of the INTOSAI Strategic Plan 2017-2022, under Strategic Goal 1, Professional Standards, Strategic Objectives 1.2 “Ensure that the ISSAIs are sufficiently clear, relevant and appropriate to make them the preferred solution for INTOSAI’s members”. Indeed, the lack of standardization of jurisdictional activities, performed by a quarter of INTOSAI members, justifies this work on jurisdictional function so that INTOSAI members having those missions would be able to refer to a pronouncement on jurisdictional activities (and latter accompanied by a presentation of good practices)					
Project objectives	<ul style="list-style-type: none"> - Establish a common set of principles for the jurisdictional activities, that applies in addition to the principles for the financial/performance/compliance audit procedures, to be followed by all relevant SAIs - Support of the wider understanding of jurisdictional SAIs, including for SAI PMF assessment 					
Project duration	- 2 and half year from January 2017 to July 2019.					
Name of the lead WG	Working group on value and benefits of SAIs (Forum of Jurisdictional SAIs)					
Key Contact	Name	Surname	Address	Email	Office Phone	Organization / Sponsoring SAI
Project Group lead	Frentz Miller	Rémi Gilles	Department of International relations, external audit and Francophonie Cour des comptes 13 rue Cambon, 75001 Paris, FRANCE	Remi.frentz@ccomptes.fr gilles.miller@ccomptes.fr	+331 42 98 96 60	SAI France

Contact person for the goal chair	Praveen	Tiwari	Office of the Comptroller and Auditor General of India 9, Deen Dayal Upadhyay Marg New Delhi-110 124. INDIA	tiwaripk@cag.gov.in	00-91-11-23237822	SAI India
FIPP liaison officer	Vareille	Lionel	Cour des comptes 13 rue Cambon, 75001 Paris, FRANCE	lionel.vareille@ccomptes.fr	01 42 98 95 85	SAI France
Other anticipated project team members	SAI Chile, SAI Ecuador, SAI France, SAI Greece, SAI Morocco, SAI Peru, SAI Portugal, SAI Senegal, SAI Togo, SAI Turkey, SAI Italy, SAI Spain, SAI Brazil					

PART B: PROJECT MILESTONES

Stage		Due process milestones			
1.	Project proposal	Start date	End Date	Expected time in Total	Comments
		01.01.2017	01.12.2018	9 months	Depending on FIPP agenda
2.	Exposure draft	Start date	End Date	Expected time in Total	Comments
		02.09.2017	20. 08. 2018	11 months	Depending on FIPP agenda to approve completion of the exposure draft
3.	Exposure period	Start date	End Date	Expected time in Total	Comments
		01.12.2018	01.03.2019	90 days	As per due process
	Endorsement version	Start date	End Date	Expected time in Total	Comments
		01.03.2019	01.07.2019	4 months	
4.	Final pronouncement, including translation into all official INTOSAI languages*	Start date	End Date	Expected time in Total	Comments
		01.07.2019	INCOSAI XXIII – Sep 2019		Date of the INCOSAI XXIII TBC

PART C: INITIAL ASSESSMENT AND PROJECT PROPOSAL

N°	Initial assessment - Matters to be covered (Due Process, pages 6 and 7)₂	
C.1	<p>Explanation of the need for the project</p> <p>Explanation of the purpose of the project</p>	<p>Around the world, 26% of the SAI undertake jurisdictional activities over public finances managers to challenge their accountability through judgement and sanctions.</p> <p>To date, the specific principles of the jurisdictional control of SAIs are not included in the INTOSAI's Professional Pronouncements Framework.</p> <p>A strong request for standardization of jurisdictional activities rose, in particular within the INTOSAI Goal 2 considering that capacity-building programs require a thorough understanding of all SAI models and their activities.</p> <p>The members of the Forum of SAI with Jurisdictional functions (FSAIJ) agreed unanimously of the necessity to create a working group to help to integrate jurisdictional activities standardization within the INTOSAI Framework of Professional Pronouncements.</p>
C.2	<p>Description of the categories of auditing or other engagements that will be covered by the new pronouncement(s)</p>	<p>The purpose of the jurisdictional activity performed by some SAIs is to judge the accounts submitted by the public accountants and the authorizing officers (managers) in their handling of public funds or alike and in their general management activities. This jurisdictional activity is not a substitute for compliance and performance audits but it supplements them and may be its result. It is indeed the mission of the SAI with jurisdictional function to sanction non-compliance with legislation.</p> <p>This judgment may be based on the existence, by law, of a specific liability status for public accountants, and if applicable of authorizing officer, separated from civil or criminal liability under common law. This specific liability regime results in the personal and pecuniary liability of a public accountant who would have disrespected the legal and regulatory obligations imposed on him/her in his/her activity as a payer of public expenditure or as a receiver of public revenues.</p> <p>The legal framework and scope of the jurisdictional activities may differ from one SAI to another. Therefore, the goal of the pronouncement will be to set the common set of rules that could be applied to all of them, regardless of their different legal framework.</p>

