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MINUTES OF THE SPRING SESSION

CAPE TOWN

14-18 APRIL 2008

ASSOCIATION OF SECRETARIES GENERAL OF PARLIAMENTS

Minutes of the Spring Session 2008

Cape Town
14-18 April 2008

LIST OF ATTENDANCE

MEMBERS PRESENT

Mr Ghulam Hasan Gran	Afghanistan
Dr Hafnaoui Amrani	Algeria
Mr Valentí Martí	Andorra
Mr Diogo de Jesus	Angola
Mr Enrique Hidalgo	Argentina
Mr Ian Harris	Australia
Mr Gleb Bedritsky	Belarus
Mr Georges Brion	Belgium
Mr Ernest Sipho Mpofu	Botswana
Mr Ognyan Avramov	Bulgaria
Mr Aloys Kayanzari	Burundi
Mr Oum Sarith	Cambodia
Mr Leng Peng Long	Cambodia
Mr Samson Ename Ename	Cameroon
Mr Marc Bosc	Canada
Mr Carlos Loyola Opazo	Chile
Mr Constantin Tshisuaka Kabanda	Congo (Dem. Rep. of)
Mrs Martine Masika Katsuva	Congo (Dem. Rep. of)
Mr Brissi Lucas Guehi	Cote d'Ivoire
Mr Petr Kynstetr	Czech Republic
Mr František Jakub	Czech Republic
Mr Kenneth Madete	East African Legislative Assembly
Mr Sami Mahran	Egypt
Mr Heiki Sibul	Estonia
Mr Dagnachew Befekadu	Ethiopia
Mr Nini Habtamu	Ethiopia
Mr Seppo Tiitinen	Finland
Mr Xavier Roques	France
Mr Alain Delcamp	France
Mr Robert Provansal	France
Mrs Marie-Françoise Pucetti	Gabon
Mr Felix Owansango Daecken	Gabon
Mr Dirk Brouër	Germany

Dr Ulrich Schöler	Germany
Mr Emmanuel Anyimadu	Ghana
Mr Helgi Bernódusson	Iceland
Mrs Nining Indra Shaleh	Indonesia
Mr Boubacar Idi Gado	Inter-parliamentary Committee of the West African Economic and Monetary Union (WAEMU)
Mr Amjad Abdul Hamid	Iraq
Ms Deirdre Lane	Ireland
Mr Richard Caffrey	Ireland
Mr Eyal Yinon	Israel
Mr Tae-Rang Kim	Korea (Rep. of)
Mr Allam Ali Jaffar Al-Kandari	Kuwait
Mr M. G. Maluke	Lesotho
Mr J. Nanborlor F. Singbeh	Liberia
Mr Gintautas Vilkelis	Lithuania
Mr Mohamed Traoré	Mali
Mr Mohamed Vall Ould Koueiri	Mauritania
Mr Namsraijav Luvsanjav	Mongolia
Mr Abdelhamid Khalili	Morocco
Mr Baptista Ismael Machaieie	Mozambique
Mr Simon Nama Goabab	Namibia
Mrs Jacqueline Biesheuvel-Vermeijden	Netherlands
Mr Moussa Moutari	Niger
Mr Umaru Sani	Nigeria
Mr Nasiru I. Arab	Nigeria
Mr Hans Brattestå	Norway
Mr Raja Muhammad Amin	Pakistan
Carlos José Smith	Panama
Mr Mohamed Diakite	Parliament of ECOWAS
Mrs Emma Lirio Reyes	Philippines
Mr Edwin Bellen	Philippines
Mrs Marilyn B. Barua-Yap	Philippines
Mrs Ewa Polkowska	Poland
Mrs Wanda Fidelus-Ninkiewicz	Poland
Mrs Adelina Sá Carvalho	Portugal
Mr Constantin Dan Vasiliu	Romania
Mr Titu Gheorghiof	Romania
Ms Fatou Banel Sow Gueye	Senegal
Mr Sitor Ndour	Senegal
Dr Abukar Mohamed Gure (candidate member)	Somalia
Mr Zingile Dingani	South Africa
Mr Mohamed Kamal Mansura	South Africa

Ms Lulama Matyolo-Dube	South Africa
Mr Michael Coetzee	South Africa
Mr Dhammika Dasanayake	Sri Lanka
Mr Ibrahim Mohamed Ibrahim	Sudan
Mrs Marcia I.S. Burleson	Suriname
Mr Anders Forsberg	Sweden
Mr Hans Peter Gerschwiler	Switzerland
Mr Damian S. Foka	Tanzania
Mr James Warburg	Tanzania
Mr Pitoon Pumhiran	Thailand
Mr Sompol Vanigbandhu	Thailand
Mr Suchata Youyod	Thailand
Mr João Rui Amaral	Timor Leste
Mr Ali Osman Koca	Turkey
Mr Paul Gamusi Wabwire	Uganda
Mr Sergey Strelchenko	Union of Belarus and the Russian Federation
Mr Douglas Millar	United Kingdom
Mr David Beamish	United Kingdom
Dr José Pedro Montero	Uruguay
Mr Abdullah Ahmed Sofan	Yemen
Mrs Doris Katai Mwinga	Zambia
Mr Austin Zvoma	Zimbabwe
Mr Kennedy Mugove Chokuda	Zimbabwe
Ms Helen B. Dingani	Zimbabwe

SUBSTITUTES

Mrs Claressa Surtees (for Mr Bernard Wright)	Australia
Ms Heather Lank (for Mr Paul C. Bélisle)	Canada
Mrs Stavroula Vassilouni (for Mr Nikolas Stefanou)	Greece
Mr R.K. Singh (for Dr V.K. Agnihotri)	India
Mrs Elizabeth Woolcott (for Mary Harris)	New Zealand
Mrs Madeleine Nirere (for Fidel Rwigamba)	Rwanda
Mr Francisco Ferreira dos Santos e Silva (for Mr Romão Pereira do Couto)	São Tomé and Principe
Mr Ahmed A. Alyahia (for Mr Saleh A. Almalik)	Saudi Arabia
Mrs Margarita Reyes (for Mr Marti Dalgalarrondo)	Uruguay

ALSO PRESENT

Mr Quddas Khan (non-member)	Bangladesh
Mr Sothkun Chhim (non-member)	Cambodia
Mr Chhay Loak (non-member)	Cambodia
Mr Juan Oses (non-member)	Chile

Mr Malika Massamba (non-member)	Congo (Dem. Rep. of)
Mr Jiri Krbec (non-member)	Czech Republic
Ms Lebohang Ramohlanka (non-member)	Lesotho
Dr Aly Shameem (non-member)	Maldives
Mr Morad Boularaf (non-member)	Pan-African Parliament
Mr Tomasz Glanz (non-member)	Poland
Ms Ana Vargas (non-member)	Portugal
Mr George Petricu (non-member)	Romania
Mr Peter Lilienfeld (non-member)	South Africa
Ravi Poliah (non-member)	South Africa
René Kleyn (non-member)	South Africa
Patty Davids (non-member)	South Africa
Gloria Spelman (non-member)	South Africa
Dr Kasuka Mutukwa (non-member)	Southern African Development Parliamentary Forum (SADC)
Mr Dhammika Kitulgoda (non-member)	Sri Lanka
Dr Martin Brothén (non-member)	Sweden
Mrs Samonrutai Aksornmat (non-member)	Thailand
Miss Neeranan Sungto (non-member)	Thailand
Nisaporn Wiboonchan (non-member)	Thailand
Mr Anildo da Cruz (non-member)	Timor Leste
Mr Gherardo Casini (non-member)	United Nations
Mrs Claudia Palacio (non-member)	Uruguay
Mr Vu Hai Ha (non-member)	Vietnam

APOLOGIES

Mr Bernard Wright	Australia
Dr Georg Posch	Austria
Mr Ashfaque Hamid	Bangladesh
Mr Robert Myttenaere	Belgium
Mr Paul C. Bélisle	Canada
Mr Carlos Hoffman Contreras	Chile
Mr Mateo Sorinas Balfego	Council of Europe
Mr Nikolas Stefanou	Greece
Mr V.K. Agnihotri	India
Mr N.C. Joshi	India
Mr Yoshihiro Komazaki	Japan
Mr Makoto Onitsuka	Japan
Mr Mikio Obata	Japan
Mr Masafumi Hashimoto	Japan
Mr Henk Bakker	Netherlands
Mary Harris	New Zealand

Fidel Rwigamba	Rwanda
Mr Romão Pereira do Couto	São Tomé and Principe
Mrs Marie-Nella Azemia	Seychelles
Mr Manuel Cavero Gómez	Spain
Mr Manuel Alba Navarro	Spain
Sune Johansson (Honorary Member)	Sweden
Mrs Suvimol Phumisingharaj	Thailand
Mr Valentyn Zaichuk	Ukraine
Mr Marti Dalgalarrondo	Uruguay
Mr Colin Cameron	Western European Union
Mr Floris de Gou	Western European Union

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FIRST SITTING
Monday 14 April 2008 (Morning)

Mr Anders FORSBERG, President, in the Chair

The sitting was opened at 11.00 am

1. Opening of the Session

Mr Anders FORSBERG, President, welcomed all of the participants, especially new members.

He introduced the new Joint Secretaries, Steven Mark and Sophie Teulade, who were available to members to answer any questions they might have. He then reminded members that the operation of the ASGP depended on the contributions paid by its members. The Executive Committee had decided to propose that any member that had not paid its contribution for three years or more would not be able to vote or stand for election. The plenary would take a decision on this question on Tuesday afternoon, before the elections to the Executive Committee. He encouraged all members who had not paid their contribution to do so as soon as possible, and, in case of difficulty, to come to speak to him or to one of the Joint Secretaries. He reminded members also that, for national parliaments with two chambers, each chamber had to pay its own contribution.

2. Elections to the Executive Committee

Mr Anders FORSBERG, President, said that he had sad news to announce: Mr Samuel NDINDIRI, Secretary General of the National Assembly of Kenya, had died the previous week. Samuel NDINDIRI had been a friend to many of the members of the ASGP, and an excellent, much appreciated colleague; an active member of the Executive Committee, he had magnificently hosted the 2006 session in Nairobi. An intelligent and warm man, he would be much missed. Mr Anders FORSBERG proposed that, if members of the ASGP were in agreement, he would write a letter of condolence to Frieda, Samuel's widow, on behalf of the Asssociation.

Moreover, Mr Anders FORSBERG, President, said that as Mrs Georgeta IONESCU and Mr Abdeljalil ZERHOUNI no longer worked for their national parliaments, their places on the Executive Committee were also vacant. As a result, there would be elections for three ordinary members of the Executive Committee on Thursday 17 April at 4 pm. It was customary that experienced members of the Assembly should be candidates, rather than recent members; candidates needed to fill in a form and give it to the Joint

Secretaries. The time limit for candidacies for the elections would be at 11 am on Thursday 17 April.

3. Adoption of the orders of the day

Mr Anders FORSBERG, President, presented the subjects featuring on the draft orders of the day; he thanked those members presenting communications, adding that in order to encourage lively debate, presentations and interventions should be reasonably short. He encouraged members to think of new themes for communications, questionnaires or general debates, suitable for the orders of the day for the next conference in Geneva. Members with such proposals were invited to approach the Joint Secretaries as soon as possible, so that their suggestions could appear in the draft agenda which would be adopted later.

Monday 14 April

Morning

9.00 am Meeting of the Executive committee

11.00 am Opening session

Orders of the day of the Conference

New members

Welcome and presentation on the Parliamentary System of the Republic of South Africa by Mr Zingile A. DINGANI, Secretary General of the Parliament

Afternoon

The work of parliamentary committees

3.00 pm General debate: "The work of parliamentary committees"
Moderator: Mr Anders FORSBERG, President of the ASGP and Secretary General of the Swedish Parliament

Contributions from:

Mr Anders FORSBERG, President of the ASGP and Secretary General of the Swedish Parliament: "Development of the work of the committees in the Swedish Parliament"

Mr Ian HARRIS, Former President of the ASGP, Clerk of the House of Representatives of Australia: "The role of parliamentary committees in the light of the twentieth anniversary of the Australian House of Representatives modern committee system"

Dr José PEDRO MONTERO, Secretary General of the House of Representatives of Uruguay: "Working methods of committees in the House of Representatives of Uruguay"

Mrs Wanda FIDELUS-NINKIEWICZ, Chief of the Chancellery of the Polish Sejm: "The rules of functioning of Polish Sejm committees"

Tuesday 15 April

Morning

9.00 am Meeting of the Executive Committee

10.00 am Presentation of the responses to a questionnaire about autonomy of Parliaments (Mr Alain DELCAMP, Secretary General of the Presidency of the French Senate)

Communication by Mrs Adelina SÁ CARVALHO, Former President of the ASGP, Secretary General of the Assembly of the Republic of Portugal: "Reform of the Portuguese Parliament – Progress and Problems"

Communication by Dr Ulrich SCHÖLER, Deputy Secretary General of the German Bundestag: "An example of well developed parliamentary minority rights: the Rules of Procedure of the German Bundestag"

Afternoon

3.00 pm Presentation by Mr Martin CHUNGONG on the recent activities of the IPU

Communication by Mr Douglas MILLAR, Clerk Assistant of the House of Commons of the United Kingdom: "The role of the Backbencher"

Wednesday 16 April

Visit of Parliament and excursion to the Stellenbosch winelands

Thursday 17 April

Morning

9.00 am Meeting of the Executive Committee

Morning set aside for issues brought by African members

10.00 am Presentation by Mr Murumba WERUNGA, Clerk of the Pan-African Parliament

Communication by Mr Austin ZVOMA, Clerk of Parliament of Zimbabwe: "The role of Parliamentary Committees and their impact on the budget process in the SADC region"

Communication by Dr Hafnaoui AMRANI, Vice-President of the ASGP, Secretary General of the Council of the Nation of Algeria: "The challenges of parliamentary administration in African countries: the case of Algeria"

Communication by Mr Brissi Lucas GUEHI, Secretary General of the National Assembly of Côte d'Ivoire: "The African Network of Parliamentary Staff"

11.00 am Deadline for nomination for election to the Executive Committee

Afternoon

3.00 pm General debate: "Parliaments as peacebuilders in conflict-affected countries"
Moderator: Mr Ian HARRIS, Former President of the ASGP, Clerk of the House of Representatives of Australia

Communication by Mr Ali Osman KOCA, Secretary General of the Grand National Assembly of Turkey: "Participation in the legislative process of the NGOs in Turkey"

Communication by Mr Xavier ROQUES, Secretary General of the Questure of the French National Assembly: "The Revision of the Institutions of the Fifth Republic"

4.00 pm Election to the Executive Committee

Friday 18 April

Morning

9.00 am Meeting of the Executive Committee

10.00 am Communication by Mr Tae-Rang KIM, Secretary General of the National Assembly of Korea: "Promotion of Exchanges between Parliamentary Secretariats in the Global Era"

Communication by Mr Hans BRATTESTÅ, Secretary General of the Parliament of Norway: "Impeachment: still a relevant institution? Recent changes in Norway"

Communication by Mrs Jacqueline BIESHEUVEL-VERMEIJDEN, Secretary General of the House of Representatives of the States-General of the Netherlands: "Parliaments and privacy legislation"

Presentation by Mr Gherardo CASINI (Global Centre for ICT in Parliament) on "The World e-Parliament Report 2008"

Afternoon

3.00 pm Presentation of the responses to a questionnaire about "Parliamentary Relations with the Media" (Mr Xavier ROQUES, Secretary General of the Questure of the French National Assembly)

Discussion of supplementary items (to be selected by the Executive Committee at the current Session)

Discussion of Rules Changes (if any)

Administrative and financial questions

Examination of the draft agenda for the next meeting (Geneva, Autumn 2008)

Closure.

The draft agenda was *adopted*.

4. Administrative questions: new members

Mr Anders FORSBERG, President, indicated that the ASGP secretariat had received several requests for membership, which had been submitted to the Executive Committee and accepted, as follows:

Mr Adrian Hayes	Clerk of the House of Representatives of Grenada (This country is joining the ASGP for the first time)
Mr Nikolas Stefanou	Secretary General of the Hellenic Parliament (replacing Mr George Karabatzos)
Dr V.K. Agnihotri	Secretary General of the Rajya Sabha of India (replacing Dr Yogendra Narain)
Mr Masafumi Hashimoto	Deputy Secretary General of the House of Councillors of the National Diet of Japan (replacing Mr Mikio Obata, who became Secretary General)
Ms Roosme Hamzah	Secretary General of the House of Representatives of Malaysia (replacing Mr Mahmood Bin Adam)
Mary Harris	Clerk of the House of Representatives of New Zealand (replacing Mr David McGee)
Mr Titu Gheorghiof	Secretary General of the Chamber of Deputies of Romania (replacing Mrs Georgeta Ionescu)
Ms Fatou Banel Sow Gueye	Secretary General of the Senate of Senegal (This Chamber is joining the ASGP for the first time)
Ms Marie-Nella Azemia	Clerk to the National Assembly of the Republic of the Seychelles (This country is joining the ASGP for the first time)
Ms Lulama Lorraine Matyolo-Dube	Secretary to the National Council of Provinces of South Africa (This Chamber is joining the ASGP for the first time)

Mr Michael Coetzee	Deputy Secretary to the Parliament of South Africa
Mr Dhammika Dasanayake	Deputy Secretary General of the Parliament of Sri Lanka (replacing Mrs Priyanee WIJESEKERA)
Mr João Rui Amaral	Director of the Secretariat of the National Parliament of Timor Leste (This country is joining the ASGP for the first time)
Mr Paul Gamusi Wabwire	Deputy Clerk of Legislative Services of the Parliament of Uganda (replacing Mr Samuel Emiku)
Mr David Beamish	Clerk Assistant of the House of Lords of the United Kingdom (replacing Mr Michael Pownall, who has become Clerk of the Parliaments)
Mr Kennedy Mugove Chokuda	Deputy Clerk of the Parliament of Zimbabwe (replacing Ms Helen B. Dingani)

These candidates presenting no particular problems, Mr Anders FORSBERG proposed that they should be accepted as members of the ASGP.

