

The Europeanization of Financial Reporting Standards: A critical evaluation

by:

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This paper questions the European hasty ambition to harmonize national rules regarding financial statements, by outsourcing the design and preparation of European standards to a private Foundation based in the USA and its Board in London. The asymmetric political order resulting from the process is twin-sided: on the one hand it disbalances the choice of community norms to an external dominant culture; on the other hand it cuts the European individuals (citizen and enterprise) from an understanding of both the regulatory process and the standards obtain there from. Is it a real performance to get a full set of new financial norms in less than four years (from 2001 to 2005) if the implementation of the resulting mandatory accounting and financial framework creates more problems than it solves them? What is the cost-benefit of such a radical move, which directly concerns thousands of companies and millions of employees, not to say billion euros of capital funds over the 25-Member States Union? Moreover who has ever questioned the public choice behind such a precipitated set of measures - of a rush so to speak - and where does-it lead from now on?

This paper is exploratory in kind; it expresses a view over the European system of accounting standards that is both provisional and partial, letting to further works the task to decipher the intricacies of the European system of working groups and lobbies which encumber with lots of diverging interpretations the set of accounting and financial directives and regulations that have been enacted since year 1999.

In order to elaborate on the subject, we chose firstly to express the hypothesis of a harmful neglect in the area of financial standards; secondly to confirm it "from above" by appealing to two theories in political economies, public choice theory (Buchanan, 1986, 1992, 1999) and Europeanization theory (Jachtenfuchs, 1997); and thirdly to assess this hypothesis "from below", by gathering corroborant facts.

I- Birth of a hypothesis on the non-benign neglect of financial identities in Europe

Based upon the pragmatics of management, accounting provides managerial decisions with economic figures, this input being itself the result of previous decision-making processes. Accountants use the word "financial position" to describe how a given public corporation or business firm's financial resources and obligations are balanced at one point in time. Thus financial accounting information is designed to serve the needs of influential stakeholders such as banks, investors and creditors, in order to help them determine which companies and organizations will receive their financial resources, and which will not. Within the business accounting field, cultural differences between accounting clusters have been observed for centuries, - especially between the British-American model and the Continental model (Mueller, Gernon, Meek, 1994).

The blunt outsourcing of European standards: neglect in the path-dependent process

From 2001 to 2005, the European Commission has been instrumental at presenting a legislation that requires use of International Accounting Standards (IAS) for all listed companies of all 25 Member States no later than 2005. All the European Directives and Regulations bear the mark of the International Accounting Standards Committee (IASC in London), a private body of experts, restructured into a Delaware Foundation governed by an independent Board of Trustees (chaired by Paul Volcker, former US Federal Reserve Board Chairman). The actual results of the IAS Board designing of international standards are to date 34 IAS (accounting standards) and 5 IFRS (financial standards), plus a good number of financial interpretations which are gathered together into what is called "the IFRS framework" - supposed to hold for the bible of financial accounting information all over the European Union for all listed companies' consolidated accounts.

The neglect of diversity and simplicity in financial calculus: the "fair value" complex criterion

To be more specific, the notion of "fair market value" - which dominates the text and articles of the European Directives and Regulations enacted since 2001 on IFRS - seems particularly vague and ill defined. Moreover the general standard called IFRS 1 and titled "first-time adoption of IFRS" shows how incongruous the fair value is with the other traditions of accounting in continental Europe. It is clearly at variance with the cost principle (used for centuries in Belgium, Italy, Germany and France), and with the

intrinsic value principle (of special importance in the Netherlands and Nordic countries since 1950). Proofs of inconsistency in the "fair market value" notion flourish now that approximately 5.000 listed firms are running against the clock to meet the schedule of giving all their 2005 accounts in IFRS at the beginning of 2006.