		<p>If the jurisdictional activities can be conducted in some cases as a type of specific activity, it can also be conducted together with the three types of audit (financial audit, compliance audit, performance audit). It never substitutes for these forms of audit but it could be complementary to them.</p> <p>This Pronouncement will only apply to jurisdictional activities. Other existing INTOSAI-P Pronouncements will be considered in the project. Some potential overlaps could appear and will be considered during the project and/or by future revision of the Pronouncement.</p>
C.3	Description of different types of SAIs / audit engagements that must be accommodated in the new pronouncement	<p>The main specificity of SAIs with jurisdictional function is that they are entrusted with enforcing legislation and regulation. In addition, they create, over the years and the judgments that they give, a jurisprudence, which applies itself to the litigants.</p> <p>For the SAIs whose jurisdictional functions are shared with other missions or competences, the jurisdictional activity is far from marginal. Historically, it may have been the first competence recognized by Constitution or by law for these SAIs, which explains their designation, as “court” or “tribunal”. Some of them are organized according to a jurisdictional system, which includes a first instance level (according to geographical criteria most often), appeal judge and a Court of Cassation.</p>
C.4	Challenges, if any foreseen, that would have to be managed by SAIs in implementing the new pronouncements	In rare cases, legal framework of jurisdictional activities may need some adjustment.
C.5	Explanation of how consistency other existing ISSAIs and other professional pronouncement(s) will be ensured	<p>This project is consistent with ISSAI 100 paragraph 15.</p> <p>“In certain countries, the SAI is a court, composed of judges, with authority over State accountants and other public officials who must render account to it. There exists an important relationship between this jurisdictional authority and the characteristics of public sector auditing. The jurisdictional function requires the SAI to ensure that whoever is charged with dealing with public funds is held accountable and, in this regard, is subject to its jurisdiction.”</p> <p>However, the fundamental principles derived from ISSAI 100 (ISSAI 200, 300, 400) are not appropriated to frame the core principles of jurisdictional activities of SAIs.</p>

		<p>Furthermore, the current set of ISSAIs, and more specifically, those on compliance audit (ISSAI 400 and 4000) do not appear enough to the represented the needed specific pronouncement on jurisdictional activity. ISSAI 400 only mention those activities in two paragraphs (400. 14 and 400.19. See below) without providing the necessary principles to frame them.</p> <p>“14. Compliance auditing may also lead SAIs with jurisdictional powers to pronounce judgments and sanctions on those responsible for managing public funds. Some SAIs are mandated to refer facts liable to criminal prosecution to the judicial authorities. In this context, the objective of the compliance audit may be extended, and the auditor should take due account of the relevant specific requirements when devising the audit strategy or planning and throughout the audit process.</p> <p>19. In certain countries the SAI is a court, composed of judges, with authority over State accountants and other public officials who must render account to it. This jurisdictional function requires the SAI to ensure that whoever is charged with governance over public funds is held accountable for those funds and, in this regard, is subject to its jurisdiction. There exists an important complementary relationship between this jurisdictional authority and the characteristics of compliance auditing. This may entail additional requirements for auditors operating in an environment with a judicial role, such as a court of accounts.”</p>
C.6	<p>Explanation of the extent to which it will be possible and desirable to build on pronouncements from other internationally recognized, regional or national standard-setters and, if so, the extent to which supplementary pronouncements are needed to provide clarity on new pronouncement</p>	<p>There are no international standards nor principles that relate to jurisdictional activities. However, there are some regional supranational texts requesting this type of function.</p> <p>For instance, as background: Within the framework of the Central African Economic and Monetary Community on public finances, the directive 02/11-UEAC-190-CM-22, endorsed on December 19, 2011, regarding public accounting, commits the signing countries of the region to establish a Court of Accounts with:</p> <ul style="list-style-type: none"> - a power of sanction of the public accountants and managers - a power of sanction for delays in accounts production - a power of hearing accountable persons and a duty to contradict with them - a power of inquiry on documents and on the spot - a power of sanction for offense of obstacle.

		Directive 03/11-UEAC-190-CM-22 also endorsed on December 19th, 2011, regarding the code of transparency and good governance in public finances management, in its section IV “ Control”, restates the necessity of creating a Cour of Account with jurisdictional functions.
N	Project proposal - Matters to be covered (Due Process, page 7)2	
C.7	Explanation of organisation of the project describing how project group members will be drawn from relevant sub committees/ working groups/ other interested parties	Initially, the Forum of jurisdictional SAIs was created under the auspices of the Working group of Value and Benefits of SAIs within KSC scope. As of now, this Forum gathers 33 SAIs with jurisdictional functions. Within this large group, 13 SAIs ¹ volunteered to work on this project. Various of them are members of the WGVBs or are in the process of becoming members.
C.8	Explanation of the outcome of the project specifying how existing professional pronouncements may be affected.	This project should not affect any other pronouncement. In particular, the few existing specific provisions about jurisdictional activities in other ISSAIs are fully compatible with the project.
C.9	Explain the quality processes that will be applied in the drafting process (see Due Process, page 7 and 8) along with the parties that the project group will consult and engage with.	On this project, quality control will rest upon a constant dialogue within the members of the working group, review by all the Jurisdictional SAIs of the Forum of jurisdictional SAIs, dialogue with the FIPP and submission to the WGVBs, KSC and PSC.

PART D: AUTHORITIES

PERSON	NAME	SURNAME	DATE	SIGNATURE
Project leader	Frentz	Rémi		
Responsible goal chair				

¹ SAI Chile, SAI Ecuador, SAI France, SAI Greece, SAI Morocco, SAI Peru, SAI Portugal, SAI Senegal, SAI Togo, SAI Turkey, SAI Spain, SAI Italy, SAI Brazil.