It was *agreed* to.

Mrs Marilyn B. BARUA-YAP (Philippines), **Mr Aloys KAYANZARI (Burundi)** and **Mr Mohamed Vall Ould KOUEIRI (Mauritania)** pointed out that their names did not appear on the list of new members. In reply, the President invited them to speak to the Joint Secretaries.

Mr Anders FORSBERG, President, then indicated that the status of Dr Ulrich SCHÖLER (Germany), who had become a member at Geneva, had been clarified. Dr SCHÖLER had been admitted under rule 3 (1), as a Deputy Secretary General, and not, as had been previously indicated, under rule 3 (2) as a high official with credentials from a secretary general.

5. Welcome and presentation on the parliamentary system of the Republic of South Africa by Mr Zingile DINGANI, Secretary General of the South African Parliament

Mr Anders FORSBERG, President, welcomed the excellent hospitality that South Africa had devoted to this session of the ASGP, both in terms of the quality of the facilities put at the disposal of members and the dedication of all those staff present to ensure the smooth running of the session. He then welcomed Mr Zingile DINGANI, Secretary General of the Parliament of South Africa.

Mr Zingile DINGANI (South Africa) joined President Thabo Mbeki in welcoming all the delegates; he encouraged them to take the time to discover the Cape region, which was particularly rich and interesting, and also the other regions of South Africa, each different and unique.

He then gave the following presentation, entitled "The role of Parliament in a changing environment".

"The Members of all our Parliaments have represented the voices of the people over many years, as the reach of democracy and good governance increase day by day. Although Members of Parliament still perform their basic function of representation today, the context within which they fulfil this has dramatically changed over the last hundred years. Since the beginning of the previous century four major areas have radically changed the landscape of the work of Members of Parliament.

Firstly, the work of government has become extremely complex over the last few decades. Legislation and other instruments reflect this complexity as they regulate matters such as communications, the use of technology, the protection of the environment and many more. As parliaments oversee the work of government, these complexities demand of members high levels of expertise and capacitation.

Secondly, whereas members fulfill a vital role of communicating information about governance and other important matters, the expansion of information technology has provided greater access to information to citizens.

Thirdly, and also assisted by the expansion of information technology, the role of the media has become more prominent in the role that they play in our society.

Lastly, the role that Parliaments play in international relations and participation in global governance structures has increased significantly.

It is these and other trends that tell us that as in the last hundred years, the future will bring many challenges that will necessitate parliaments to keep on evolving.

South Africa – a celebration of freedom

Since the early decades of the previous century, much interest was shown all over the world in archeological findings which tells the silent and ancient history of those that came before us. Several major findings point to the origin and existence of many societies and communities on all continents. As information on these findings became more known, and technological advances assisted in the analysis of these, clear links were built to provide a full picture of the evolution of human life.

The recent discoveries at the Sterkfontein caves, here in South Africa, have established another vital link in the unravelling of the understanding of early human life. This discovery at the site in South Africa, now known as the *Cradle of Humankind*, has produced some of the oldest archeological findings up to date and indicates that life started on the African continent.

In a further development around these matters, Parliament established the Millennium Programme (PMP) with the discovery of several ancient maps of Africa. These maps predate any previously known maps and indicate that the African continent has been a thriving and prosperous continent with even trading relations with the Far East, as far back as a thousand years.

Chairperson, this specific discovery, which is also the mission of the Millennium Programme, challenges the perspectives of Africa that the continent was discovered by European colonisers in the last few hundred years. This perspective is indeed far from the truth. As part of this issue, the further global customary view of our planet has complicated matters. As a mapping convention, and innocent reflection by the cartographer, the first global maps of the world established that North is top and South is bottom. All over the world maps are printed in this way, even up until today. And since there is actually no link between North and Up, or South and Down, our view agrees with maps found indicating that South Africa is rather on top.

The struggle for freedom from colonial powers and the oppression from the apartheid regime, is recent history in South Africa. This struggle came to a turning point with the un-banning of the ANC and the subsequent release of Nelson Mandela in 1990, here in Cape Town. This led to a process of negotiation by all parties in South Africa, which led to the establishment of a new era through the adoption of the Constitution.

The first democratic elections in South Africa were held in 1994. This event was witnessed all over the world, and hailed as a miracle. We inherited the name of the rainbow nation overnight.

The Constitution

The Constitution was drafted and adopted in 1996 as the supreme law of South Africa after an extensive public participation process. It lays the foundation for a democratic and open society in which government is based on the will of the people. The Constitution contains the Bill of Rights, the cornerstone of democracy in South Africa, enshrining the rights of all our people and affirming the values of human dignity,

equality and freedom. It further establishes South Africa as a single, sovereign, democratic state, founded on the values of:

- Human dignity, the achievement of equality and the advancement of human rights an freedoms
- Non-racialism and non-sexism
- Supremacy of the Constitution and the rule of law
- Universal adult suffrage, a national common voters roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.

Governance in South Africa is affected through Parliament, the Executive and the Judiciary. The legislative authority is vested in Parliament, the Executive authority is vested in the President, and the judicial authority is vested in the Courts. Chapter three of the Constitution provides the principles and values of co-operative government by which the arms and spheres of government must work together in securing the well-being of the people of South Africa. Government is constituted as national, provincial and local spheres, which are distinctive, interdependent and interrelated. In addition, the Constitution provides for state institutions supporting democracy, and includes:

- The Public Protector
- The South African Human Rights Commission
- The Commission for the promotion and protection of rights of Cultural, Religious and Linguistic Communities
- The Commission for Gender Equality
- The Auditor-General
- The Electoral Commission

These institutions are independent, and subject only to the Constitution and the law, and they must be impartial and perform their powers without fear, favour or prejudice.

Role of Parliament

The role and mandate of Parliament, as prescribed in Chapter four of the Constitution, is to represent the people and ensure government by the people under the Constitution.

In this, the Constitution establishes a people centred democracy, where our people form the centre of our democracy. The unique nature of the democracy lies in its characteristics, being a representative and participatory democracy. This means that Members of Parliament are elected as the representatives of the people, whilst the Constitution provides for the involvement of people in the legislative and other processes of Parliament.

The role of Parliament includes the promotion of the values of human dignity, equality, non-racialism, non-sexism, the supremacy of the Constitution, universal adult suffrage and a multi-party system of democratic government. It upholds our citizens' political

rights, the basic values and principles governing public administration, and oversees the implementation of constitutional imperatives.

The Core Objectives of Parliament are as follows:

- Passing legislation in accordance with the provisions in the Constitution (Bills amending the Constitution, Ordinary Bills not affecting provinces, Bills affecting provinces, and Money Bills).
- Conducting oversight over the Executive, through various mechanisms including question to the Executive, the budget process, the accounting of Ministers to the committees of Parliament, and the scrutiny of departmental annual reports.
- Facilitating public participation and involvement in the processes of Parliament.
- Promote and oversee co-operative government, and to
- Engage in, participate in, and oversee International relations.

How Parliament functions

Parliament comprises of two Houses. There is a clear demarcation of responsibilities between the two Houses, the National Assembly and the National Council of Provinces.

The National Assembly represents the people, chooses the President, acts as a national forum for debate, passes legislation and oversees executive actions. The National Council of Provinces represents the interest of the provinces, participates in the national legislation process, and receives mandates from the provincial legislatures.

The work of Parliament happens in committees, the engine rooms of the Institution. Parliament has several different types of committees, including Portfolio Committees (National Assembly), Select Committees (National Council of Provinces) and Joint Committees.

Committees function under the authority of the respective house of Parliament. Bills and matters of core business are referred to these committees. It is here where Members of Parliament consider bills and issues in further detail. Committees make recommendations and deliver reports to the Houses from where these recommendations are deliberated upon and adopted.

Governance of Parliament

Section 45 of the Constitution provides for the Joint Rules Committee, which makes rules and orders concerning the business of Parliament. It determines the procedures to facilitate the legislative process, and establishes joint committees to consider matters referred to such committees.

The new governance model creates a directing authority for Parliament called the Parliamentary Oversight Authority (POA). The mandate of the POA is to ensure an effective and efficient Parliament by putting in place an appropriate system of governance by which Parliament is managed and controlled in support and furtherance of its strategies and policies.

Members feed into the governance structure through the Consultative Forum. The Executive Committee which comprises of the Presiding Officer balances the needs of members against the financial resources of Parliament. This is done through the Parliamentary Budget Forum.

In terms of legislation, the Speaker of the National Assembly and Chairperson of the National Council of Provinces acts jointly as the treasury of Parliament. The POA then considers all matters and then reports to the Houses as necessary.

The Constitution furthermore provides for the Leader of Government Business, which serves as the interface between Parliament and the Executive.

Vision and Strategic Objectives for 3rd Democratic Parliament

At the start of the 3rd democratic Parliament, processes were initiated for Parliament to facilitate discussions on the Vision for Parliament. As a result of these processes, both the National Assembly and National Council of Provines produced working documents based on the identification of key issues in the environmental analysis.

Within the context of Parliament, three areas were identified to lead the process by which a new vision will be created. The first area was the area of oversight and related matters, secondly the area of public participation and involvement, and lastly the area of creating an effective and efficient institution.

This process then culminated in the adoption of the new Vision of Parliament on 22 February 2005 by both Houses of Parliament.

The new Vision is:

To build an effective people's Parliament that is responsive to the needs of the people and that is driven by the ideal of realizing a better quality of life for all the people of South Africa.

This vision is being implemented through three strategic objectives, that of building a quality process of scrutinizing and overseeing government's action, further building a people's Parliament that is responsive to the needs of all the people of South Africa, and building an effective and efficient institution.

Achievements made since 2005

Since 2005 significant achievements were made towards the implementation of this new vision.

Firstly the introduction of various sectoral progammes have provided opportunities for people to interact with parliament and to actively participate in the processes of Parliament. These programmes of public participation include the People's Assembly (an annual sitting of Parliament in one of the nine provinces), the Taking Parliament to

the People campaign (by which the National Council of Provinces have two sittings annually in different provinces), the Women's Parliament, and the Youth Parliament.

In order to further provide access to the work of Parliament, we established Parliamentary Democracy Offices in provinces.

A major achievement was the very recent adoption of the Oversight Model in the Joint Rule Committee. This Oversight Model provides for the conceptual mechanism and other instruments by which oversight is conducted over the Executive.

As you are aware, the pace at which technology develops today, provides a huge challenge to our institutions. Parliament developed the Master Systems Plan by which new systems and technologies will be implemented.

One of our challenges remains the matter of capacity building for our members. For this purpose, we introduced a Leadership Development Programme.

Chairperson, in my previous slide I have indicated the importance of Committees in Parliament. However, the work of Committees over the last ten years has not only increased due to its volume, but also because of the additional impact of the increasing complexity of government, the use of technology, and public participation. As a consequence the capacity of the Committee Section had to be increased in terms of its research and content function by the provision of more researchers and subject experts. We also created dedicated support to committees in this regard.

Lastly, we have recently embarked on a new programme to provide more space and accommodation for Parliament.

Challenges we are facing
Going forward, we face certain challenges, including the following:

- The changing needs of the electorate and how to renew our institutions
- A renewed focus on public participation and involvement
- Our continued efforts to strengthen democracy and its institutions
- Strategies to retain institutional knowledge
- Matters of global governance and international participation in continental and regional parliaments
- The role and status of Parliament in relation to the Executive

Role of Parliament in an evolving world
In conclusion Chairperson, we need to ask ourselves the following questions in order to prepare for the future, and to also understand how our institutions can best support the work of members, and ultimately the work of Parliament.

- How will our institutions look in 2030?
- What will be the status, role and image of Parliaments (public trust)?
- Who will be the electorate?
- Who will be our representatives?
- How will the institution best support Members?
- What can now be done to position for the future?
- Where will the 162nd Plenary of the IPU take place?"

Mr Anders FORSBERG, President, thanked Mr DINGANI, whose presentation had at once sketched out the historical context and opened up perspectives on the future. He then invited those members present to ask him questions.

Mr Quddas KHAN (Bangladesh) asked for further information on Parliament's functions as a check, particularly in the context of the scrutiny model described by Mr Dingani; he asked if resolutions reached by parliamentary committees with regard to the Government were binding.

Mr Marc BOSC (Canada) wished to understand how the machinery for the annual sitting of parliament in one of the provinces was organized. Did the two chambers meet together? What were the logistical aspects of this sitting?

Mr Ahmed A. ALYAHIA (Saudi Arabia) asked for information about the staff working for the Parliament. How many were there? Were there research and expert staff?

Mr Constantin TSHISUAKA KABANDA (Democratic Republic of Congo) asked for more information about the Youth Parliament, its role and impact on the aims of Parliament (parliamentary control of government, legislation and budget).

Mr Zingile DINGANI replied that the control exercised by Parliament was a constitutional imperative within the South African political system, and that the scrutiny model created a framework for this. One of his priorities, moreover, was to strengthen the resources and expertise provided to parliamentarians for their work in committees, in order to be in a good position compared with ministers, who had large teams available to them. As for committee resolutions, they had to be adopted by both Chambers, but also, in practice, be in line with the Government's political orientation, in

order to become binding. Nevertheless, if the Government made undertakings which it was not respecting, Parliament could draw attention to this and invite it to respect these undertakings.

When the Assembly held its annual meetings in one of the provinces of South Africa, it worked in particular on a subject of primary interest to the relevant province. For this Assembly of the people, the sitting took place in the normal way, under the same rules, with in addition the possibility for everyone to take part in the deliberations of the chamber. This annual session often took place in remote areas, and it had happened that the logistics could be a little complex, with for example the erection of a tented camp.

In total, 1,300 people worked in the South African parliament. Support for committees was provided by the Committee Office; it was nonetheless not unusual to call on external resources when they could not be provided from within the Parliament.

Constituted and brought together each year, the Youth Parliament was not a permanent organisation. It was essentially interested in Government policies affecting young people, and the conclusions from its work were presented to the Government, which took its recommendations into account. As for budgetary control, the Constitution foresaw that Parliament should have a say in this area, but it was convenient to take into account the principle of separation of powers. Parliament took part in the preparation of the national budget; by way of example, the National Council of Provinces kept watch to ensure that the allocation of the budget to the provinces was equitable.

Mr Anders FORSBERG, President, wanted to know the history of the Vision for Parliament presented by Mr Dingani: was it based on a decision of the Speaker? Had the Parliament had a role in developing this Vision?

Mr Dagnachew BEFEKADU (Ethiopia) wanted to know by what means those parties not belonging to the majority were represented on committees, and in what way they contributed to the activities of the Parliament.

Dr José Pedro MONTERO (Uruguay) asked in what way the National Council of Provinces took part in the national legislative process.

Mr Zingile DINGANI replied that the development of the Vision for Parliament had followed a complex process, beginning in 2003, under the second legislature, with the third legislature putting the finishing touches to it. The political parties, but also the Speakers of the National Assembly and the National Council of Provinces took an active part in this process, which involved long negotiations. In November 2004, an agreement was reached within the joint committee on the wording of this vision.

The mission of the Electoral Commission, an independent authority, was to educate voters, and it carried out before any election, a large amount of work on the ground, in order to ensure that citizens could exercise their choice in good conditions and could

participate without impediment in the elections at any polling station. The Vice-President of South Africa was in charge of ensuring good relations between Parliament and the Executive, in particular concerning the means of control of the former over the latter (Questions to Ministers, Ministerial statements). All of the political parties were well-represented in Parliament, but also in the parliamentary governing body, mentioned earlier, including small opposition parties.

The mission of the National Council of Provinces was to look after the interests of the provinces; for example, if a bill risked having an impact on these, the National Council must organize public hearings on the proposal, including hearings in the provinces, and then organize meetings to discuss the proposal. Ultimately, the members of the National Council vote not along party lines, but according to the interests of the provinces.

Mr Anders FORSBERG, President, thanked Mr DINGANI for his presentation and his answers, and added that other questions could be asked during the visit to the Parliament on Wednesday.

The sitting rose at 12.10 pm.

SECOND SITTING
Monday 14 April 2008 (Afternoon)

Mr Anders FORSBERG, President, in the Chair

The sitting was opened at 3.00 pm

1. General debate: The work of parliamentary committees

Mr Anders FORSBERG, President, reminded members that the afternoon, devoted to a general debate on the work of parliamentary committees, would be organized around the presentation of several contributions, lasting around ten minutes, followed by interventions of about five minutes. He emphasized that in every Parliament, committees constituted a considerable part of the work of Secretaries General. Often, they devoted a large portion of their staff and funds to the support of the work of these committees, and this was why it seemed important and useful that the ASGP should debate this subject. He said that he hoped that this debate would allow the sharing of experiences on the subject, to draw lessons, and to identify, if need be, common themes emerging from the debate.

He raised several general questions which could serve as the basis for debate: what was the role of committees, the preparation of work for the plenary, or carrying out autonomous work, for example the production of reports? On what did their legislative and scrutiny roles hinge? How to ensure that committees functioned smoothly? What problems could secretaries-general face? What did Members of Parliament gain from committee work? Was it possible to define an ideal format allowing committees to take decisions in good conditions? Could one define, in contrast, a format which would lead committees to function poorly and inefficiently?

Mr Anders FORSBERG, President, presented the following contribution: "Development of the work of the committees in the Swedish Parliament".