Neglecting the balance in relationships between the individual citizen and the European State

Some of the "spurious phenomena " created by the blunt application of the IFR standards then leads to formulate that there is engrained within the IFRS an actual neglect of the citizen, to the advantage of an abstract entity, the so-called "international investor" who do not care at all for national accounting identities and only looks at short-term money returns. For instance when the ordinary citizen - like you or me - asks for reading in the text of the IFRS standards, which are supposed to be ruling business Europe for the XXIst century, one quickly discovers that the IFR standards are not freely available as public good: they must be bought at a costly price: 325 British pounds £ for the IFRS annual subscription for on-line services, and 55 £ for the IFRS past volume (as to 31st march 2004).

This detail is by itself quite a shame with respect to the ideals of European founders Jean Monnet and Robert Schuman, the "will of permanent cooperation" they ask for on the part of citizens (J.Monnet, 1976, p.91). Having the financial standards being enforced massively through the European Regulations enacted by the only Commission, on the basis of an externalised expensive contract with a private body, and rendering mandatory those norms to all listed companies in Europe reflects the political mentality of a despot State. The outrageous contempt the European Commission for European citizens can be seen also in the absence of recourse individual citizens and / or firms will have to complain against the IAS standards. The European Commission's attitude falls short of what was to be expected to regulate such an important question as the financial life of the Economic Community; if one traces back this move from the Directive 2001/65/EC, then it appears that there has been a behavioural drift so that the European Commission has acted at best as a benevolent despot and at worst as a sorcerer's apprentice on a very crucial matter.

Hypothesis: IFRS (both as a process and as a normative system) do not fit in the coordinative and/or integrative approach used to promote the European construction since 1951.

- *IFRS exert a strong integrative and authoritative pressure on European firms; they are not really the result of a bargaining nor of a coordinative process between Member States;*
- *IFRS basically result from the combination of British expertise and the American political pressures exerted by President Clinton (1996-2000), reinforced by President Bush after the American business scandals (2001-2005). IFRS are loaded with financial notions at variance with the continental tradition :*
- *IFRS may be used by the American Federal government as an indirect way to regulate the American business system, as well as a way to introduce and put controls over European business firms;*
- *IFRS are an instance of an asymmetric political order, which is both democratically uncontrolled and economically dangerous. IFRS may have a disintegrative effect of the process of Europeanization.*

II- Confirming the hypothesis *from above*: theories of Europeanization and public choice

Europeanization is a real process which has been going on from the times of the Treaty on Coal and Steel (1951) to now, on the basis of permanent institutional change in the balance of sovereignty between nation-states and the core feature of a central European authority, vested into the European Council, the European Parliament and the European Commission. Patterns of legitimating of the European Union Because are not easy to find, because the whole process has been based upon subtle mechanisms of agreement, such as the gearing or spill over effect, and the usage of the unanimity rule to smooth over time the progressive entry within patterns of cooperation, then convergence, and finally - when the process works to its end - an actual harmonization between national policies. Jachtenfuchs (1997) coins the expression "uneven Europeanization" to designate this particular feature, and he shows that two different models may be used to theorize on what is Europeanization.

The first model, called European Community or EC model, is based upon the strict separation between the market and the state, and, according to Jachtenfuchs (1997) . For individuals and corporate actors, rights and obligations at the European level exist only within a restricted domain, because of the separation of the economy from politics. As the European Union is basically an economic union and not a political one, it doesn't require whatever kind of collective identity and no symbolic integration. Quoting Hans-Peter Ibsen, Jachtenfuchs (1997) goes on writing that "*the resulting activities of the European Union are of a technical and organizational nature, and they can for this reason be carried out by experts without democratic legitimating. Broadening the scope of EU competencies would require democratic control which the European Parliament cannot provide, because it is a Parliament of different national peoples rather than one European people*".

There exists a regulatory variant to the EC model, which Jachtenfuchs borrows from Giandomenico Majone's "regulatory state framework", which stipulates the existence of market failures and the need to correct them. "*This is best done by independent regulatory agencies which are dominated by sectoral technical experts? The model of the regulatory state is politically neutral. Regulatory authorities draw their legitimating from the distinction between efficiency-oriented policy and redistributive policy. The former is based upon expertise as long as society is willing or forced to avoid paying the price of inefficient policy in times of international markets (only redistributive policies need democratic legitimation)*".

