**Justification statement:**

**“Fundamental principles   
of jurisdictional activities of SAIs”**

|  |
| --- |
| This justification statement is a second version, attached to a revised project proposal, to be disseminated to the relevant authorities. Revision of those documents is due to the evolution of the document “Fundamental principles of jurisdictional activities of SAIs” draft and carried to the INTOSAI by the Forum of SAIs with jurisdictional function. |

1. An extensive research into the legal frameworks governing public finance oversight around the world has shown that 26% of Supreme Audit Institutions (SAI), that is more than 50 institutions, undertake control activities of public finance considered as “jurisdictional”.
2. To this day, this type of activities and their specific principles are not standardized within the INTOSAI Framework for Professional Pronouncements.
3. Members of the Forum of SAIs with jurisdictional functions decided, during their 2016 meeting in Abu Dhabi, to task a working group with drafting a document for submission to the INTOSAI Community and inclusion into the IFPP. The 25 Heads of SAIs or their representatives agreed on the necessity to draft this document for three major reasons:
4. to give international recognition to the specific competences of their SAIs and shed light on their added value ;
5. ensuring, through the adoption of a professional pronouncement, homogeneous practices and methods amidst SAIs ;
6. to enable better understanding of this type of activities, notably by institutions working in capacity-building program .
7. A SAI can be considered “jurisdictional” when it is recognized as a jurisdiction, either as a whole or through one of its components, and as such vested with the powers to issue judgements on managers of public funds, following an independent and contradictory procedure. **Contrary to common belief, jurisdictional competences are not a mere “additional mandate”** that was granted, on top of performance or compliance audits, to certain SAIs. They are often the original mission of these SAIs, predating other competences that were added later on, and are as such at the core of the SAIs’ organization, status and practices.
8. The three type of audits framed within the IFPP [financial, compliance, performance] differ in their objectives from jurisdictional activities. Indeed, jurisdictional activities of SAIs aim at establishing, with regard to the enforceable national law, the liability and accountability of individuals involved in public funds management. This activity is undertaken by financial judges up to passing the judgement. It ends with a ruling decided by member(s) of the SAIs, subjected to appeal, with, if necessary, sanction on the personal and financial liability of the accountable party. As requested by the FIPP, a representative from the Forum of jurisdictional SAIs **will attend the next meeting of the Sub-committee on compliance audit**, to present our work and illustrated how the work done (principles of issue ruling) is clearly different from compliance auditing.
9. To have a look back at the history of public finance oversight, two models developed simultaneously. . On the one hand, a form of Supreme Audit Institution appeared in the British Parliament, following the endorsement of the Magna Carta in 1215 and later on in the Bill of Right in 1688. On the other hand, and almost at the same time, in continental Europe, public finance oversight was entrusted to a specialized institutions of a judicial nature, upon request of the Executive Branch. For instance, in the Kingdom of France, the first regal edict on public finance jurisdictional oversight, signed by King Louis the IXth dates back to 1256. Similar institutions (Courts, Tribunals, or even Contralorias) developed in other European continental countries. , gaining more audit competencies and prerogatives, just as National Audit Offices in UK or Scandinavian countries did.
10. **Members of the Forum of jurisdictional SAIs are determined to give international recognition to this dimension of their activities and ensure that, within the INTOSAI Community and the IFPP, the added value of these activities is understood as well as SAI’s other activities.**
11. Furthermore, the Forum of Jurisdictional SAIs considers that jurisdictional activities of SAIs need to be included within the IFPP in order for them to be as standardized and homogenized as performance, compliance and financial audits are. Their endeavour is as such in line with INTOSAI Strategic Development plan 2017-2022’s first priority, that is to “*Promote strong, independent, and multidisciplinary SAIs and encourage good governance, by: 1) Advocating for, providing and maintaining International Standards of Supreme Audit Institutions (ISSAI); and 2) Contributing to the development and adoption of appropriate and effective professional standards*.”.
12. Jurisdictional competences of SAIs contribute to the sound management of public finance. The sanctions imposed on public accountants, managers or even members of the government can have very heavy consequences, and have as such a strong deterrent effect on public managers. Through their ability to take swift and effective sanctions by their own, jurisdictional SAIs give citizens the guarantee that the mismanagement of public funds does not go unsanctioned or that sanction are not left to the executive power ( disciplinary decisions) or to criminal court which are not specialized with public funds managing rules. . Sanction decided by Jurisdictional SAIs are different from sanctions of the rest of the Judiciary, whether civil or penal. Indeed, those sanctions are fitted the status of the public servants, managers or public representatives: fines, mandatory reimbursement of financial loses or in some cases, dismissal.
13. Finally, the need for a better understanding of jurisdictional SAIs and their missions is especially acute in the framework of capacity-building programmes linked to the INTOSAI. Indeed, basic principles, methods and processes of jurisdictional activities, as a core part of Jurisdictional SAIs activities, have to be included in the capacity building efforts of the INTOSAI. The INTOSAI community already acknowledged this need by introducing indicators on jurisdictional activities in the SAI Performance Measurement Framework (SAI PMF) endorsed at the last INCOSAI. However, the part of the SAI PMF dedicated to jurisdictional activities remains the only one that is not based on ISSAIs. Similarly, efforts made by the Task Force on Auditor professionalization within the Goal 2 to take into account the specific profile and competences of members of jurisdictional SAIs underline the need for a common standard throughout the INTOSAI community.
14. As it can be the case with other types of audits, jurisdictional activities are governed by national laws and regulations. However, an international recognized standard will serve as a touchstone and as core principles that should lead any revision of national legal frameworks on public funds management. It will also help some SAIs to comfort their institutional position in their political, sometime fragile environment.
15. Based on those acknowledgements, the Forum of Jurisdictional SAIs established a sub-group to work on a document listing the principles of jurisdictional activities of SAIs. Initially, the Forum of jurisdictional SAIs was created under the auspices of the Working group of Value and Benefits of SAIs. As of now, this Forum gathers 33 SAIs with jurisdictional functions. Within this large group, 10 SAIs volunteered to work on this project. Their works started in February 2017. Following months of works, exchanges of email and documentation, a meeting was held in Marrakech in October 2017. This meeting resulted in the drafting of a documented entitled “Fundamental principles of jurisdictional activities of SAIs”. **This document lists the set of principles and stakeholders specific to jurisdictional activities of SAIs as a great common denominator between SAIs of various model, history and geography.**
16. On July 12th, in Santiago of Chile, the Forum of Jurisdictional SAI, gathered in its plenary form, endorsed the results of the sub-group work: the document named “Fundamental **principles of jurisdictional activities of SAIs – forth draft”.**
17. **Additionally the members of the Forum asserted their wish to see this document recognized as an ISSAI, based on and complementing ISSAI 100 and its 15th article.** In the Forum members opinion, there is no doubt that the document been produced is presenting the most common and fundamental features of the jurisdictional activities of SAIs. **The 12principles are the prerequisite to any form of judgement and jurisdictional activities. They are mandatory or tend to be applied by all jurisdictional SAIs.** The current states of the IFPP does not encompass, in any way, these principles and the fundamental values linked to them. Therefore, we strongly advise that the FIPP, the PSC, the KSC, the CBC, and the other INTOSAI relevant authorities acknowledge the work been done for the past years. In its essence, this document is not influencing the fundamental principle of any of the three audit forms (financial, performance and compliance) and does not ranked beside them but it provides the SAIs mandated to do so, with the list of principles to be followed in their jurisdictional activities.