"***Introduction***

There are 15 parliamentary committees with the task of ensuring that all items of parliamentary business are considered thoroughly before any decisions are taken. In addition to these parliamentary committees, the Riksdag has a Committee on European Affairs. The main task of the committees is to present proposals as a basis for decisions by the entire Riksdag. Each of the parliamentary committees has 17 members representing the parties in proportion to their relative strengths in the Riksdag. When the Government submits a bill to the Riksdag, it must first be considered by a committee before a decision can be taken. This is known as compulsory referral to a committee. The same applies to private members' motions

from the members of the Riksdag. These must also be considered by a committee first before the Riksdag can take a decision.

Each committee has one chair and one deputy chair. The chairs preside over the committee meetings. Each committee has its own secretariat, headed by a committee secretary, and staffed by between five and ten officials who assist the members in drafting their reports with proposals for decisions. These reports are referred to as committee reports. The officials are non-political appointees.

Evaluation and follow-up in the Riksdag

Background

The Riksdag has devoted considerable attention in recent years to finding methods to develop its work with democracy. The general objective is that parliament and its committees will obtain high-quality background materials in order to set correct priorities and better be able to assess the resources required to achieve politically determined targets. When the members of the Riksdag and parliamentary committees consider Government bills, written communications and private members' motions, they should be acquainted with the outcome of previous decisions taken by the Riksdag. This is to be achieved through follow-up and evaluation. In 2001 and 2006, the Riksdag adopted guidelines for the follow-up and evaluation by the parliamentary committees. According to the Riksdag's guidelines, follow-up and evaluation are to become a natural part of the activities of all committees. Follow-up and evaluation as a task for the committees has also been written into the Riksdag Act.

The higher level of ambition for the committees' work with follow-up and evaluation has meant new responsibilities for the Riksdag Administration, which is to support the work of the committees. The committees are supported by the committee secretariats and the Research Service's evaluation and research unit, which was established in the autumn of 2002. The unit serves both as a support to the parliamentary committees in their follow-up and evaluation activities and as a motor in the general development of committee activities. Special funds have also been earmarked for the procurement of researchers and other experts who can provide background materials for the committees' follow-up and evaluation activities.

Follow-up and evaluation are to be included in the committees' regular processing of parliamentary business, and can either be thematic or ongoing. The committees' thematic follow-up and evaluation activities normally concern larger initiatives to build up the knowledge base in connection with the consideration of an item of parliamentary business. Ongoing follow-up activities include assessing targets and target statements as part of the committees' consideration of the Budget Bill, and analysing information provided by the Government about results in relation to targets set by the Riksdag.

Examples reported and ongoing evaluation projects

During the last electoral period (2002–2006) about 60 thematic evaluation projects were completed by the committees. The results from the projects are usually published in the committee reports and/or in the Riksdag publications series *Reports from the Riksdag,* which can all be found on the website. The following are examples of projects from recent years:

- The Committee on Environment and Agriculture has evaluated the results of Sweden's fisheries policy and its consequences for enterprises in the fisheries sector. This project lasted for about one year. Evaluators from the evaluation unit supported the Committee by conducting interviews and collecting data.
- The Committee on Transport and Communications evaluated the measures that the Government had taken to restore the infrastructure system after the devastating storm that struck the southern parts of Sweden in January 2005. The basics for the project were carried out by the committee secretariat and the evaluation unit.
- The Committee on Justice has an ongoing project where similarities and differences between women and men in prison are compared and evaluated. The project will pay visits to prisons, for example a prison for women. The committee secretariat and the evaluation unit support the group with research and basics.

Research and future issues in the parliamentary decision process

Background

In June 2006, on the basis of the Parliamentary Review Commission's proposals, the Riksdag adopted guidelines for the Riksdag to begin working more systematically, and with a higher level of ambition, with issues relating to research and the future. This task should primarily be dealt with by the regular organisational structures. This means that the committees and committee secretariats need to take considerable responsibility. This is the best way of ensuring that this knowledge is incorporated into the day-to-day work and decision-making process of the Riksdag and that it contributes to well-founded decisions.

Guidelines

During the spring of 2007, two new research secretary positions were established as a support to the committees with issues related to research and future issues. The new guidelines adopted by the Riksdag include, for example, research overviews. All committees will have the opportunity to conduct at least one research overview, presenting Swedish and international research within their respective areas of responsibility. An example of present work is the Committee on Environment and Agriculture which has initiated a research overview of fish ecosystems, with the aim of increasing the knowledge base when considering the 2008 Budget Bill.

Another example is that the committees can cooperate in initiating joint analyses of the future and performing technology assessments. The committees' proposals and requests can be submitted to the Research Service's evaluation and research unit, which assists in conducting analyses of the future and technology assessments. The ambition is that the Riksdag's work with issues relating to the future should largely take place on a cross-committee level. An example of present work is the Committee on Transport and Communications that has prepared a research overview on renewable fuels with the aim of increasing the knowledge base in the field, presenting future scenarios and preparing for the 2008 infrastructure bill.

Improved communication and the transfer of knowledge between researchers and members of the Riksdag and developing national and international networks are important. Contacts have been developed in specific important areas, for example, with the help of the National Science Council, other research councils and organisations. International parliamentary cooperation in the fields of research and futures studies has also been developed.

Events such as research and future days should be held at regular intervals. In 2004 a research day was held, in 2005 three future days were held and in January 2008 the Riksdag Future Day was organised. Together, 11 committees organised three seminars on different themes, where researchers presented future scenarios which were later discussed together with the MPs.

Committee hearings are to be organised at which various research findings and issues relating to the future will be presented and considered."

Mr Ian HARRIS (Australia) presented the following contribution: "The role of parliamentary committees in the light of the twentieth anniversary of the Australian House of Representatives modern committee system".

"***Introduction***

In 1987, the Australian House of Representatives established a comprehensive committee system by setting up eight general purpose standing committees. At the same time, the functions of the Joint Committee on Foreign Affairs and Defence were extended. The total result was that the House had the capacity to monitor the work and operations of all federal government departments and agencies.[1] With occasional variations in total number (increased to nine in 1992, thirteen in 2002 and twelve in 2008), these committees have remained operational throughout that time.

The twentieth anniversary of the establishment of the House's modern committee system thus occurred in 2007. However, because the high possibility of a general election at about the time of the actual anniversary, the Department of the House of Representatives decided to postpone commemorative parliamentary action. The major event was a seminar held in conjunction with the Parliamentary Studies Centre based at

[1] *House of Representatives Practice*, 5th edition (2005) page 623

the Australian National University. The Parliamentary Studies Centre was the subject of a communication in Nusa Dua, Indonesia, in May 2007.[2] The seminar was conducted in Parliament House Canberra on 15 and 16 February 2008, and provided valuable insights into the formation, functions and operations, and deficiencies of the House's committee system. The papers presented and the transcript of proceedings is available on the Australian Parliament's website.[3] The seminar was attended by current and Members of the House, current and past members of staff, and leading academics and thinkers from Australia and overseas.

Presentations and subsequent discussions focussed on the practical side of parliamentary committees and the experiences of those who participated in and chaired parliamentary committees over the preceding twenty years. Academic presentations gave an institutional and participative perspective. A staff person raised considerations in assisting committees and posed challenging questions about wider participation, particularly Australia's indigenous people. The seminar concluded with the contemplation of the current situation, the challenges facing parliamentary committees and the role of committees in determining the nation's future.

It is not the intention to examine each presentation and ensuing discussion in detail. The occasion presented an opportunity to reflect on certain aspects of parliamentary committees, and to compare experiences across a number of jurisdictions. Specific reference will be made to certain aspects subsequently, particularly when the conventional categorisation was challenged or questioned.

Functions of Parliament

The traditional view of the functions and needs of parliamentary committees are appropriately viewed within the functions of the legislature itself. Parliament discharges the following major functions:

- Forming the basis of government, under the system of responsible government.
- Legislating (including the sub function of providing finances, by means of legislation).
- Facilitating Members to perform their representation function: providing a forum for the discussion of issues of national concern; being a sounding board for the people.
- Accountability, keeping the Executive accountable to the people through the legislature.

Sometimes these functions overlap, and it is important not to see them as isolated or mutually exclusive. Usually a legislature does not legislate on Monday, provide a national forum on Tuesday, and make Wednesday the day on which is performs its function of accountability. The functions frequently cross categories; when Members

[2] http://www.asgp.info/Resources/Data/Documents/SETLTFCXMBSXLFACCVKJEVTDWFQKDI.doc; http://www.asgp.info/fr/pastmeetings/

[3] http://www.aph.gov.au/house/committee/20_anniversary/index.htm

are debating legislation, they are obviously involved in the legislative function, but as most Bills are initiated by the Government, the Parliament is also exercising its accountability function. This is reflected in the functions that parliamentary committees perform.

Functions of parliamentary committees

- **General functions**: Parliamentary committees can range over all the functions that the legislature itself performs, with the exception of determining the formation of the Government. They perform functions which Houses of Parliament are not as well-fitted to perform, such as finding out facts of a case or issue, examining witnesses, sifting evidence and drawing up reasoned conclusions.

- **Accountability**: Committees provide an increased ability for the Parliament to scrutinise government policy and expenditure.

  Committees are frequently appointed to parallel the ministerial or departmental structure adopted by the Executive. Each committee has a responsibility to provide oversight of government agencies within specific portfolios. It is not unusual for the scope of each committee's scrutiny power to be provided in a list from the Speaker at the beginning of each Parliament.

The accountability functions of parliamentary committees include their ability:

- to conduct inquiries;
- to compel the attendance of persons and presentation of documents; and
- to make reports and recommendations to Parliament.

In another presentation, I have identified the important role of parliamentary committees in assisting Parliament to perform a role in the peace building process. Parliamentary oversight of the security sector (military, police & intelligence services) is desirable as part of the legislature fulfilling a peace-keeping role. Frequently this oversight occurs under a legislative framework, and is often conducted by parliamentary committees

- **Legislation**: Committees can be an important part of the legislative process. Examination by a committee can allow public input into the legislative process.

- **Representation/ Education of Members**: Committees enable the Parliament to be taken to the people, and enable evidence to be gathered from expert groups or individuals. They enable direct contact between the public and representative groups of Members of Parliament and a flow of information to Members. They facilitate an increased level of collegiality between members from different political parties who may not otherwise have the opportunity to work with one another.

One interesting concept that emerged from the twentieth anniversary seminar related to the quotation from [Australian] *House of Representatives Practice* cited in footnote 1 in this paper. Professor John Halligan, from the University of Canberra, discussed the committee role of monitoring or shadowing government departments and instrumentalities, raising the question of where a committee system begins and ends and posing the consideration that a fuller appreciation of committee contributions needed to take into account complementary functions performed by parliamentary committees.

Professor Halligan identified three basic types of committee policy role:

- o Scrutiny
- o Investigation (divided into review and strategy)
- o Legislation.

Two broader responsibilities were central to the performance of these roles:

- o Parliamentarians' recruitment. And
- o Public interaction and communication.

The Speaker of the House opened the seminar. He saw accountability, participation and collegiality as three features that a functional system of standing committees could hope to achieve.

There was some examination at the seminar of the concept of one function of a parliamentary committee as tapping into the wisdom of the Australian people. One presenter, who had been a committee member, the Chair of a committee, and subsequently a senior Minister, drew on his ministerial experience to indicate that the civil service was overwhelmingly comprised of hardworking, thoughtful and dedicated people who wanted the best for Australia. However, there were orthodoxies in all departments and agencies, and vested interests. It was the role of committees to expose, to test and to challenge these approaches. One presenter described the success of the committee system as a coming together of something like a trinity, comprised of politicians, public servants and the people. I believe that there is a temptation to believe that all wisdom resides in Canberra, the national capital of Australia. Committee members, representing a cross section of Australian society, bring a practical perspective to the examination of public issues, and they provide a means to tap into the wisdom of the people.

However, there was also a serious questioning at the seminar about the way in which committees operate. One presenter pointed to a lack of understanding of the work that committees perform as being a barrier to participation. Committees had widened their method of gathering evidence to encompass seminars, roundtable discussions and community statement sessions. However, the replication of a parliamentary environment outside of Canberra was replicating its culture of antagonism and debate and discouraged ordinary people from anticipating in the process.

There was a need for Parliament to become more innovative in communicating with the general population, and in opening committees for external communication. One paper

focussed on the impact of technology on committee consultation, and whether increased usage of deliberative information communications technologies would aid or hinder the work of House committees. The concept of e-communication was explored. A need was identified to get out of central business districts, hotel conference rooms, parliamentary buildings, and to enter schools, community halls and similar locations.

In taking Parliament to the people, a note of caution was sounded that members not be seen as people who fly into remote locations, take information as they need and then fly out again. Witnesses at the grass roots level expressed feelings of frustration at explaining the same things to different people who then flew out again. There was a need to establish long-term working relationships within communities. This could be undertaken by secretariat staff.

The need for relationship-building was of particular concern in relation to Australia's indigenous population. There were significant barriers to indigenous participation in committee inquiries. The Administrative Review Committee of the Parliament of the State of Queensland identified the following as barriers to participation:

- Lack of civics education (including how to vote and becoming more involved in the political process);
- Racism;
- Lack of self-confidence;
- Higher priority issues, more close to existence such as health and housing);
- Mistrust of government;
- Westminster systems being inappropriate for indigenous people;
- Participation being seen as a concession of sovereignty.[4]

A matter of personal concern to me has been the way in which the system appears to be geared to a literate, Anglo-Saxon audience, both in relation to inputs and outputs. It was gratifying to observe, some time ago, a parliamentary committee report relating to an indigenous matter to be presented in audio-visual as well as written form.

Methods of appointment of parliamentary committees & their inquiries

- Investigatory committees are usually appointed:
  - by Act of Parliament
  - under standing orders
  - by resolution of the House
  - In bicameral parliaments, by the adoption of identical resolutions of appointment by both Houses.

- Committee inquiries are established by terms of reference that are referred either by:

[4] S. Lim *Hands on Parliament*, Paper to Australasian Study of Parliament Group July 2003 p2

- a Minister (the usual way of gaining an inquiry);
- a House (or both Houses in the case of joint committees in a bicameral system); or
- self-referred (Under standing orders, an item of an annual report or a report of the Auditor-General into an agency that lies within the scope of the committee's scrutiny powers under the Speaker's list. In Australia, this is an increasingly popular method of instituting an inquiry.)

Committees are usually empowered to compel the attendance of individuals and the presentation of documents. The defiance of an order of a parliamentary committee or the provision of misleading evidence may result in charges of contempt of the House.

Stages of committee inquiry

The common stages of committee inquiry are:

- Receipt of terms of reference.
- Collecting evidence:
  - Advertising;
  - Letters inviting submissions;
  - Internet.
- Processing of submissions:
  - Briefing papers;
  - Possible questions.
- Hearings;
  - booking venues; and
  - making some travel arrangements when meetings are held outside of capital city.

- Preparation of a draft report:
  - Reflecting the evidence and the trends indicated by committee; members in private and public meetings – Tensions in the process - A Chairman's draft and the thoughts of other members;
  - Recommendations: How many and how specific?
  - Clarity of writing – Keeping the target audience in mind;
  - Printing arrangements.
- Presentation to Parliament:
  - "Leaks".
  - Assisting in speaking arrangements.
  - Media conferences.
  - Post-tabling action.

Possible limitations on powers of parliamentary committees

The following considerations may impose limitations on the powers of parliamentary committees:

- Budget: It is important for the committee to have an agreed budget and to operate within that budget.
- A Minister may claim certain information to have public interest immunity on the grounds that disclosure would be prejudicial to the public interest (sometimes referred to as "Executive Privilege"). A committee may negotiate to receive the information in private or it is open in principle for the committee to challenge the Minister's claim in the House by raising the matter as a possible contempt of the House;
- A Minster or a witness may declare information sought to be commercial-in-confidence, where similar considerations to those immediately above may apply;
- Matters that have never been tested are:
  - In a federal system, the ability to compel a public employee of a state or territory government, and
  - In a bicameral legislatures the power to compel the attendance of a Member or staff person of the other House against the wishes of the individual or the House in question.

A committee's powers to gather evidence is balanced by the protection of parliamentary privilege extended to all authorised information provided to an inquiry.

Government response to committee reports

Once a committee has gathered adequate evidence it deliberates and reports its findings together with any formal recommendations to Parliament.

In some jurisdictions, governments have undertaken to provide responses to committee recommendations within three months although it is not rare for a government to fail to meet this self-imposed time frame.

Where the government response system is employed, it is not unusual for the Speaker to present a schedule to the House listing government responses to House and joint committees and as well as responses that remain outstanding. The Leader of the House also presents a list of committee reports showing the stage reached with government responses in each case.

During the twentieth anniversary seminar, one paper was devoted solely to this topic. The suggestion was made that one of the most effective ways to increase government responses to committee reports and thereby increasing the effectiveness of parliamentary inquiries was for committees to follow up their own reports by measures which included:

- Dedicated researchers attached to the committee secretariat (including the investigation of policy developments in departments), and
- Inviting the relevant Minister to meet with the committee to update it on implementation of recommendations and explain any inaction.

The author of the paper conceded that formal responses were not the only key to implementation of a committee's work. Another presenter, who had been a committee Chair and a senior Minister, told the seminar that if a committee has identified a logical and achievable case for change, a responsive minister or government is able to adopt the likely recommendations before they are made. The presenter indicated:

> However, in many instances, government responses are notable for their lack of detail. Many simply repeat what the government is doing in a particular area, rather than addressing the issues the committee has identified. What further measures could therefore be implemented to overcome the greatest force in politics—namely, inertia? One possibility would be for committees to revisit their reports after the government has responded. The relevant department or minister could be recalled to explain the response and allow further discussion with the committee. At the same time, I believe committees need to be more disciplined in their approach to recommendations. Many recommendations are simply feelgood in their wording. While there is a tendency—naturally—for government members of a committee to use a report to support the government's policies, I believe that recommendations should involve practical, measurable actions to be taken.