The second model is called by Jachtenfuchs (1997) the Network or N model: the N model insists on the necessity to increase citizens' participation in decision making which is relevant to them, and on the preservation of small-scale identities where people recognize and understand rules and regulations as their own. "*The term Network captures a particular type of social order in contrast to State (with the structuring principle of hierarchy) and Market (with a structuring principle of anarchy). The result is a bundle of functional and territorial constituencies with overlapping memberships, and without a distinguishable centre.*» This model reaches back to the federalist ideals such as Alexandre Marc's (1997) belief that the powers of a unitary State with a center prevents rather than furthers the development of individuals and groups in the community: too much of a "centric substantial identity" in the EU would run counter to the very idea of organizing the EU as a network. "*At best, procedural identities might be necessary*".

Provided these two models of Europeanization, where could the process of imposing the IFRS as mandatory financial standards over the EU be categorized?

- It is clearly *not belonging to the network model*, since it replaces rather than preserves all national accounting regulations, and it prevents the use of generally accepted accounting

principles, used for centuries in continental accounting, such as the "principle of prudence", the notion of disclosing a "faithful image", and the preference for the formal respect of written codes (of considerable importance in the Latin culture).

- It is *actually belonging to the Economic Community model?*

Imposing the IFRS rests upon the illusion that financial and accounting matters are purely technical matters, fully independent from the polity arena, only resulting from experts' agreement, thus justifying their change by an independent European agency representing a body of experts. But for one thing the IAS Board and Foundation are *not European agencies, even if they sound technical in title*. And for another thing, anyone who works in the area of international accounting know the prevalence of cultures on the way people compute revenues and expenses. (See for instance Mueller, Gernon and Meek, 1994 for a world's panorama of the cultural differences between continental accounting, British accounting, Russian accounting, Chinese accounting and lots of other models used in hyper-inflationary economies such as Israel and South-American countries). Therefore it is a fallacy to pretend that European standards are only a technical matter, which can be outsourced to an external private body of experts.

As soon as cultural differences are involved one has to look at the political side of things, so that basically speaking, the European Commission has neglected the public choice dimension of financial and accounting standards to be applied in Europe. To be more specific for instance, the EU regulation 2237/2004 of 29 December 2004, signed by EU commissar Charlie McCreevy, encompasses two major definitions for assets and liabilities, which are at variance with accounting cultures. Even shortened these new definitions are quite complex in kind and fairly unintelligible by the average employee of any business firm:

" A financial asset is any asset that is (a)- cash; (b)- an equity instrument of another entity; (c)- a contractual right; (d)- a contract that will or may be settled in the entity's own equity instrument."

" A financial liability is any liability that is (e) a contractual obligation; (f)- a contract that will or may be settled in the entity's own equity instrument.. An equity instrument is any contract that evidences as residual interest in the asset of an entity after deducting all of its liabilities.."

Notice that what was carefully distinguishable in continental accounting (assets and liabilities) is becoming identical in the IFRS, such as the above paragraphs (d) in assets and (f) in liabilities.

Can the definitions encompassed in the 2237/2004 regulation be considered only as a matter of economy, totally "politically neutral «? Of course they cannot be considered such because they are *a matter of public choice*. The European Commission falls in the classical trap of experts' advice on polity matters, and James Buchanan in his Nobel lecture (1986) alludes to the risks of such a trap:

" Economists should cease proffering policy advice as if they were employed by a benevolent despot, and they should look at the structure within which political decisions are made.. I urge economists to make economic sense out of the relationship between the individual and the state before proceeding to advance policy nostrums».

