

# “INDEPENDENT” NOMINEE DIRECTORS IN INTERNATIONAL GROUPS



Most international groups have subsidiaries or affiliates with local partners or shareholders. This may be as a consequence of regulations prohibiting majority ownership by a foreign company, or because the local business was bought from local entrepreneurs who have kept an interest, or because raising capital locally makes financial sense.

The governance of these subsidiaries or affiliates raises serious issues, which wholly owned activities do not have to the same extent.

First the international group must deal with the presence of outside directors on the local board, either representatives of the local partner(s) or, if the business is listed on a local exchange, independent directors from

the region. Second, the local business will often have to publish accounts, or at least provide full transparency on numbers to the local partners. This translates into a set of accounts and disclosure that wholly owned activities do not generally need to provide. Third, and this is particularly true if listed on an exchange, the board of the local business will have to act in the interest of the business itself, rather than simply on behalf of the main shareholder.

In the event of tension between the local interests and those of the international group, good governance becomes essential in order to find ways forward that preserve the interests of all parties. It is also in these situations that weak governance reveals itself, with compromise solutions being

negotiated outside the forum provided by board meetings, or the situation breaking into outright conflict.

One of the reasons why the boards of these businesses fail to play their role is that their composition is flawed.

The international group rarely sends as directors the group CEO himself or herself, or a member of the Executive Committee, simply because these people do not have the time. The job is often delegated to lower-level employees, for example those responsible for the country or the business area. They are competent, know the local market and business environment, and work hard to deal with the issues arising between partners or those that are brought up to the board.

But they seldom have real board experience, and are not really considered as worthy interlocutors by the local directors or the shareholders they represent, who themselves are often highly successful and wealthy business people. In addition, it is difficult for the directors representing the international group to put the issue in the broader perspective of the group's overall interests in the region and worldwide, or the sector and industry, rather than the local country or the narrower business area. It is also difficult for them to argue internally that the position they are asked to defend is neither realistic nor fair – they are, after all, subordinates.

As a result of this “disconnect”, I have seen – both as CEO and as board member of large international groups with multiple local businesses – conflict situations spiral out of control. In some cases, the group CEO was brought in on time to put things back on track, in others the conflict was beyond repair.

I have experienced successfully with one partial solution to this governance problem: the appointment of “independent” directors

on the contingent of board seats reserved for the international group. These people must be independent, trusted by the group in question, and have self-standing authority and gravitas - for example ex-senior employees or independent business people the group has had contacts with, and who have a number of board positions elsewhere.

Of course, people who accept such a position need to recognize that they are representatives of the international group on the local board, and act as such. But they are experienced directors, used to dealing with conflicts at board level. They will put forward the group's position with authority and empathy. Whilst clearly representing the international group, and bound to argue in its interest, they are not subordinates and will not hesitate to discuss internally with group executives a position they find too extreme or unlikely to succeed locally.

Probably even more important, they will be seen by local board members as both representing the international group and also “independent” directors in their own right. The local directors will open up more easily to them, and will often channel through them constructive compromise position. In other words, good directors in that position end up being trusted, or at least taken seriously, by all sides.

Obviously not every conflict can be resolved in such a way that the business can carry on without a fundamental restructuring of the shareholding positions. But I have found the appointment of independent directors on the contingent of board seats allotted to my own groups very useful in maintaining good governance and helping solve crisis situations in local subsidiaries and affiliates.