Committee support

In Australia, in 2006-07 the expenditure for the provision of services by the Committee Office was $A10.72 million. Staff numbered 65 out of a total departmental staff numbering 157.

The Committee Office in the department has nine secretariats. Typically, secretariats support two or three committees. The 32 member Foreign Affairs, Defence and Trade Committee and its four sub-committees is supported by a single secretariat.

Secretariats consist of a secretary, two to three inquiry secretaries, some additional research staff and two administrative officers – although staffing levels change between secretariats in response to changing workloads.

Secretariats provide support through:

- provision of research support
  - drafting proposed terms of reference, briefing papers and committee reports

- provision of procedural advice on the operation and powers of a committee

In Australia, staff of secretariats are employees of the department and are responsible to and under the direction of the Clerk of the House rather than individual committees or chairs. Staff are employed under the *Parliamentary Service Act 1999* and subject to a parliamentary Service Values and Code of Conduct which includes the requirement to provide:

> *non-partisan and impartial advice ... to committees of each house, to joint committees of both Houses and to senators and members of the House of Representatives.*

It is imperative that members and senators trust departmental staff to provide impartial advice and maintain the confidentiality of private discussions.

During the twentieth anniversary seminar, most oral presenters touched on the role of committee staff. One senior presenter said:

> In conclusion, it would be remiss of me not to acknowledge the work of the committee secretariats, which bring considerable expertise, experience and enthusiasm to their work. As others have pointed out, their resources are limited and they have to deal with members who often spread themselves too thinly. Despite these limitations, they make an enormous contribution to the work of the House of Representatives—and therefore an enormous contribution to parliamentary democracy in Australia. Thank you.

Another former Chair said:

> The parliamentary staff that I have encountered here that can recognise a good idea number many, many scores. They can separate the wheat from the chaff. They can translate a raw idea, often in a misunderstood form, into a state the rest of us can understand. If ideas and process people go missing on committees, this is what happens: you end up with endless hours of meetings, negotiations going nowhere, facilitation of non-identified givens, interpretation of worthless material, contradictory mission statements and performance criteria all sinking under the weight of pointless, anecdotal self-indulgence and slick presentations. The substance, contribution and influence of committees like these are absolutely zero. And yes, I was on a committee like that—blessedly, briefly.

Secretariat staff in another inquiry were described as being absolutely sensational.

Of course, it was satisfying to hear secretariat staff described in this way. However, a member from a committee secretariat pointed to the need for staff to be creative and innovative:

> But members are heavily reliant on the secretariat. Our practices are sound, but we require the ongoing commitment and enthusiasm of the departmental leadership team to foster a culture that encourages creativity and innovation. We must all have the courage to embrace change and take creative risks. In serving members we must not forget that they are serving the community and that we can best serve members only through supporting them to serve the community well.

This presenter also indicated:

> The committee should be developing communication strategies for each inquiry which address issues such as managing the media, advertising, and options for online consultation as well as appropriate communication styles for diverse audiences. We need to question our basic assumptions on how people communicate. While committee staff have many talents, we are not communication specialists. Last parliament I went from immersion in the automotive sector headlong into the tourism sector. I take holidays so I have experienced the tourism sector but the most contact I have with the automotive sector is trying to explain that strange banging noise my car always makes to my mechanic. I have a specialty in parliamentary committees. I can never claim to automatically know how to communicate with the vast range of different people I am in regular contact with. We need to ensure that committees can access support from communications specialists who have the skills to sell committees—although Ian may disagree with this in some regards. We also need to ensure that as staff we are willing to recognise our limitations and seek help.

This contribution reflected a concept that has been for me a continuing consideration in the selection of committee secretariat staff: Whether generalists or specialists represent better value. Staff are sometimes retained because of specialist knowledge in a field, but it is more common for generalists to be employed. Specialist advisers can be contracted for short periods, but care needs to be taken that their personal convictions are not foisted on the committee.

Conclusion

The twentieth anniversary of the Australian House of Representatives Committee system provided a valuable opportunity to examine some of the traditional concepts underlying the operation of parliamentary committees. The contributions of members of the Association of Secretaries-General of Parliaments on the committee experiences of their jurisdictions will broaden this examination to an international scale, and thereby further enrich the study."

Dr José PEDRO MONTERO (Uruguay) presented the following contribution: "Working methods of the committees of the House of Representatives of Uruguay".

"The rules and proceedings of the Committees of the House of Representatives are enshrined in Article 120 of the Constitution of the Republic, by Laws 16.698 and 16.758, on 25th April 1995 and 26th June 1996, respectively, and by the Rules of the House.

Such constitutional rules and legal provisions also rule the Committees of the Senate.

1. CONSTITUTIONAL FRAMEWORK

Article 120 of the Uruguayan Constitution provides that "The Chambers can set up Parliamentary Committees for inquiry or for data supply for legislative purposes".

2. LEGAL FRAMEWORK

Parliamentary Committees are defined in Article 1, Law 16.898, as "multi-personnel bodies, provided by the Constitution, the legislation or the internal rules of the designating body, whose general task is to advice it in the exercise of its legal powers of legislating, administrative monitoring or internal management". Its 2nd Article provides a classification for the parliamentary committees to be permanent, special or select and for data supply for legislative purposes.

Then it states that "The membership and functions of both Permanent and Special Committees are determined by the designating body internal rules" and "Permanent Committees carry out in certain subjects an on-going advice function to the body to which it belongs, in the exercise of its legal powers of legislating, administrative monitoring or internal management".

The legislation provides then that "Special Committees have advisory functions to the body to which they belong to on a certain issue of legislation, administrative monitoring or internal administration" and "Select Committees advice the body to which it belongs

to, both in the exercise of its legal powers and administrative monitoring. But their set-up takes place only when such situations occur or if the issues to be investigated have been reported, with grounds of irregularities or illegal issues".

3. REGULATIONS

Article 114 of the Rules of the House of Representatives provides a definition of the Committees, stipulating that "Advisory Committees of the House belong to two categories: Permanents and Specials" and therefore defines what it is understood by Permanents and Specials.

Such rule states that Permanent Committees are those which have general mandates, stated on the Rules itself, and that Special Committees are those which are set up for a fixed mandate in a certain occasion.

Article 115 of the Rules lays down sixteen Permanent Committees, the great majority of which, for their competence and even for their nomination, coincide with the Ministries of the Executive Branch.

As an example, the Foreign Affairs Committee is in charge of international agreements, pacts, protocols and treaties, diplomatic and consular organization as well as diplomatic service, etc., for we can state that the issues that it addresses are those appointed to the Foreign Ministry.

The National Defence Committee addresses national defence related issues, the permission for military officers to go abroad in missions and set military officers; issues that fall within the National Defence Ministry competences.

Others Permanent Committees are the following:

- Livestock, Agriculture and Fishery;
- Education and Culture;
- Tourism;
- Internal Affairs;
- Housing, Territory and Environment;
- Industry, Energy and Mining;
- Treasury;
- Budget;
- Constitution, Codes, General Legislation and Administration;
- Social Security;
- Labour Legislation;
- Transport, Communications and Public Works;
- Public Health; and
- Human Rights.

4. MEMBERSHIP, ACCORDING TO THE RULES

Every Member of Parliament has to be a Member of one Permanent Committee in a compulsory way. The only Member of Parliament that it is not a Member of any Committee is the Speaker of the House, but he can attend any of their sessions, having the right to speak but not to vote.

In view of the fact that there are political sectors that due to the numbers of their parliamentarians do not have enough Members to have one in each Permanent Committee, the Rules entitles them to designate a "sector delegate" within the Committees in which they do not have a representation. Such "sector delegates" have the right to speak but not to vote. Every Member of Parliament, except the Speaker, is a Member of only one Permanent Committee but he/she can be a sector delegate in one or more Permanent Committee.

Every Member of Parliament can be designated Member of one or more Select or Special Committees.

That is to say that every Member of Parliament – but the Speaker of the House of Representatives – is a Member of one Permanent Committee and can be a Member of one or more Special or Select Committee.

The House of Representatives has 99 Members where 98 of them are Members of one of the 16 Permanent Committees and can be designated as a Member of one or more Select o Special Committee. And so it is that in the current Legislature there is one political sector that has only one Member of Parliament, being a titular Member of one Permanent Committee and a sector delegate in fifteen Committees. The rules aim at achieving all sectors participation and knowledge of Committees deliberations.

Committees, whatever their nature be, elect annually a Chairperson and a Vice-President, who can be re-elected or not, being his/her nomination the result of political agreements for the distribution of offices.

The number and names of the Members of each Permanent Committee are established by the Plenary of the House of Representatives at the beginning of every Legislature by distributing the corresponding posts through the agreement of all political sectors. In case of Select and Special Committees, the number of Members is set out by the Plenary at the time of designating them and also by a political agreement will be the corresponding post distributed.

The Members of a Committee who are on leave, which have been granted by the Plenary, are automatically replaced by substitute parliamentarians who will be entitled to the same faculties as titular Members.

The Secretariats and Joint-Secretariats of each Committee are hold by administrative officers designated by the Secretariat of the House of Representatives. Unlike other Parliaments, although they are not required to be lawyers, they should have the hierarchical office qualifying them to be designated as such.

5. RULES OF THE SESSIONS

At the beginning of every legislative period – annually – the general rules of the sessions of Permanent Committees are set out by the Plenary.

For the present Legislature, the Plenary stated that Permanent Committees will hold sessions during the dates and time they have set by their owns, informing their decision to the Presidency of the House.

Committee sessions are held in camera. Under Article 133 of the Rules, the Committees are authorized to have the advice of public officers, individuals as well as experts. In other words, Committee sessions are held with the presence of Committee Members, Sector Delegates, Members of its Secretariat and the corresponding parliamentary staff. The only persons that can attend their deliberations are those designated by the Committee to advice them. This rule is not contrary to the publicity of the deliberations, provided their secrecy is not stated, they are at public disposal through shorthand versions and summary records, which are printed and posted on the Web Site.

6. SPECIAL AND SELECT COMMITTEES MEMBERSHIP

Special Committees are set up by the Plenary of the House by absolute majority, setting out the report submission deadline as well as the number of Committee Members. If the deadline expires, the Plenary can grant an extension.

Select Committees have the constitutional rules above-mentioned. According to the Rules of the House of Representatives and Law 16.698 they are set up by a previous report of a pre-select Committee composed of three Members of Parliament, which under the mentioned rule, has a 48 hours deadline to make its pronouncement. If the pre-select Committee advices to set up a select Committee, then the Plenary will decide if it will set up it or not, the number of Members and the deadline it will have to make a pronouncement, which could be extended any times needed.

7. PARLIAMENTARY COMMITTEES REPORTS

The general principle is that Committees advice the Plenary. Thus, their task is to inform the bills to be addressed by the House.

The bills addressed by the Plenary come from the Executive Power, the Senate and from the initiative of one or more member of parliament. According to topics, a draft law, resolution, communication and statement are sent to the corresponding Permanent or Special Committee.

Permanent Committees should make their pronouncement within a 90 days term, counting from the date that the Plenary was informed on the subject item destination. If they fail to do so, the Speaker, at a request signed by twenty five Members of Parliament, must designate a Special Committee, to which the Membership of the previous committee cannot belong to. If the new committee fails to make a pronouncement within the deadline mentioned, it should proceed in the same way.

Permanent Committees never fulfil the deadlines set by the Rules of the House and in 8 years as Secretary General of the House of Representatives, Members of Parliament asserted such provision.

The bill can be informed by a single report – when it is voted by the entire Membership attending the Committee. Likewise, it may occur that the bill has one or more Committee reports, one in majority – that is to say with the positive vote of more of the half Committee Membership – and other or others in minority. It is also possible that a bill has one or more reports in minority since none of them ever reached the mentioned regulation majority.

In case of having more than one report, but only one of them has reached the majority, this will be the one which the Plenary of the House will address. If there are many reports, but none of them reach the Committee Membership majority, the Plenary will decide on which report will be the one to be addressed for its endorsement.

We must bear in mind the general principle that within the Uruguayan parliamentary system the Committees advice the Plenary but they do not decide, but this does not alter the fact that a Committee report be changed by the Plenary."

Mrs Wanda FIDELUS-NINKIEWICZ (Poland) made the following contribution available: "The rules of functioning of Polish Sejm committees".

"**1. Introduction**

Committees constitute one of the most traditional forms of the organization of the parliament. The institution of parliamentary committees has been known in Poland since the 16th century. Originally their tasks included the writing down of the texts of laws, known as constitutions at that time. The long process of the evolution of the composition and powers of Sejm committees led, on the verge of the Second Republic (the years 1918—1921), to the development of their modern form. Sejm committees became organs of the Sejm established to examine and prepare matters on which the Chamber was working and to voice an opinion on matters referred to them by the Sejm or the Sejm Presidium. Presently, committees are also the Sejm organs exercising control over the performance of particular organs of the state, local government and other bodies and organizations as regards the implementation of Sejm laws and resolutions.

2. Types of committees

In keeping with the basic law, the "Sejm shall appoint standing committees and may also appoint special committees." It has become a practice that standing committees reveal either a purposeful or problem or ministry-related character. The Standing Orders of the Sejm, as they read now, establish 25 standing committees.

3. Types of standing committees

In keeping with the established practice, standing committees reveal either a ministry-related (problem) or purposeful character. The scope of ministry-related committees' operations corresponds to the competence of one of the superior or central organs of the state. This group includes these committees whose objective scope of operations corresponds more or less exactly to particular sections of the state administration (e.g. Administration and Internal Affairs Committee, Infrastructure Committee or Culture and Media Committee), but also those which reveal a problem character (e.g. Special Services Committee, State Control Committee, European Committee). Purposeful-character standing committees represent the other type. Their respective scope of operations is associated with those Sejm functions which are not related to the administrative structure. This group includes, for example, the Deputies' Ethics Committee, the Rules and Deputies' Affairs Committee, the Constitutional Accountability Committee and the Legislative Committee.

4. Special committees

If the situation so requires, the Sejm may appoint (and dissolve) special committees. Reasons for appointing a special committee are usually related to the cross-sectional character of the matter to be undertaken or to the need for intense concentration of the Chamber's effort on a definite task. In practice, such committees are appointed to examine or prepare a definite legislative initiative of particular significance to the public (e.g. a draft code). When appointing a special committee, the Sejm defines its aims, principles and procedures of operation. Such committees are provisional in nature and they function until they carry out their respective task. In the 5th Sejm (2005—2007) there functioned nine special committees, and in the present, 6th one, so far two such committees have been appointed.

5. Investigative committees

The investigative committee constitutes a traditional form of parliamentary control. It is appointed with the aim to establish the actual state of the matter that arouses the parliament's interest. Under the Polish legal system, the investigative committee is the only organ of the Sejm allowed to use investigative instruments (questioning witnesses, demanding documents at the third person's disposal) in order to obtain information. In view of their interim nature, investigative committees are treated as a subtype of special committees. In keeping with Article 111, paragraph 1, of the Constitution, "the Sejm may appoint an investigative committee to examine a particular matter." The law of 21st January 1999 on the Sejm investigative committee establishes the procedure of investigative committees' operation. This law makes an exception to the principle of the Sejm's autonomy as regards its internal structure since all organs participating in the legislative procedure (the Sejm, the Senate, and the President) bear an influence on the shape of the law. The present, 6th Sejm has so far appointed two investigative committees.

6. Composition of Sejm committees

The Sejm determines the composition of the respective Sejm committees at the beginning of its term. At one of its first sittings, on the motion of the Sejm Presidium and after hearing an opinion of the Council of Seniors, the Sejm agrees on the

composition of particular committees (changes in their composition are effected under the same procedure). In practice, the division of seats in Sejm committees is made on the basis of political parity. This means that in each Sejm committee all caucuses are represented in proportion to their number. Particular rules of procedure apply to the composition of the European Committee, the Deputies' Ethics Committee and the Special Services Committee. A Deputy may be a member of no more than two standing committees, at the same time he/she should belong to at least one. Deputies fulfilling the function of a minister or secretary of state are the only exception as they may not sit on any committee. In practice, it is the leadership of one's parent caucus who decide on the composition of a specific committee.

7. Organization of the committee's work

The first sitting of a committee is summoned and presided over by the Marshal of the Sejm; at such sitting, the committee elect from amongst its members a presidium composed of a chairperson and his deputy. The presidium are in charge of the committee's work, establishing, among other things, the dates and agenda of particular sittings of the committee, and oversee preparations for such sittings, ensuring that committee members receive properly prepared materials in time. At the committee presidium request ministers and heads of the supreme organs of the state administration, and also heads of other state offices and institutions are obliged to submit reports and provide information, and take part in those committee sittings which examine matters concerning their scope of operation. The committee presidium adopts resolutions by majority vote. In case of an equal number of votes, the vote of the committee chairman is decisive. The committee chairman, and in case of his absence one of his deputies, presides over the committee debate. Presiding over the debate includes the duty to take charge of its course. The chairman of a committee may reproach a Deputy who, speaking during a sitting, has gone beyond the subject of the committee debate, and even request him/her to conclude his/her speech if calling him/her twice to keep to the point under discussion proved ineffective. The chairman may also eliminate the Deputy from the committee sitting if he/she notoriously makes the conduct of the debate impossible (the Deputy concerned may appeal from the decision of the chairman of the committee to the committee presidium which shall ultimately settle the case).