Public choice theory consists in looking at *politics as exchange* rather than at the only market, which is supposed to result from the acting of perfect homini economici. Buchanan (1999), in a further elaboration on constitutionalism, Buchanan insists that rules are needed for two reasons: - Rules as rationality : *"governments are not monolithic entities, the choices of which are best melded as if enunciating from a single mind. Government decision-making may be essentially procured through assemblies, the actions of which reflect contrived consensus among members of separate coalitions"*. Given a State's constitution, it draws constraints limiting the range and scope of actions that may be taken by others without due consent of the person in question (individual citizen or firm), actions to which the person is locked in by the very fact of collective unity. Thus it is only through a political constitutional structure that trade-offs and negotiation between contradictory cultures may reach a collective agreement. With the IFRS case, the European Commission has largely over passed its recognized prerogatives in its will to radically

change the accounting and financial standards that drive the individual firms in 25 different national settings.

- Rules as default options: " rules are needed to cover situations where choices are not explicitly confronted; rules provide backup or default means for selecting any alternative when attitudinal or institutional considerations intervene to make deliberative decisions impossible or inconvenient".

As long as the European Union has no workable Constitution, the only common rule that allows for setting mandatory standards of finance is Unanimity. Whether the benefits of the proposed IFRS to the individual European firms would be greater than the costs of the IFRS " *no one can judge this better than the individuals themselves*" (Wicksell, p.79). Whether the individual firms in Europe would have accepted by and for themselves the constitutional stage that IFRS put forward, nobody knows. But Buchanan (1986) suggests an acid test to inquire into it by questioning: ***could these standards that contrive business activity and financial reporting have emerged from agreement by participants (firms) in an authentic constitutional convention?***

- If Yes, then the IFRS establish a legitimacy linkage between the individual firms and the European State (an entity that we have to postulate here, because it doesn't exist formally).

- If No, then the IFRS provide for us a sound basis for a *normative criticism of the "new order"* imposed forcefully by Brussels on thousands of companies, millions of workers, and billions of euro in capital.

According to the question suggested by Buchanan and to the EC model of Jachtenfuchs, the Commission in Brussels has not treated the Public Choice dimension of the IFRS adequately. Thus our hypothesis is not a fantasy and deserves that we engage now into a look at facts in order to get some clues as to where will the boat of " IFRS hastily made mandatory as European financial reporting norms" sink sooner or later?

III- Confirming the hypothesis *from below*: some facts on IFRS standards and actors

The implementation of International accounting standards (IAS) and International financing reporting standards (IFRS) is not going as softly as it was supposed to be, and it is interesting to do some analysis of critical incidents that occur along the path. By "critical incident" we mean a situation where *both an IAS (IFRS standard) and its interpretation* have been subjected to heated debate, or an actor expressed a dissent as to the process or structure of decision-making with respect to IFRS. Given the necessary conciseness of this article, only short instances of problematic facts will be presented, the first two relating to standards IAS 36 and IAS 39, and the third one regarding a quite significant declaration by the IASC Foundation, Mr Paul Volcker.

The first incident relates to the *IAS 36 - Impairment of assets* standard. IAS 36 prescribes the procedures that an entity must apply in order to insure that its assets are carried at no more than their recoverable amount. Thus for the *recoverable amount of an asset is defined as the "higher of its fair value less costs to sell, or its value in use"*. This definition then offers two ways for evaluating the "recoverable amount", the first way being based on the *fair value, and the second on value in use*:

1- The notion of *fair value* is culturally English; it was included in the EU Directive 2001/65/EC of the European Parliament and of the Council of September 27th, 2001 (adopted in the wake of 9/11 terrorist outrage in New-York): "*Fair value is the amount for which an asset could be exchanged, or a liability settled, between knowledgeable, willing parties in an arm's length transaction*".

This definition is culturally loaded by two concepts that have never been considered as relevant in the business practices in Latin and Continental cultures, *fairness* and *arm's length transaction*. Considered as "vague and subjective" rather than "objective" notions, these two notions are supposed to specify the IFRS, and they have been preferred to the Latin notions of historical paper traceable agreements duly registered at a precise date, in order to satisfy "investors" (?).

2- By way of consequence, on 15th February 2005, the working group of the French Academie des sciences et techniques comptables gave a Guide of interpretation of IAS 36 which *deliberately excluded the fair value and any comment on it* (Academie, 2005, p.64) and promoted the based *only upon the value in use*.