8. The competence of the standing committees

The most important tasks of the standing committees include:

- considering bills and draft resolutions,
- considering Senate resolutions to amend a given bill passed by the Sejm or to reject it, and also the President's motions that a given bill should be reconsidered by the Sejm,
- considering and giving an opinion on the guidelines for bills and draft resolutions,
- considering reports and information from ministers and heads of the supreme organs of the state administration,

– analysing the performance of particular sections of the state administration and economy,
– considering matters related to the implementation of the laws and resolutions passed by the Sejm, and also to the realization of Sejm demands,
– giving an opinion on motions tabled by the Sejm Presidium, concerning the election, appointment or dismissal by the Sejm of particular persons to or from definite government posts.

ANNEX— 6th Sejm committees (as of 4th April 2008)

a) Standing committees:

1. Administration and Internal Affairs
2. State Control
3. Special Services
4. European
5. Education, Science and Youth
6. Deputies' Ethics
7. Public Finances
8. Economic
9. Infrastructure
10. Physical Education and Sport
11. Culture and Media
12. Liaison with Poles Abroad
13. National and Ethnic Minorities
14. National Defence
15. Environmental Protection, Natural Resources and Forestry
16. Constitutional Accountability
17. Social Policy and Family Affairs
18. Rules and Deputies' Affairs
19. Agriculture and Rural Development
20. Local Government and Regional Policy
21. State Treasury
22. Foreign Affairs
23. Justice and Human Rights
24. Legislative
25. Health

b) Special committees:

1. Special Committee on Revision of Codes of Law
2. "Friendly State" Special Committee to cut down on bureaucracy

c) Investigative committees:

1. Investigative Committee to investigate the circumstances of the tragic death of the former Sejm Deputy Barbara Blida.
2. Investigative Committee to examine the case of the charge of exerting unlawful influence by members of the Council of Ministers, by the Chief of the Police, by the head of the Central Anticorruption Bureau and by the head of the Internal Security Agency on police officers, on functionaries of the Central Anticorruption Bureau, on prosecutors and on administration of justice officials in order to force them to exceed their authority or to make them fail to comply with their duties in connection with penal proceedings and operational and investigative measures taken with regard to cases involving or against members of the Council of Ministers, against Sejm Deputies and against journalists and reporters in the period between 31st October 2005 and 16th November 2007."

Mr Anders FORSBERG, the President, opened the debate to the floor.

Ms Heather LANK (Canada) indicated that in the Canadian senate, it had been decided to make the recording of debates and decisions in committee more formal, in order to ensure greater respect for procedures and more informative documents, especially minutes of proceedings. The Rules, Procedures and the Rights of Parliament Committee of the Senate had recently produced a report recommending the possibility for senators to use their mother tongue even if this was not an official language of Canada. In fact, the Senate represented minorities in particular, which explained why it was thought necessary to encourage the use of these languages – especially in the committee of aboriginal peoples and the committee of fisheries and oceans.

Mr Alain DELCAMP (France) said that he was surprised to learn that there were permanent committees in the majority of parliaments, whilst the idea prevailed in France that such committees did not exist in parliaments with a Westminster tradition, except for scrutiny purposes: what was one to make of this? He explained that in France, the distinction between permanent and special committees corresponded to the distribution of legislative and scrutiny tasks. He raised the possibility that parliamentarians might belong to several committees, raising the question of the number of members within each committee. He then posed several questions, in a comparative perspective between different countries: were committees composed in a similar way to in the National Assembly? Did legislation committees undertake preparatory work, or did they sometimes take decisions themselves instead of the plenary? Were committee meetings public? He then explained that in France, the staff working for permanent committees were rather generalist civil servants who did not work to the Chairman. Moreover, the problem of leaks of information rarely occurred in permanent committees, but rather in committees of inquiry, whose work was increasingly of interest to the media, and whose work was conducted more and more in the public eye. Finally, as for the follow-up of committee work, Mr Delcamp cited the question of monitoring how laws are implemented once they have been passed, which had been undertaken by the Senate for several decades, and needed to be strengthened, as it was important, given the power of the French administration, that decisions taken by Parliament should be implemented properly.

Mr Hans BRATTESTÅ (Norway) noted that the Norwegian parliament had thirteen committees, each matching an area of ministerial responsibility; each parliamentarian could be a member of only one committee. These committees did not have any powers of their own; they could examine only those questions raised by the Parliament. He underlined that he often found himself subject to a certain pressure to increase the numbers of staff working for committees, and he did what he could, in particular by instituting a protocol for resource sharing and by calling on additional administrative staff and experts, while keeping guard to ensure that the administrative arena should not trespass on the political. As for the work of the committees, the principle was of transparency, and hearings were public unless a decision had been taken to keep them private. It was important to ensure that committee work was not undermined, by parliamentarians sending their advisers to take their seats in committee. Finally, a degree of specialization among parliamentarians was discernible, each one concentrating on a small number of subject areas, although public opinion believed that the 169 Members of Parliament were all competent in every area!

Mr George PETRICU (Romania) mentioned the big reforms that were to be carried out in the Romanian Senate in autumn 2008, at the time of the parliamentary elections. Several reforms had been adopted, in particular of the permanent committees: their number would change from 16 as at present to a maximum of 10, or even eight, which would lead to an increase in the number of senators on committees, allowing them to specialize more and to produce their reports more quickly. The orders of the day would have to be presented at least three weeks in advance, which would allow senators to better plan and organize their work programme. Moreover, it was planned to strengthen the expertise available to parliamentary political groups and to integrate them more effectively with the work of the Senate. As for committees of inquiry, the number of proposals for new committees was strongly on the increase, which could cause a waste of time – especially when the subjects were of virtually no interest – and it could be desirable to limit to one per session, or even per year, the number of proposals to create committees of inquiry for each political group. In 2003, in the context of Romania's accession to the European Union, a mediating body had been disbanded; it now appeared desirable to reinstate it, to allow for greater co-operation between the two Houses of Parliament. Finally, it was also planned to link different committees more effectively with the work of the European Union, and not to limit the examination of these subjects to the Foreign Affairs Committee and the European Affairs Committee. All of these reforms had been carried out with the support of the Hungarian, Italian and French senates.

Mr Douglas MILLAR (United Kingdom) raised the issue of leaks of information, recalling that several years before, a leak had been identified and that, when the launch of an inquiry was envisaged, the chairman of the committee concerned had admitted to being himself the source of the leak: often it was politicians who were looking for publicity. In any case, the House of Commons had a procedure allowing it to take action against its members in leak cases, but in practice, it was not used. Mr Millar explained that the operation of scrutiny committees had been made systematic, through a co-ordinating committee called the Liaison Committee; the staff available to these committees had increased, while there was also the possibility of calling on experts;

moreover, there was a special office which co-ordinated the work of committees with the media, which had not existed before. He asked what experiences colleagues had had of involving the public in the work of Parliament, in particular electronic petitions. Finally, he recalled an example of a difficult experience involving the Foreign Affairs Committee: after having appeared before this committee, one of its witnesses had committed suicide, which had given a bad impression of the work of committees. It therefore seemed desirable to send to witnesses an information sheet before they appeared.

Mr Quddas KHAN (Bangladesh) recalled that previously in Bangladesh, ministers chaired parliamentary committees. This was no longer the case, and from now on only a member of parliament could take the chair – this deputy nonetheless remaining a member of the majority party. The support given to parliamentary committees had been strengthened, by the creation in Bangladesh of an institute of parliamentary studies, which was a good source of information. He concluded by asking for his colleagues' opinion on the possibility of giving the chair of a committee to an opposition member.

Mr Seppo TIITINEN (Finland) welcomed the interest in the debate, as committee work constituted the core activity of secretaries general. In the Finnish system, committees were tasked with carrying out detailed work, in preparation for a decision by the plenary. Committees, which could demand of ministries information on all of their preparatory work, saw themselves as carrying out two tasks: the preparation of legislative work, and monitoring after the fact of the Government's activities. The Finnish system was similar to the Norwegian one, with fifteen permanent committees giving an impetus to parliamentary work; they were tasked only with preparatory work, except for the Foregin Affairs and European Affairs Committees, which were the only ones to be able to speak in the name of the Parliament as a whole. The committee secretariats made up one of the three main departments of Parliament, and staff could be recruited from within ministries, which allowed them to make use of the required expertise in legislative matters. If the Finnish Parliament was a house open to the outside world, the work of committees nevertheless generally took place behind closed doors, to protect committee work and to shelter it from the curiosity of the media; in contrast, when the reports were completed, the work of the committee became public. The question of publicizing their work had led to many debates and discussions, but the conclusion had always been to prefer to work in private.

Mrs Stavroula VASSILOUNI (Greece) explained that in the Greek parliament, committees were tasked with preparatory legislative work, before bills were examined by the plenary. Committees were able when they wished to call on outside experts and non-governmental organizations. In 2001, a reform of the Constitution had allowed permanent committees to adopt laws without their passage through the plenary; nevertheless, this provision remained the exception and was used only for minor matters, more important bills having to be adopted by the plenary. Moreover, committees carried out a role of monitoring the government. Finally, the European Affairs Committee was also a permanent committee, but somewhat different from the others; its role had grown since the ratification of the Treaty of Lisbon.

Mrs Emma Lirio REYES (Phillipines) said that the idea of sending an information sheet to people called to give witness to committees of inquiry, suggested by Mr Millar, seemed interesting, in order to ensure that the work of committees was not challenged in court. On this subject, the Supreme Court of the Philippines had to give a decision on the possibility of interrupting committee hearings because of the failure to respect certain rules; this decision risked supporting the refusal of certain witnesses to come and appear before the committee, on the pretext that they were privileged witnesses.

Mr Marc BOSC (Canada) added that in Canada, hearings carried out by the House of Commons were rather brusque and strained, especially in contrast by those carried out in the Senate, which were often seen as more peaceful. For example, recently a committee had asked to see a witness, who had not refused to come before the committee, but was in prison: the Speaker of the House of Commons had sent a warrant, which had allowed the witness to appear.

Mr Sompol VANIGBANDHU (Thailand) indicated that in Thailand, where a committee could demand that a person come to give evidence, it had no way of forcing him to attend if he refused to do so. He wanted to know if, in other countries, sanctions could be applied in such a case.

Mr R.K. SINGH (India) said that in the Indian parliament, the committee system had been introduced in 1995, and had continued to evolve since. Committees, which could be of two types, either permanent or ad hoc, had on average thirty members; they could choose their own subjects of work, in liaison with the ministry to which they were connected. There was no precedent for a refusal to give evidence, but if there were such a case, sanctions were envisaged. Ministries carried out the bulk of the preparation of bills, but committees were beginning to produce their own proposals, of which the Government took more and more account, as they were bound to examine them. Finally, the chairman of certain committees always came from an opposition party. The current system was well balanced and produced good results.

Mrs Jacqueline BISHEUVEL-VERMEIJDEN (Netherlands) recalled the process of revising the administrative support to committees in the Netherlands, which had occurred ten years before. Three offices were to be distinguished: one tasked with an inquiry and investigation role, the second concentrating on the legislative process and the third focusing on European Union subjects. In parallel, procedures had been normalized, and whereas before each commission was autonomous, they now had to refer systematically to a combined manual, setting out all of the procedures. Moreover, in September 2008, a new numerical system would be put into place, especially in the area of document management. Mrs Biesheuvel-Vermeijden noted two preoccupations: on the one hand, parliamentarians increasingly wanted debates which had taken place in committee to be reproduced in the plenary, which was a problem; on the other hand, parliamentarians were asking for ever increasing quantities of information, investigations and debates, while the available resources were limited. As secretary general, one was sometimes led to suggest a refusal, which was always delicate.

Mrs Doris Katai MWINGA (Zambia) raised the issue of the powers of committees and of the Parliament when a person refused to give evidence. Such a case had arisen, and the courts had been of the opinion that Parliament could only reprimand, but could not apply any penal sanction. She noted moreover that sometimes, when a report was presented in plenary, some people, for political reasons, voted against their own report, which posed the question of the validity of this report.

Mr Umaru SANI (Nigeria) said that the three types of parliamentary committee – permanent, ad hoc and special – could study those issues referred to them by the plenary. They carried out a legislative and scrutiny role, and formulated recommendations destined for the plenary. Committees could not adopt laws, but a large part of legislative work was carried out by them. When a person refused to come to give evidence to a committee, the law authorized the committee to deliver an arrest warrant and force the person to appear. Committees played an important role within the Nigerian Parliament: the National Assembly had 360 members and 72 committees, and the Senate had 109 senators and 59 committees.

Mr Anders FORSBERG, President, was happy at the quality of the debate and the large number of participants. Many common issues emerged from their contributions, among them the central role of committees, but also the existence of different rules and traditions.

Dr José Pedro MONTERO (Uruguay) mentioned that in Uruguay, the distribution of members of permanent committees among the parties was defined following negotiations, in order to ensure a balanced representation. Special committees, tasked with scrutiny and inquiry functions on precise topics, had a time-limited mandate, whose duration was determined by the plenary. Committee meetings took place in private, but the minutes were placed on the Internet, this solution ensuring both transparency in the decisions that were taken and the efficiency of committee work.

Mr Ian HARRIS (Australia) tackled the subject of leaks from committees to journalists, saying that it could be considered that in such a case, the press was in possession of stolen intellectual property and could be pursued for handling stolen goods. Nonetheless, no politician wanted to get into a fight with the press. Taking the example from the Canadian senate, promoting the use of indigenous languages, he noted that it was possible for a member of the Australian parliament to use an indigenous language but this could lead to comprehension difficulties. In the Australian parliamentary system, parliamentarians could be members of several committees at once. If a person refused to reply to a summons from a committee, sanctions could be brought to bear, on the basis of contempt of the House.

Mr Anders FORSBERG, President, concluded the debate by underlining that secretaries general had to ensure a delicate balance, responding to the different needs and demands of committees, while at the same time bound by budgetary constraints. Moreover, secretaries general took on the role of employer, responsible for the staff and the smooth running of the organization, which could prove complex.

He then encouraged members to think of new subjects for communications, questionnaires or general debates.

The sitting rose at 5.00 pm.

THIRD SITTING
Tuesday 15 April 2008 (Morning)

Mr Anders FORSBERG, President, in the Chair

The sitting was opened at 10.00 am

1. Introductory remarks

Mr Anders FORSBERG, President, proposed two minor changes to the provisional orders of the day, bringing forward Mr Koca's communication, which was due to take place on Thursday, to that afternoon, and bringing forward Mr Brattestå's communication, which was due to take place on Friday, to Thursday.

It was *agreed* to.

He added that the Executive Committee's proposal relating to the rights of members who had not paid their subscriptions could be debated that afternoon, with the objective of taking a final decision at Geneva, in order to allow the members concerned to regularize their situation between now and then.

2. Administrative questions: new members

Mr Anders FORSBERG, President, said that the secretariat had received several requests for membership which had been put to the Executive Committee and agreed to. These were:

Mr Ghulam Hassan Gran	Secretary General of the House of Representatives of Afghanistan (This country is joining the ASGP for the first time)
Mr Enrique Hidalgo	Secretary General of the Chamber of Deputies of Argentina (replacing Mr Roberto MARAFIOTI)
Mr Ashfaque Hamid	Secretary General of the Bangladesh Parliament (replacing Mr ATM Ataur Rahman)
Mr Aloys Kayanzari	Secretary General of the Senate of Burundi (replacing Mr Edouard Nduwimana)

Mr Boubacar Idi Gado	Secretary General of the Inter-parliamentary Committee of the West African Economic and Monetary Union (WAEMU) (This union is joining the ASGP for the first time)
Mr Mohamed Traoré	Secretary General of the National Assembly of Mali (replacing Mr Seydou Nourou Keita)
Mr Abdelhamid Khalili	Secretary General of the House of Representatives of Morocco (replacing Mr Abdeljalil Zerhouni)
Mrs Marilyn B. Barua-Yap	Secretary General of the House of Representatives of the Philippines (replacing Mr Roberto P. Nazareno)

These candidates presenting no particular problems, Mr Anders FORSBERG proposed that they should be accepted as members of the ASGP.

It was *agreed* to.

3. Presentation of the responses to the questionnaire on parliamentary legal, financial and administrative autonomy by Mr Alain DELCAMP, Secretary General of the Presidency of the French Senate

Mr Alain DELCAMP (France) presented the responses to the questionnaire on the autonomy of Parliaments.

"INTRODUCTION

The aim of this report is to synthesize answers to the questionnaire on the "Autonomy of Parliaments in its various aspects" which was drafted and approved at our meeting in Bali on May 3rd 2007. The decision to conduct the study had been taken six months before in Geneva. The reason behind the need to further investigate such a familiar notion is twofold: identify to what extent our approaches are similar; create, for our collective benefit, benchmarking tools. Presumably, this should help us better assert the autonomy of decision of the House we are in charge of.

Our association had already tackled the subject in 1998 in a study approved in Moscow and published in the *Constitutional and Parliamentary Information*. It will be referred to this document when needed, though its focus was narrower and mostly centred on administrative aspects.

The present study relies on the idea that before looking into the way Parliaments use their power to organise themselves autonomously, it is necessary to clarify the

foundations of this autonomy and to identify the areas in which Parliaments can be autonomous.

Researching the foundations of parliamentary autonomy has, very interestingly, led each of the contributions to mention the key principles of the political organization of their country. It appears, from the very rich body of data that has been collected, that there is a big distance between, on the one hand, what can be found on the subject of autonomy in our legislations and, on the other hand, the historical and political context in each of our countries, which is the decisive factor for understanding of how Parliaments work.

The questionnaire was divided into three parts: foundations and sources of Parliamentary autonomy; administrative autonomy; financial autonomy. The vastness of the subject has not frightened our colleagues. Neither has the number of questions.

The scale of the questionnaire allowed our colleagues not only to describe how the principle of autonomy is implemented in their institution, but also to examine how it influences the way Houses play their political, legislative and scrutinizing role. This aspect was not part of the initial project but the quality of the contributions made it necessary to give some elements of feedback on their content. However, since not all contributions raised them, In institutional issues will not be dealt with in the same degree of detail as the administrative aspects. In any case, this data is an appropriate landmark for future studies in the field of the ability for Parliaments to autonomously organize themselves and define their roles and procedures.

The present study is based on 35 contributions:

- 25 from 19 European countries (Germany, Belgium, Estonia, Spain, Finland, Greece, Iceland, Italy, Netherlands, Poland, Principality of Monaco, Romania, United-Kingdom, Serbia, Slovakia, Slovenia, Sweden, Switzerland), including 13 members of the European Union. Also falls in this category the answer of the Parliamentary Assembly of the Council of Europe and references to France (even though there has not been a proper French answer to the questionnaire);
- 3 from the Middle East (Bahrain, Israel and Lebanon);
- 1 from Maghreb (Morocco);
- 2 from the Americas (Chile and Canada);
- 2 from Asia (Japan and Thailand);
- 1 from Oceania (Australia).

Among the 35 answers, 12 came from single House countries, 22 from bicameral (including 12 from lower houses, 9 from upper houses and 1 joint answer).

All contributions have been reviewed and compiled in a document available upon demand (a.delcamp@senat.fr) and which could be posted on the IPU/ASGP website.

The present paper organizes the answers by theme in order to highlight the relevant issues and to provide a frame for future discussions. The aim was to make the document a convenient reference tool.

The questions have been regrouped under three headings:

- **Foundations and sources of Parliamentary autonomy**. This topic is the heart of our subject as it allows to understand not only the rules and conceptions behind the creation and development of a Parliament in each country, but also the global philosophy of the political system and the practical elements of the institutional system (most notably the relationship with the executive branch and, if it exists, the Constitutional court).
- **Autonomy, organization and powers of Parliament**: this topic encompasses what one could call "institutional autonomy". It had not initially been planned to raise this issue but the amount of elements gathered made it necessary. The word "organization" (which should be distinguished from the "running", subject of the third point) refers to the ability of Parliaments to design their internal organization and to use the decision making power bestowed upon them by constitutional arrangements (in areas such as, on the one hand, law making and government scrutiny and, on the other hand, internal administrative organization). All the aspects are unfortunately not extensively dealt with in the same length given the limited data available.
- **Legal, administrative and financial autonomy**. This section will be the most detailed given the precision of the contributions. It deals with - and this is a matter of interest for the managers we, secretaries-general, are - the working of Parliaments, the way they conduct their day to day business.

This aspect of parliamentary autonomy, though less visible than the "institutional autonomy", is a necessary condition of its realisation. A large number of contributions consider indeed "material autonomy" a significant aspect of autonomy.

Through the study of these three themes, this paper will present the diversity of questions raised by the notion of parliamentary autonomy. It will illustrate the fact that considerations of high institutional theory, such as our debates on the significance of parliamentary autonomy, have direct implications for the practical running of our Parliaments.

LIST OF CONTRIBUTORS

Germany	Bundesrat
Australia	House of Representative
Bahrain	the Council of the Representatives
Belgium	House of the Representatives
Belgium	Senate
Canada	House of Commons
Chile	Senate
Estonia	Riigikogu
Finland	Eduskunta – Riksdagen
Greece	Boulê
Iceland	Althingi
Israel	Knesset

Italy	Camera dei Deputati
Italy	Senate
Japan	House of Councillors
Lebanon	National Parliament
Morocco	House of the Representatives
Norway	Stortinget
Netherlands	Eerste Kamer
Netherlands	Tweede Kamer
Poland	Sejm
Poland	Senate
Principality of Monaco	National Council
Romania	House of Commons
Romania	Senate
The Council of Europe	Parliamentary Assembly
The United Kingdom	House of Lords
The United Kingdom	House of Commons
Serbia	Narodna skupstina
Slovakia	National Council
Slovenia	Assembly National
Spain	Senate
Sweden	Riksdagen
Switzerland	National Council and the Council of the States
Thailand	House of Representatives

I. FOUNDATIONS AND SOURCES OF PARLIAMENTARY AUTONOMY

Before studying the foundations and sources one had to make sure the definition of autonomy used in the questionnaire was widely shared and understood.

1. A shared value

One can only be satisfied to note that **all contributors more or less share the suggested definition**, which goes as followed: "By autonomy, we mean the ability of Parliament to work out its own standards of operation and to obtain the means necessary to the achievement of its missions, mainly: to represent the population, to express various points of view publicly, to work out and vote the most important standards (generally called laws) and to control in a way as independent as possible the action of the government and operation of the services of the executive". At this stage, it can be noted that the definition places a lot of emphasis on the autonomy from the government, a point which will later prove debatable.

A majority of contributions totally approve the definition, which matches their idea of parliamentary autonomy (Germany, Australia, Bahrain, Belgium, Canada, Chile, Spain, Estonia, Finland, Iceland, Israel, Italy, Japan, Lebanon, Norway, Netherlands, Poland, Romania, Slovakia, Slovenia, Sweden, Thailand).

The British contribution stresses that it would have been worth specifying from whom the autonomy is conceived. In the British context, the definition is relevant regarding the judiciary, but not regarding the executive as there is, in the Westminster

system, a "substantial identity between the Government and the majority in the House of commons".

The fact that there is, in every political system of parliamentary inspiration, a strong identity between the government and the majority in Parliament does not mean that the distinction between the legislative and the executive power is not relevant. Both are institutions organized separately and according to specific rules. What it shows - and this will be dealt with further - is that **"autonomy of powers" does not mean "separation of powers"**. Parliamentary life is a good example of it (especially in legislative matters, as pointed out by the Dutch contribution).

When answering this first question, contributions stress the importance for a Parliament of being able to: draft its own standing orders and internal working procedures (Australia, Canada, Germany, Thailand, Japan); scrutinize the action of the executive branch, even though prerogatives and means of action may vary from one Parliament to the other (Canada, Slovakia, Lebanon); be independent from the Government (Thailand, Japan).

Some contributions also mention the importance of practical elements in order to achieve a level of real autonomy, such as the freedom to decide on its own budget and the ability to determine the appropriate level of resources (Australia, Belgium, Finland, Switzerland). Police powers and the ability to resort to the use force within the institution are also mentioned (Italy, Japan).

2. Separation of power and parliamentary sovereignty

Two foundations of parliamentary autonomy have been identified in the contributions: the principle of **separation of powers** and that of **parliamentary sovereignty**. The latter is often mistaken for the notion of sovereignty of the People.

The distinction (inspired by the two main systems of organization of powers: Westminster on the one hand, the United States and France on the other) was suggested in the questionnaire, but no one knew whether it was relevant or not. It appears that it is. An excellent summary of the alternative can be found in the contribution from the Belgian House of Representatives: *"Parliamentary autonomy results necessarily, depending on the constitutional system,* **either** *from the principle of separations of powers (autonomy being conceived as a barrier protecting the assembly against interferences from other powers),* **or** *from the principle of sovereignty of Parliament (autonomy being the consecration of the prominence of Parliament over every other authority within the State)".*

A number of nuances, mentioned in the contributions, are worth noting:

- **The distinction between countries with a tradition of separation of powers and those with a tradition of parliamentary sovereignty does not match up the distinction between countries of "Anglo-Saxon" culture and countries of "Latin" or "continental" culture** (e.g.: Australia affiliates itself to both conceptions; Nordic democracies are countries with a tradition of sovereignty or Parliament but also have constitutional arrangements with references, direct or indirect, to the separation of powers). Most of the times, **both traditions coexist**;

- The attachment to the principle of parliamentary sovereignty leads to an "innocent" question: **autonomy from whom?** Depending on the nature of the political system, the question has to be looked at from the point of view of the autonomy from the judiciary and/or the executive branch.
- In systems of separation of the powers -on this, contributors are unanimous- **separation shall not be absolute**: "Separation of powers is one of the founding principle of the Swiss legal order. But it is relative. The three powers do not limit their interventions to their main area of competence. They also take part in the exercise of other official functions". The Romanian contribution opportunely links the notion of separation to that of **balance of powers.** The latter notion is found again in the contribution from the Bahrain's Council of Representatives: "separation of powers plays an important part by providing to each power a reasonable space for autonomy".

Most of the times, the principle of separation of powers is seen as the source of parliamentary autonomy, either as an **implicit philosophical foundation** (Australia, Belgium, Chile, Finland, Iceland, Japan, Morocco, Monaco, Norway, the Netherlands, Poland, Serbia, Switzerland) or because it is **explicitly mentioned in the Constitution** (Bahrain, Estonia, Greece, Lebanon, Poland, Romania, Slovenia) or in **constitutional case law**. The American notion of "*Checks and balances*" (the Netherlands) and that of **cooperation of powers** (Bahrain, Lebanon) are also mentioned.

XVIIth and XVIIIth century philosophical principles are sometimes referred to in order to justify the separation of powers (references to Locke or Montesquieu are found in the Icelandic and Italian contributions).

A number of contributions make it clear that separation of powers is not absolute and the Constitution can arrange for various types of cooperation of powers (Iceland, the Netherlands, Lebanon, Bahrain, Australia), for instance through the responsibility of the Government before Parliament (Australia), the fact that ministers remain Members of Parliament (Australia) or the possibility for judges in exercise to become Members of Parliament. Cooperation of powers can also consist in the participation of the executive branch in the legislative function (Monaco, Switzerland, the Netherlands, Iceland): in Switzerland, the Federal Council has legislative powers while, in Iceland, the President (and in the Netherlands the Government) can refuse to promulgate a bill that has already been passed by Parliament (leading to a referendum in Iceland; to the dissolution of the Lower House in the Netherlands). Another instance of cooperation of powers is when judicial powers are bestowed on Parliament (Switzerland).

Another principle, bordering that of cooperation of powers, has also been called up: the principle of power sharing (Israel, Thailand).

Only one contribution indicates that in its country, the principle of parliamentary autonomy is unknown, as such, even though elements of autonomy exist in practice (Israel).

The principle of **parliamentary sovereignty**, consubstantial to the British approach to parliamentary democracy, is also referred to elsewhere (Finland, Sweden, Slovakia). It is worth noting that not all Parliaments of Anglo-saxon tradition recognize themselves in the principle of parliamentary sovereignty (Australia). Some identify themselves with

both the separation of powers and the sovereignty of Parliament (Canada). Several contributions regard autonomy as a defining principle of "parliamentary democracy" (Estonia, Iceland) or as a necessary consequence of traditional democratic values (Greece, Poland, Romania, Spain). Germany combines for historical reasons, both principles of separation of powers and of parliamentary sovereignty in its Federal organization, according to which the Länder, through their representatives in the Bundesrat, participate in the exercise of competences of the Federal State (in this instance, Federalism is viewed as another form of separation of powers).

Parliamentary autonomy can also rely on the principle of **sovereignty of the People**, given the fact that Members of Parliament are the representatives of the People (Germany, Italy, Finland, Japan, Slovenia). Several contributions also mention the **function of representation** as a foundation for autonomy (Canada, Lebanon, Romania, Sweden): being the highest representative institution of a country is considered enough of a justification for autonomy. According to this line of thought, Parliaments occupy a central and prominent place in institutional arrangements (Italy, Japan, Romania, Sweden, Serbia) and need a high degree of independence from the other powers (Italy, Morocco, Serbia, Slovakia).

To sum things up, it appears that, in some constitutional systems, several philosophical principles, for instance the sovereignty of the People combined with separation of powers or Parliamentary sovereignty, can be seen as the foundations for autonomy.

3. A reality of constitutional, or even supra-constitutional, level ...

Every contribution mentions the Constitution as a foundation for the principle of parliamentary autonomy, either because there is an explicit reference in the text (which is rare) or because **essential elements of autonomy are guaranteed by the Constitution** (even though it does not explicitly refer to the principle). In any case, the principle of autonomy is of supra-legislative level.

The vast majority of contributions consider that the founding principles of parliamentary autonomy (separation of powers, sovereignty of the People, sovereignty of Parliament) are either mentioned in a legal text (usually of constitutional level as in Germany, Bahrain, Belgium, Canada, Chile, Estonia, Finland, France,[5] Greece, Iceland, Israel, Italy, Japan, Lebanon, Morocco, Monaco, Poland, Romania, Serbia, Slovenia, Spain, Thailand) or are the consequence of constitutional provisions (Australia, Norway, the Netherlands, Slovakia). Countries of the latter category sometimes point out that the principle of responsibility of the government before Parliament (according to which a government resigns when it loses the confidence of Parliament) is a necessary consequence of the Constitution, even though it is not explicitly mentioned (Norway, the Netherlands).

The United Kingdom sets itself apart because of the customary nature of its Constitution: the principle of parliamentary sovereignty is the product of a number of texts ("Parliamentary Acts") and of institutional habits. The same remark can be made

[5] Article XVI of the declaration of the Rights of Man and of the Citizens (August 26th, 1789) of constitutional value in France, states that "Every society in which the observance of the law is not assured, nor the separation of powers defined, has no Constitution at all".

for Israel, whose contribution notes that, given the absence of a Constitution, the founding principles of the prerogatives of Parliament derive from the fundamental law and the proclamation of independence, both of supra-legislative value.

Lastly, the Italian contribution contends that some of the principles which are closely linked to Parliamentary autonomy (such as the principle of popular sovereignty), are bestowed a value superior to that of the Constitution. Consequently, even a revision of the Constitution could not undermine them.

4. ... closely linked to the history of each country ...

The founding principles of Parliamentary autonomy and of parliamentary sovereignty have generally been asserted in times of **major political changes**, for instance independence or accession (or return) to liberal democracy, over a period covering the last two centuries.

In the first category can be found Poland (both the first Polish Constitution of May 3rd, 1791, which is also the oldest written Constitution in Europe, and the latest of April 2nd, 1997, refer to the separation of powers), the Netherlands (Constitution of 1815 and, above all, 1848), Chile (Constitution of 1828), Belgium (1831), Serbia (the first Serbian Constitution in 1835, acknowledges three powers), Canada (Constitutional law of 1867), Iceland (1874, 1904, 1944), Australia (1901), Finland (Constitution of 1919, significantly modified in 2000), Estonia (Constitution of 1920 whose principles have been confirmed by the Constitution adapted in 1992), Lebanon (1926), Israel (proclamation of independence in 1948), Morocco (1962), Slovenia (1991) and Slovakia (1942).

The contribution from the Dutch Upper House describes the historical process which led to, in 1848, the implementation of ideas of separation of powers in the organization of the State, and subsequently made way to the principle of responsibility of the Government before Parliament (which is the condition for legitimacy in every parliamentary regime). In France, the Constitution of September 3rd, 1791 is the first to organise the new powers after the proclamation of sovereignty by the National Assembly on June 17th, 1789.

In the second category fall Spain (Constitution of 1812), Morocco (1911), Thailand (Constitutional monarchy in 1932), Japan (Constitution of 1947, even though early elements of separation of powers could be found in the Imperial Constitution of 1889), Italy (Constitution of 1948), Germany (Constitution of 1949), Romania (1991), Bahrain ("National Action Charter" adopted by referendum in 2001, Constitution of 2002).

The United Kingdom has followed a different process: parliamentary sovereignty has been asserted as early as 1689. Subsequently, a continuous process led to the 1911 Parliament Act.

Sweden is another unconventional example of institutional evolution: the Swedish contribution notes that the principle of parliamentary sovereignty was asserted as late as 1975, as a result of a modification of the Constitution. Norway's institutional history does not either fall into a category: its Constitution is the oldest written constitution still in force and refers to the separation of powers. It was written in 1814, when Norway and Sweden formed a unified kingdom within which each enjoyed a large autonomy.

In some instances, **constitutional case law** played (or still plays) an important part in the definition of the content and the scale of Parliamentary autonomy (Norway since 1884, Italy in 1959, Slovakia in 1995). In Italy, popular sovereignty, a notion from which parliamentary autonomy derives, is regarded by constitutional case law as a principle of supra-constitutional value.

5. ... in a complex institutional context

Several contributions state that Parliament enjoys absolute autonomy (Bahrain, Finland, Greece, Iceland, Lebanon, Netherlands, House of Commons of Romania, United Kingdom, Thailand).

Some point out that it is in the exercise of constitutional duties that Parliament enjoys absolute autonomy, particularly in defining its internal procedures and regulations. This is especially true where there is no control of the compliance with the Constitution of the Houses' standing orders (Belgium, Sweden).

The contribution from Slovakia concludes that Parliaments' autonomy is almost absolute if the only limitation is the obligation to comply with the Constitution.

a) The need to comply with the Constitution and the prerogatives of other constitutional powers

The other contributions indicate that the **principle of parliamentary autonomy has to be reconciled with other principles of constitutional value**: compliance with the Constitution and other principles of constitutional level (Germany, Belgium, Chile, Italy, Japan, Monaco, Slovakia, Slovenia, Switzerland); legislative provisions applicable to public authorities (Switzerland); prerogatives of other branches of the State which are usually mentioned in the Constitution (Morocco, Norway), fundamental rights (Canada, France, Iceland); sovereignty of the People (Serbia).

Several contributions specify that there can be parliamentary autonomy only within the limits set by the Constitution and that Parliaments can only be autonomous so long as they do not go against fundamental rights (Germany: "legislative power is bound by the constitutional order"). It must not encroach on attributions of other branches of the State (Slovenia, Slovakia), unless in cases when Parliament explicitly decides to make the Government accountable.