This refusal *by principle* of the notion of fair value illustrates that French accountants (country B) are not ready to swing into the English accounting culture (Country A), for the basic elementary reason that this would create a cultural shock that would dismantle country B's system of business that has a long history of coexistence with Country A's system of business without one prevailing over the other. Why should a country B renounce brutally to its standards of accounting calculus to replace hastily them by an unknown and impracticable vague notion imported from country A?

The second incident is a tragi-comedy whereby the president of the French Republic was led to "do a scene" at a European Council of heads of state in December 2004 to obtain that the *IAS 39- Financial instruments recognition and measurement* be revised because the European Federation of Bankers disagreed with this IAS and threatened to boycott its application. This intervention by J.Chirac was urged by a visit of the board of European bankers and fostered by an audition at the French Senate of a European lobby of continental financial analysts particularly concerned by the typically Anglo-Saxon contents of the IAS 39 norm. The European Council thus decided the creation of a "high-level group of less than ten persons" (Counis, 2004) made up by parity of two persons from the IAS Board, two representative of the European Commission, two persons from the European Federation of Bankers, and two representatives of security markets regulators. No representative of the European Parliament was involved in this recovery from crash, and a new revised version of IAS 39 was adopted at the beginning of 2005 by a regulation

of the Commission.

This particular incident shows as a fractal the way the European Commission behave during the decision-making process on financial reporting standards: based on the text adopted in 2001 by co-decision between the Council and the European Parliament, outsource concepts, writings and interpretation from the IAS Board, and implement them right away by Regulations enacted by the Commission alone. So far (in 2005) the Commission has published 7 Regulations, and it intends to go along this way till the full implementation of IFRS by European companies. Should not have one head of state react on IAS 39, it would have been enacted like the other ones, even at the cost of creating huge problems in companies' life on the field for practical and conceptual reasons. Thus one can expect numerous problems to appear down later in the application of such Regulations.

The third incident comes from the recent will by the European Commissioner Charles McCreevy - which has lately been informed of the risks of its technocratic enforcement of IAS and IFRS - to arouse positive public interest and to foster the adoption of its mandatory IFRS framework by calling to help some European bodies who could somewhat balance the dominant unique position of the IASC Foundation. Some European actors in this area are the official existing ARC - *Accounting Regulatory Committee*; the recently formed official CESR - *Committee of European Securities Regulators* whose chairman are Arthur Docters van Leeuwen; and the European lobby EFRAG - *European financial reporting advisory group*. Meetings have been organized in 2005 to get a clearer understanding of where each of these bodies fall into the IFRS picture; and Commissar McCreevy expressed a need to enlarge the European involvement into the implementation of the IFRS Regulations. The IAS Board in London is a private association presided by Sir David Tweedie, former chairman of the British Stock-Exchanges Regulatory authority (UK). But its holding company is the IASC Foundation is incorporated in Delaware (USA) as an American Foundation, its chairman being Paul Volcker, the former Chairman of the Federal Reserve Board (the predecessor of Alan Greenspan).

On February 25th, 2005, Paul Volcker met with the ARC in Brussels and declared that the "*grand prize that should not be lost is the achievement of a common set of accounting standards applicable in all significant markets over the world. The only way to do that is to achieve a high degree of confidence in the process by which the IASB reaches agreement on internally consistent, effective, realistic and, I hope, simpler standards*" (Volcker, 2005). Thus far for good intentions, but then came the real thing when Volcker addressed the question of the review of IASC Foundation and IAS Board constitutions. The point here is that the IASC Foundation Board of Trustees and the IAS Board itself comprise a very shallow minority of nominees from the European union (roughly speaking Europeans represent less than a fifth of members of the Boards). At the same meeting, P.Volcker declared that it is not the Trustees' intent to revisit the "*entire debate of five years ago about the organization of the IASB and on our Constitution*". If it is right to consider the decision of the European Union to enforce IFRS by law a bold and constructive leadership toward the concept of international, rather than national or regional standards, "*it doesn't however logically lead to a decision to overweight European representation on the Board of Trustees. The 'end game', after all, is the acceptability of international standards right around the world*" (Volcker, 2005).