In some contributions, the need to comply with the Constitution is considered a limitation to parliamentary autonomy (Dutch Upper House, Estonia, Italian Senate, Romanian Senate, Spain). The argument is that it conveys the idea that autonomy is not absolute or that it is perceived as absolute only within the perimeter of its constitutional prerogatives... The contribution from the Spanish Senate explains that Parliament shall not be fully sovereign because, as an institutional body, it is under the obligation to comply with the Constitution it has been instituted by. The Greek contribution specifies that all powers come from the people and must be used according to the Constitution.

It is sometimes argued that autonomy must not be in contradiction with national laws and case law (Poland) as well as international agreements (Norway).

Israel's situation is peculiar – and is now becoming controversial – in the sense that the High Court of Justice is bestowed extensive powers over parliamentary work: it scrutinizes the observance of the democratic process, the regularity of parliamentary procedures and the extent to which laws comply with constitutional principles.

Parliaments of the Westminster tradition seem not to place a lot less emphasis on the notion of autonomy because, in their approach, Parliament comprises the Houses and the Crown, including members of the Government (United Kingdom, Australia, Canada). In the United Kingdom, particularly, the principle of autonomy is ranked a lot lower than that of parliamentary sovereignty, "the most important principle" in the British Constitution.

According to the Italian contribution, the autonomy of Parliament is also limited by the need not to encroach on the prerogatives of other constitutional bodies.

Some contributions contend that autonomy does not imply full sovereignty in the enactment of internal rules, either because of the constitutional prerogatives of the executive power (Morocco, Monaco) or because the executive power is involved in the drafting of constitutional or institutional provisions regarding autonomy (Norway).

b) Compliance with the rule of law

Several contributions underline that autonomy is limited by the rule of law (Bahrain, Poland, Estonia, Finland, Iceland, Japan, Serbia, Slovakia). Such a limitation can either be explicitly mentioned in the Constitution (Germany, Iceland, Poland, Serbia) or only be a consequence of constitutional provisions (Japan). The Finnish contribution notes that the rule of law limits the scope of parliamentary sovereignty. The British one contends that there is no limitation to the sovereignty of Parliament but makes it clear that the rule of law is guaranteed by independent Courts and that, in practice, Houses of Parliament fall into the Court's jurisdiction.

Some contributions mention the need to respect fundamental rights (Canada, Estonia, Finland, Japan, Monaco) and the principle of equality (Iceland).

Other contributions highlight the fact that, in some countries, the **absence of legal boundaries to parliamentary autonomy might be due to the fact that there is no Constitutional Court** (United Kingdom, the Netherlands).

Another set of contributions does not explicitly refer to the rule of law but argues that autonomous Parliaments must, in the first place, comply with the Constitution and the ensuing principles (Belgium, Australia, Canada, Germany, Spain, Greece, Italy, Slovenia, Romania, Norway, Monaco, Lebanon, Chile). Compliance to **constitutional case law** is also mentioned (Germany, Romania, Lebanon, Italy).

Several contributions from Parliaments in Member States of the European Union underline the need to comply with the European Union law (Italy). Compliance with international law is also noted (Slovenia, Norway).

Some contributions specify that the Constitutional Court can be in charge of solving disputes between constitutional authorities (Poland, Italy).

Beyond the question of autonomy *stricto sensu*, several contributions emphasize the fact that **bills passed in Parliament must comply with the Constitution** (Australia, Slovenia, Finland, France, Poland, Morocco, Japan, Italy) and that so do Parliament's standing orders (Spain, France). The Swiss contribution adds that no authority shall refuse to implement the provision of a Federal law on the grounds that it might be contrary to the Constitution.

Contributions from Morocco and Bahrain specify that autonomy is limited by the interdiction made to Parliament and its members to question the monarchial nature of the regime as well as, in Morocco, Muslim faith and the King's person.

The contribution from Israel stresses the extended powers of the High Court of Justice in terms of control over Parliament's acts and regulations.

II. AUTONOMY AND ORGANIZATION OF PARLIAMENT

In this section is summed up data which has been collected despite the fact that it is not strictly related to the questionnaire. It needed to be presented, given the richness of its substance.

1. Statutory autonomy

A large number of contributions identify the elements of parliamentary autonomy which are mentioned in the Constitution, and most notably two of them: statutory autonomy and parliamentary immunity. Regarding statutory autonomy – the ability to autonomously enact regulations -, many contributions did not dissociate the "standing orders" and "rules of procedure" from internal administrative acts. If the ability of a House to enact both types of documents has the same foundation, the legal status of the documents is not necessarily the same.

The aim of standing orders is to **determine the conditions according to which Parliament can exercise its constitutional prerogatives** (mainly: law making and government scrutiny). To that extent, standing orders can be described as supplements, substitutes or even, in the British case, substantial elements of the Constitution.

Administrative acts determine **internal management rules** and mainly deal with the definition and use of the resources granted to Parliament. The question one should ask in relation to administrative acts is whether Parliament should be regarded as a "regular" public institution and if the rules applicable to its internal management should be the same as the ones governing the rest of the public sector.

Regarding the first category of regulations, the general feeling is that **the ability to autonomously enact standing orders and rules of procedures is regarded as the symbol of the autonomy of Parliament**. The drafting of internal regulations differentiates itself from the drafting of laws by the fact that **the executive does not take any part in the process**. The only limitations to the powers of Parliament in this area arise, in some countries, from the Constitution: constitutional provisions which

provide the framework for parliamentary organization; standing orders submitted to the control of the Constitutional Court. The latter situation seems to be more frequent in the bi-cameral countries than in others (France, Switzerland).

Regarding the second category, the situation is very different from one country to another. However, two situations can be identified: on the one hand, a number of Parliaments adopt for their internal organization the rules applicable to all other public institutions without viewing it as a breach in the separation of powers; on the other hand, there are countries where Parliament insists, even symbolically, on enacting its own rules. A middle ground seems to be emerging, where Parliament holds on to its statutory autonomy in areas related to its missions but tries, as much as possible, to take into account the general legal rules and transpose - all or some of - them into its own regulations. For instance, in France, Courts tend to recognize the statutory autonomy, as long as both Houses of Parliament are responsible enough to take the appropriate measures. Where the assemblies have failed to regulate, Courts refer to the general legal rules.

The vast majority of contributions consider that autonomy means the possibility for a Parliament to enact its own rules (Germany, Australia, Canada, Chile, Spain, Estonia, Finland, Greece, Iceland, Israel, Italy, Lebanon, the Netherlands, Poland, Serbia, Slovakia, Slovenia, Romania, Japan, Thailand). The British Constitution makes it clear that the only limitations to the statutory autonomy of both Houses are the ones the Houses set themselves...

The freedom each House enjoys to determine its standing orders and internal procedures, in compliance with the Constitution, is presented as the key element of parliamentary autonomy (Germany, Australia, Belgium, Finland, Greece, Iceland, Israel, Italy, Japan, Lebanon, Morocco, the Netherlands, Poland, Romania, Slovenia, Sweden, Switzerland).

The Belgian contribution specifies that autonomy means both the independence of Parliament from the executive branch and the independence of each House from the other. As a result, it cannot be up to the legislator to interfere in the statutory organization of each House.

However, in several - limited - instances, certain aspects of the internal organization of Parliament are regulated by legal provisions and not by autonomous regulation (Belgium, France, Japan, the United Kingdom), especially in countries where there are two Houses.

All contributions indicate that the **executive does not have any power to intervene in the definition of the rules governing the internal running of parliamentary assemblies**, which remains of the exclusive competence of the assemblies (Germany, Australia, Bahrain, Belgium, Canada, Chile, Spain, Finland, Greece, Israel, Italy, Japan, Lebanon, Morocco, Norway, the Netherlands, Poland, Romania, the United Kingdom, Serbia, Slovakia, Slovenia, Sweden, Switzerland, Thailand).

The Belgian contribution adds that the Constitution explicitly forbids any kind of interference on the executive's part in the drafting of standing orders. The Dutch contribution indicates that only Members of Parliament can initiate amendments to

standing orders. In Italy, only parliamentary authorities are entitled to implement and interpret standing orders.

If the executive cannot interfere in the definition of the rules governing the working of Parliament - and this is a substantial difference with the law making process, even in countries where the legislative power is shared with the executive (the Netherlands) - there are countries where it can - but rarely does - suggest amendments and modifications to Parliament's internal rules (House of Commons of the United Kingdom, Sweden).

Nevertheless, in parliamentary regimes where there is a necessary congruence of the parliamentary majority and the government, Houses of Parliament consult and involve the Government when they decide to change their rules.

Several contributions identify the control of **compliance with the Constitution** as a limitation to the ability of the assemblies to self-regulate (Italy, Monaco), even when standing orders are not submitted to any kind of constitutional control: a Constitutional Court can indeed decide to repeal a provision when it judges that is has been adopted according to a procedure which is contrary to the Constitution, even though the said procedure is governed by standing orders of a House. In France, since 1958, it is a constitutional requirement (article 61) that every modification of standing orders is submitted to the Constitutional Council. It could be argued that this constitutional provision imposes a tight limitation of Parliament's margin for manoeuvre.

Lastly, the peculiar situation of the Houses of the British Parliament has to be mentioned as there is in each House a "*Leader*" appointed by the Prime Minister, acting both as a minister in charge of the relations with Parliament and as an official of the House (advisor for the implementation of standing orders in the House of Lords).

2. Parliamentary immunities

In many contributions, **parliamentary immunities** and the liberties bestowed to the Members of Parliament in order to guarantee their independence from the executive and judicial powers are perceived **as supplements to institutional autonomy**. Among these supplements are also, on the one hand, the need for judges to obtain an authorization of the assembly in case of most law suits against a Member ("**inviolability**") (Belgium, Estonia, Finland, Italy, Japan, Lebanon, Monaco, Slovakia, Slovenia, Sweden, Switzerland) and, on the other hand, the freedom of speech and of vote that Members of Parliament enjoy ("**irresponsibility**") (Belgium, Estonia, Finland, Italy, Japan, Lebanon, Monaco, Slovakia, Slovenia, Sweden, Switzerland).

In some instances, assemblies hold the exclusive power to appreciate the regularity of the election of their members (Belgium, Italy, the Netherlands) and to implement the rules applicable to "ineligibility" and "incompatibilities" (Italy).

The prohibition of the imperative mandate, regarded as a protection of free speech and free vote, is also considered as a guarantee of autonomy (Estonia, Slovakia, Finland, Lebanon, Slovenia). It is explicitly mentioned in the French Constitution. The Estonian contribution mentioned also the parliamentary indemnity as a guarantee for independence.

In some instances, standing orders are granted a value superior to that of the law (Chile, Slovenia, Sweden).

The ability of a House to elect its president has been mentioned as a protection of its autonomy (Iceland, Italy, Japan, Romania).

3. Legislative and budgetary powers

a) Legislative powers

Our British colleagues, in a joint contribution, provide us with enlightening insights on the spirit of the Westminster system. They reassert the sovereignty of Parliament but move on to admit that it cannot be absolute anymore, even in the United Kingdom: "After centuries of struggle, the power of the British state resides in the Government. The Government's creation and continued existence depends on its ability to command a majority in the House of Commons". In addition, countries of British tradition seem to place less emphasis on the principle of autonomy as their Parliament comprises at the same time Houses and the Crown, including members of the Government (Australia, Canada, the United Kingdom). In the United Kingdom especially, the principle of autonomy is based on that of sovereignty of Parliament, the most important principle of the British Constitution. It is almost as if the issue was irrelevant.

It arises from this conception that governmental legitimacy is based on the fact that it is an emanation of the majority in Parliament. Hence, the question of the scale of Parliament's independence from the executive loses some of its relevance.

"By-products" of this conception can be found for instance, in the Netherlands or in Iceland where the **legislative power is shared between Parliament and the Government.** Such an arrangement can justify (as in Monaco) that the Prince's approval is required prior to every modification of the law organizing the working of the Houses. In other instances, where some areas of parliamentary activities are regulated by Law, governments do not hold the power to oppose the promulgation of bills (France, Japan, Slovakia). The case of Iceland is interesting: the President of the Republic can oppose the promulgation of a bill but, if he does, a referendum on the bill is automatically organized. The contribution from the Dutch Upper House points out that the government can refuse to promulgate a bill, but in this case it either has to resign or to dissolve the Lower House and call for new elections.

b) Budgetary powers

Some contributions provided data on the **powers of their Parliament in the discussion of the nation's budget**.

Only Parliament can vote the budget, according to the principle of "consent to taxation" (Canada). However, in a number of cases, Parliament only enjoys limited amending powers in order to constrain spending and limit the deficit (Estonia, Poland, Japan, Spain, Lebanon). In Spain, Parliament cannot decide on a cut in public resources. In Monaco, the House has no amending power. Where the amending power is limited, the right to initiate provisions which are potentially costly for public finances can also be restricted (Spain), but not always (Lebanon).

Regarding the right of initiative, most contributions emphasize the exclusive competence of the executive in budgetary matters: the draft budget is first prepared by the Government and then presented to Parliament (Belgium, Canada, Estonia, Spain, Japan, Monaco, Poland, Romania, France).

In some countries, the budget follows the same procedure as other laws (Chile, Norway, the Netherlands) while, in others, there are specific procedures, especially in terms of organisation and timing of the discussion (Belgium, Estonia, France).

A few contributions mention the prominent role of the Lower House in budgetary matters: in Belgium, only the House of Representatives discusses and votes the budget while, in the Netherlands, the Senate does not have the power to amend (but this limitation is not specific to the finance bill). In France, the budget must be presented to the Lower House first, but Senators and Members of the National Assembly have the same rights and powers once the examination process has started.

4. Scrutinizing powers

Most contributions indicate that Parliament holds a scrutinizing power on the actions of the executive. This power can be organized according to rules defined by the Constitution (Spain, Estonia, Finland, Israel, Japan, Morocco, Slovakia, the Netherlands, Poland, Romania, Switzerland).

Constitutions can either be strict or loose in their definition of the scrutinizing function: it is limited to the Lower House in Poland while, in Japan, Houses cannot monitor the actions of the Government during the sessions and cannot investigate twice the same policy area.

Several contributions insist on the political nature of parliamentary scrutiny (Finland, Switzerland) except when the House has to question the probity of a member of the government. The fact that governments are accountable before Parliaments is presented as one of the manifestations of parliamentary scrutiny (Slovakia). A few contributions note that parliamentary scrutiny of Government work is not mentioned in the Constitution and has been a custom since the XIXth century (the Netherlands). In France, the Constitution does not mention this power either.

Several contributions contend that the necessity for the majority to support the government undermines the effectiveness of parliamentary scrutiny (Australia, Israel, Thailand). The same goes for the possibility for a government minister to remain a Member of Parliament.

Scrutinizing tools are very diverse (Estonia, Israel, Monaco, Poland, Romania): information of Members of Parliament, committee hearings, questioning, parliamentary inquiries, votes of no-confidence, etc...

Parliamentary scrutiny can be focused on the way governments spend public money. In this case, annual reports established by ministerial departments can be used as a basis for parliamentary investigations (Canada).

The Belgian contribution adds that Members of Parliament have the power to conduct individual inquiries (eg: access to prisons, military bases).

In Morocco, Bahrain and Monaco, the specificities of constitutional monarchies tend to limit the scope of parliamentary control over the executive (the Government is not accountable before Parliament in Monaco and the monarchy cannot be questioned in Morocco and Bahrain). In Chile, only the Lower House has scrutinizing powers while in Japan, the resources available for monitoring the government, if they exist, are not perceived as an element of parliamentary autonomy. The Serbian contribution specifies that the control over the government is not as independent as it could, given the strong political legitimacy of the executive, superior to that of the legislative of judicial powers.

III. AUTONOMY AND THE RUNNING OF PARLIAMENTS

1. Administrative autonomy

The vast majority of contributions mentions Parliament's administrative autonomy, according to which House can autonomously run - within a given budget - their own administration, finances and human resources (Germany, Bahrain, Belgium, Canada, Chile, Estonia, Spain, Finland, Greece, Iceland, Italy, Japan, Lebanon, Norway, the Netherlands, Romania, the United Kingdom, Serbia, Sweden, Switzerland, Thailand). The scope of the administrative autonomy is usually fairly broad. It is sometimes determined by law. Provisions about administrative autonomy can be found either in laws which are specific to Parliament and its organization (Japan, the United Kingdom, Sweden, Thailand) or in laws dealing with the relations between the citizens and the public institutions (Finland).

The Italian contribution contends that administrative autonomy has become a "constitutional custom".

Administrative autonomy consists in the existence of administrative departments specific to the institution and of employees recruited freely and autonomously and managed according to rules inspired by those implemented in the civil service (the United Kingdom, the Netherlands, Sweden).

In some countries, administrative autonomy appears to be significantly less developed, as a result of the strong control by the executive over Parliament's administration and resources.

a) Legal status of Parliament's internal acts

When dealing with the norms applicable to Parliament's administration and finances, one has to distinguish between the instances - frequent - where Parliament uses the general rules of civil service Law and those - rare - where Parliament enjoys full normative autonomy. In the latter case, it has to be noticed that Parliaments very often chose to transpose, into their own body of regulations, the general legislation applicable in the rest of the public sector, except when they see an absolute need for specific rules (Belgium, Spain, France, Israel, Norway, the United Kingdom).

(1) The question of Parliament as a legal entity

There are mixed views on the question as to whether Parliaments shall be considered legal entities;

some indicate that **only the State is a legal entity and that Parliament, as an organ of the State, is not** (Germany, Belgium, Canada, Estonia, Spain, Finland, Greece, Monaco, the Netherlands, Poland, the United Kingdom, Slovakia, Slovenia). Parliament's acts are generally taken on behalf of the State (Belgium, Finland), but sometimes also on its own behalf (Canada).