This declaration is nothing but a polite end of the questioning of IFR Foundation's own policy and structure. The way by which the IFRS took a hold from within on the European Union's polity reminds of the manner by which Microsoft held over IBM's personal computers with its DOS software. Clearly the IFR Foundation's chairman expresses an imperialistic perspective not only by despising the European queries for a better constitutional representation, but also by hiding behind an "international needs" veil of ambition. It sounds like a real pretension assorted with the oversight of important public choice issues in this particular area.

Provisional conclusions

By adopting forcefully IFRS as European standards, is not it that the European Commission playing a dangerous game of sorts with democracy in Europe? How come reporting rules of such importance be outsourced to a body of experts who not alone are not representative of the citizens but also are very scantily European? Maybe the old saying that goes "Hell is paved with good intentions" is applicable here, to the IFRS could easily turn into an accounting hell for professionals and for citizens of European Member States.

The future - if there is any future to be expected - lies in the possible interventions of the European Council and the European Parliament, to prevent a further destruction of the continental accounting principles of prudence and historical cost respect that made countries such as Germany, Belgium and France a solid place for honest entrepreneurship. More generally, the costs of imposing IFRS norms upon European firms are considerable, and the question which rises is: *what are the benefits of spending European money, energy, time, and to manage conflicts generated by the IFRS in the management of firms all over Europe? Is it worth the heavy price, including the loss of competitive advantage for Europe confronted with countries like the USA and Japan who do not change their own financial standards?*

The charge put upon firms by the new IFRS framework is very costly, especially because it superimposes IFRS to sovereign tax rules that require individual social accounts to be prepared with national fiscal standards. Some mess is announced by certified public accountants (Tetreau, 2004) due to the mandatory nature of both national tax regulations and the "European IFRS". Paradoxically the same British government that has strongly favoured the unanimity rule in taxation matters- a position which prevented any harmonization agreement between member states with diverging national rules - is the same government that pushed IFRS forward forcefully without due diligence to the unanimity rule, easily by-passed by the outsourcing done to the IAS Board on technical grounds. Why would the tax regulations be "political", while the financial standards are "purely technical" in kind?

Another pro-IFRS stand relates to the argument that "good governance" would follow directly from IFR standards, the idea being here that the best of American governance will then come to Europe. But is this dream possibly so? How come European firms receive moral lessons from outside its bounds when American regulators and judges have such a tremendous trouble in stopping the practices of cosmetrical accounting?

Better than pouring money into the IAS Commission Foundation to "work for us" would have been to realize documented inquiries into European issues and interviews with American regulatory authorities, such as Chairman William Donaldson at the Securities and Exchange Commission, and Minister of Justice Eliot Spitzer in New York. This at least would have given a federal flavour to European efforts at normalizing financial reporting, and would have fostered common European work to develop an common harmonization path; such an effort for real would have shown the difficulties of the American regulation and inspired Europeans to find in themselves the key to their own problems instead of begging hastily a false set of "standard solutions" from the pure experts heavens.

The main lesson of IFRS is that the European Union, at this point in time, is not able to regulate the regulators and it falls entirely slave to the subjective "opinions" and "ruling-formation" of so-called "outsourcing experts" who are comfortably paid to enunciate their own beliefs as the common rule for the common good of millions of people and companies. By neglecting the public interest in the matter of financial norms, the European Commission has broken the consensus that it should act wisely in the interest of all Europeans; it did as if it had a constitutional authority to enact regulations that involve cultural change and cultural shock; thus precipitating the occurrence of problems. Thus doing, the European Commission acted in a one-way narrow-

minded perspective that prevents the European individuals (citizens and enterprises) to exercise their elective powers to choose - via their representative and civil servants of Europe - a really European common approach to financial regulations.

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