Others indicate on the contrary that **Parliament, and each House in bicameral systems, is a legal entity** (Bahrain, Iceland, Israel, Italy, Japan, Lebanon, Norway, Morocco, Romania, Serbia, Switzerland). It can, consequently, go to court, manage its assets and sign contracts. However, the Attorney General's assent may be required before being able to go to Court (Iceland).

The question of the ownership of the patrimony is sometimes distinguished from that of "Parliaments as legal entities". Indeed, there are countries where Parliament are legal entities but do not own their patrimony, which remains property of the State (Israel, Japan, Romanian Senate, Serbia).

Nevertheless, and even though there are exceptions (Monaco), it can be argued that Parliaments, even when they are not legal entities, enjoy some degree of capacity to act autonomously in the legal field (day to day operations, management of the assets of which they are in charge, commercial or labour-related contracts) (Belgium, Canada, Estonia, Spain, Finland, Greece, Iceland, the Netherlands, Poland, the United Kingdom, Slovenia).

There are also Parliaments which, without being bestowed full legal capacity, can nevertheless go to court (Belgium, Canada, Estonia, Finland), where they are usually represented by the State or the General Attorney (Greece, the Netherlands, Poland, the United Kingdom, Slovenia). In France, it is usually considered that Parliament is a component of the State but is a *de facto* legal entity. It can consequently go to court autonomously.

(2) Potential controls over Parliament's acts

There are two distinct types of contributions: those from countries where there are only - when they exist - internal controls in Parliament and those where external public bodies are in charge of controlling Parliament's acts.

In the first group, some indicate that there is no control over the acts enacted by Parliament for the purpose of its internal running (Norway, Switzerland).

Several contributions mention **internal controls** (Australia, Finland, Italy, Japan, Morocco, Poland, Romania, Thailand), without specifying if there are also external or judicial controls.

Some contributions describe in detail the nature of their internal control mechanisms, generally organized around committees or organs in charge of internal auditing (Australia, Bahrain, Finland, Japan). The British contribution specifies that

administrative and financial management as well as internal scrutiny of the Houses are assigned to their highest authorities (*House Commission* in the House of Commons and *House Committee* in the House of Lords), with the assistance of specialized committees.

The control resulting from **pressure exercised by the public opinion**, especially where internal rules of the Houses can be challenged before Courts, is also mentioned.

(3) Judicial control

Several contributions note the possibility for the Constitutional Court or the Supreme Court to control Parliament's internal acts (Israel, Monaco, Romania, Serbia, Slovenia). In other countries, the organ in charge of verifying public accounts also has this possibility (Chile, Iceland, Israel, Slovenia). The existence of such external control mechanisms does not stop Parliaments from setting up their own internal control (Chile, Israel).

Some contributions point out that internal acts can be challenged before ordinary Courts (Germany) or before specific Courts (Council of State in Belgium for all internal regulations). Several contributions specify that Parliament's administrative acts fall into the jurisdiction of ordinary courts (Australia, Canada). In France, Courts can examine parliamentary acts only in a limited number of areas (most notably human resources). In doing so, they base their appreciation on the assemblies' internal regulations when they exist, and on the general legal provision when they do not. It is worth mentioning that in some areas, the law asserts the competence of the Houses' authorities, or even of the authorities of only one House (the Senate owns the Luxemburg Gardens and as such has a competence in the area of urban planning). The Italian situation is peculiar in the sense that it takes to the limit the logic according to which parliamentary acts cannot be subjected to any judicial control. As a result, Italian Houses have to set up internal Courts. Their main task is to settle disputes with their employees.

The privileges bestowed upon Parliaments of British tradition (Canada, the United Kingdom), which result from the constitutional value of the Bill of Rights of 1689, exclude, in principle, any possibility for a Court to control internal act of a House without its consent.

2. Administrative resources

a) Organization of administrative departments

(1) The principle of freedom

An assembly is generally free to make all the decisions regarding the organization of its administrative departments (Germany, Australia, Bahrain, Belgium, Canada, Chile, Estonia, Spain, Finland, Greece, Iceland, Israel, Italy, Japan, Lebanon, Morocco, Norway, the Netherlands, Poland, Romania, the United Kingdom, Slovakia, Slovenia). The organization of administrative departments can be settled by internal regulations (Belgium, Italy, Japan, Poland) or by specific law (Japan).

There can be limitations to this functional autonomy: instructions received from the executive power (Monaco); requirement of governmental approval before implementing decisions that are financially costly (Thailand); law limiting the number of employees in public administrations (Serbia).

In bicameral Parliaments, two situations can be encountered: one in which each House has its own administration (Belgium) even though there can be - few - joint departments (the United Kingdom); another in which both Houses share the same administrative structure, at least in non legislative areas (Australia).

It can happen that a House has non permanent administrative departments (Minutes Department in the Belgian House of Representatives).

(2) Choices made

The choices made by Parliaments in terms of administrative organization are very diverse and vary according to their size and the traditions of their country.

However, in every Parliament with an administrative structure of a certain size, legislative departments, which are specific to parliamentary institutions and necessary to the completion of their duties, have to be distinguished from administrative departements, which can exist in any administrative entity.

Regardless the type of administrative organisation, all departments report to a single authority, who is a high ranking civil servant and not an elected member of the House (Secretary general in most cases, Clerk of the House, Head of the Chancellery of the House). The secretary general is assisted by sectorial deputies whose attributions cover the distinction between parliamentary departments and the other departments.

In addition, in bicameral systems, every House has its own administration. Joint administrative departments remain the exception (Australia, Switzerland).

Organisation charts have been collected and are annexed to this paper.

(3) The example of security

Parliament is usually responsible for organizing its own security even if approaches to how to collaborate with police forces are very diverse. Very often, Parliament has its own security department, staffed with parliamentary employees (Australia, Bahrain, Belgium, Canada, Estonia, Finland, France, Greece, Iceland, Israel, Italy, Japan, Lebanon, Norway, the Netherlands, House of Commons of Romania, the United Kingdom, Thailand).

It is usually the President of the House (Bahrain, Belgium, Spain, Greece, Italy, Japan, Lebanon, Monaco, the Netherlands) or the secretary-general (Estonia, Norway, Poland) who is responsible for the security and the policing of the "parliamentary estate".

Some Parliaments have a "sergeant-at-arms" in charge of internal and external security as well as of the policing of the floor (Australia, Canada, Israel, the United Kingdom).

In some instances, there even is a "parliamentary guard" in charge of maintaining internal and external security of the assemblies (Japan, Poland, Slovakia).

However, the security of Parliament often relies on a co-operation with police forces (Australia, Iceland) which can place agents under the authority of the assembly (France, Greece, the United Kingdom). This cooperation can go as far as having Parliament's security maintained, for the most part, by police agents rather than parliamentary employees (Germany, Estonia, Morocco, Slovenia, Switzerland).

Police forces generally need an authorisation in order to penetrate inside a House (Australia, Canada, Israel, Norway).

While internal security is usually maintained by employees of the assembly, external security can sometimes be entrusted to police agents (Estonia, Finland, Polish Senate) or, upon request of the Assembly, to the army (Belgium, France, Japan). Sometimes, Parliament can call for assistance of public forces to contribute to its protection, especially from external aggressions (Belgium, Italy, Japan, Monaco). Additional agents are then provided by the executive.

In some countries, security is not a prerogative of Parliament but one of the Interior ministry and of the police forces (Chile, Romania Senate, Serbia).

b) Recruitment and management of human resources

Regarding the **recruitment, status and carrier of parliamentary employees**, the most common situation is the possibility for Parliaments to recruit freely, according to their own procedures (Australia, Bahrain, Belgium, Canada, Chile, Spain, Finland, Greece, Iceland, Japan, Lebanon, Norway, the Netherlands, Romania, the United Kingdom, Slovakia, Thailand).

Parliaments usually apply, in the management of their employees, the general rules applicable to civil service employers. It can happen that these rules need to be slightly adapted (Germany, Australia, Estonia, Morocco, Monaco, Poland, Serbia, Slovakia, Slovenia, Switzerland).

In the few instances where Parliament determines autonomously the rules applicable to its employees (Finland, France, Italy, Romania) - sometimes by virtue of Law (Finland, Japan) - the rules are usually very much inspired by those applicable to the rest of the civil service (Belgium, Israel, the United Kingdom, Thailand). There can also be an obligation to draft the rules within the general framework of civil service regulations (France, Japan, Lebanon, the Netherlands).

Several contributions point out that Parliament is free to recruit either according to existing laws or to specific rules (Spain, France, Greece, Israel, Norway).

As a result, it appears that, in most cases, **human resources in Parliaments are governed by the rules in force in the rest of the civil service, either because Parliaments have to respect these rules or because they have chosen to do so**.

3. Financial resources

A number of contributions indicate that **the executive does not have the ability to interfere in the resources allotted to Parliament** (Germany, Belgium, Canada, Chile, Finland, Greece, Israel, Italy, Norway, the Netherlands, Poland, Romania, Sweden,

Switzerland). However, one has to assert whether, on the one hand, this situation is the consequence of a regulation according to which Parliament's financial autonomy is guaranteed or, on the other hand, if the absence of governmental interference is merely a custom.

a) Drafting Parliament's budget

Most contributions stress the extent of financial autonomy Parliaments enjoy. In most cases, the government does not question the budgetary demands expressed by Parliament. Such an arrangement is usually customary rather than inserted in a written regulation (Belgium, the United Kingdom, Canada, Italy, the Netherlands, Sweden, Finland, Poland, Norway, Romania, Switzerland, Chile, Spain, Iceland). The requested sums are then included in the nation's annual budget.

In some countries, Parliaments receive every year a grant with no specification regarding how it should be spent (Belgium, Canada, the Netherlands). In others, Parliament has no budgetary autonomy and is not treated differently than other public administrations (Australia, Morocco, Slovakia, Slovenia).

The credits allotted to Parliament are usually included in the country's budget, which is prepared and presented every year by the Government. In many countries, Parliament's budgetary requests are drafted by an internal organ, which can include representatives of the Government (Canada). The draft budget of the assembly is then transmitted to the Government and inserted in the budget, without any discussion. Since 1958, France has had a comparable system, in which the budgets of both Houses are determined by a committee comprising members of the House and chaired by a representative of the Court of Accounts. The fact that the government does not discuss the content of Parliament's draft budget is often the consequence of a customary rule (Canada, Finland, Iceland, the Netherlands, Sweden). However when the Government engages into a policy of spending cuts, Parliament can be invited to take its part (Israel). There are also countries (the Netherlands) where it is a "gentlemen's agreement" that there are no amendments when Parliament's grant is discussed on the floor of the House. However, this custom has been questioned by the Government in the recent past, as explained in the contribution from the Dutch Upper House.

Several contributions indicated, on the contrary, that **the executive can interfere in the determination of financial resources granted to Parliament**, according to various mechanisms and on various scales (Australia, Bahrain, Estonia, Japan, Morocco, the United Kingdom, Serbia, Slovakia, Slovenia, Thailand). The Government can disregard Parliament's requests depending on the country's fiscal situation (Japan, Serbia, Slovakia, Slovenia, Thailand). There are also countries where the total amount of Parliament's budget is either decided by the government (Australia, Morocco) or approved by the government (Thailand). In Slovenia, the Government can make cuts in Parliament's spending if required by the country's fiscal situation.

The British system as encountered in the House of Commons is a mix of the previous examples: wages and pensions of the Members of the House are decided on by the government (the *House of Commons Members Vote*) while all other expenditure is decided on according to a principle of a strict budgetary autonomy (the *House of Commons Administration Vote*).

b) Managing Parliament's budget

Every contribution indicates that Parliament is free to define and execute its expenditure, once the grant has been allotted. Slovenia and Thailand are the only examples of Parliaments in which an authorization is needed before spending. In Lebanon, spending is subjected to internal controls. The Thai contribution specifies that administrative autonomy is limited by the fact the Finance Minister has to approve all decisions with financial consequences.

It is worth noting that **some Parliaments follow the same rules of public accountancy as the State** (Australia, Belgium, Estonia, Israel, Japan, Lebanon, the Netherlands, Poland, the United Kingdom, Slovenia, Thailand) whereas other have their own book-keeping standards.

Once the budget is voted, it can be necessary to enact an internal regulation in which the projected expenditure is presented in detail, especially in countries where the allotted budget comes as a global grant.

Though Parliament's spending has to remain within the limits of the budget, some Parliaments have the possibility to benefit from additional credits before the end of the year (Finland, the Netherlands, Romania). The Japanese contribution specifies that there are in Parliament's budget, every year, sums which are provisioned in order to be able to face unexpected expenditures without having to depend on the Government. The Romanian contribution notes that all surpluses have to be given back to the Government. This seems to be a general rule in all the countries surveyed.

In some countries, it is possible - within the limits of the budget - to modify the initial allocation of resources (Japan, Monaco, Norway). In Poland, reallocation of resources is conditioned by prior authorization of the Finance Minister.

Several contributions mention the existence of an annual report presenting the details of the year's spending (Australia, Canada).

c) Control over Parliament's internal management

Most contributions mention **internal and external scrutiny** of Parliament's accounts and financial management.

(1) Procedures of internal control

Only a few contributions indicate that the only control is internal (Bahrain, Belgium, Canada, Spain, Finland, Italy, Lebanon, the Netherlands, Slovakia). In this case, the organ in charge of the control can audit the accounts as well as the administrative organization of the House.

In the United Kingdom and in Iceland, Houses are under the scrutiny of the National Audit Office, which certifies their accounts.

Usually, internal control relies on a specific administrative department (Germany, Canada, Chile, Spain, Israel, Italy, Lebanon, the Netherlands, Poland, Romania, Slovakia, Thailand) and not the financial departments of the House. In some instances, internal control is conducted by a committee which comprises Members of the House.

The Committee is in charge of verifying the accounts (Belgium, Finland, France, Greece, Morocco Monaco) and can benefit from external expertise (Finland, France).

Some contributions point out the absence of formalized internal control mechanisms, either because external scrutiny is regarded as sufficient (Australia, Estonia, Iceland, Norway) or because Parliament's budget is under the direct responsibility of the finance ministry (Serbia).

(2) Organization of external control

Some contributions mention the existence of an external control over the accounts, operated by the Ministry of Finances (Japan) or by a specialized organ.

When there is external scrutiny, it is generally bestowed on an independent authority in charge of controlling all public accounts (Germany, Australia, Chile, Estonia, Iceland, Israel, Japan, Monaco, Norway, Poland, Romania, Slovenia, Switzerland, Thailand, the United Kingdom, Sweden). There are countries where this control is conducted in application of constitutional provisions (Japan, Slovenia). The scope of the control is twofold: regularity of the spending; good use of the funds. France has recently set up a mixed system in which each House has a parliamentary committee in charge of controlling the accounts. The committee can benefit from the expertise of a private and independent auditor, especially in its task of certification. Accounts are then transmitted to the Court of Accounts in order to be inserted in the accounts of the State.

Sometimes, the Finance ministry has the power to control Parliament's use of its grant, either exclusively (Morocco) or in addition to other controls (Japan, Slovenia, Thailand).

In the United Kingdom, Houses regularly commission external audits in order to evaluate the quality of their management. A number of public bodies can formulate an opinion on the way Parliament is run (authorities in charge of controlling civil servant wages and ethics)."

Mr Anders FORSBERG, President, thanked Mr DELCAMP for his presentation. He then invited those members present to address their questions to him.

Mr Hans BRATTESTÅ (Norway) explained that a debate had emerged in Norway on the autonomy of Parliament: it seemed that things had gone very far, even, for some, too far in this area, with the Parliament having wide autonomy in determining its own rules, preparing its own budget and even managing its real estate. From this fact, the prerogatives of Government had little by little disappeared, and it appeared necessary to try to achieve a certain balance.

Mrs Adelina SÁ CARVALHO (Portugal) explained that the issue of the autonomy of Parliament had been central for about fifteen years in Portugal, and that the situation had evolved. Thus as of now, the law provided that, on the basis of this principle of autonomy, Parliament's budget would be adopted in public sitting before the whole of the national budget. The financial autonomy of Parliament had been shown to be crucial, because it provided the conditions, in a manner of speaking, within which it was possible for Parliament to monitor the activities of Government. Parliament's budget

was audited by the Court of Auditors, which was independent both of Government and Parliament. Its report, leapt upon by the media, was published every year, allowing for substantial financial transparency in Parliament; Parliament's budget was moreover subject to very many internal checks, transparency giving more duties than rights.

Ms Heather LANK (Canada) thanked Mr Delcamp for his remarkable work, and pointed out that the Clerk of the Canadian Senate was also working on these issues. His study was concentrating more on the governance of parliamentary institutions. He would be collaborating with Mr Delcamp in this area.

Mr Alain DELCAMP explained that in the Westminster system, the question of the separation of executive and legislative powers did not arise in the same way, because Government and Parliament were intrinsically linked, and one couldn't speak of formal separation; the Norwegian system seemed similar to that of the United Kingdom. He stressed that, in effect, financial autonomy was indispensable, and it was necessary to find a third way between controls imposed from outside and self-regulation, which needed to be better defined and perfected. On this last point, he raised the example of a bill relating to archives, recently examined by the French parliament, which initially proposed a unified management of the public archives, Parliament's included. The bill had subsequently been amended to allow Parliament to choose. Nothing prevented the application of the general law to Parliament, but Parliament needed to be able to decide if, in one area or another, this ought to be the case. Finally, he noted that it would be useful to compile a dictionary redacting and compiling the organizational rules of different Parliaments across the world, in their different aspects.

Mr David BEAMISH (United Kingdom) said that, if Mr Brattestå was claiming that in Norway, the autonomy of Parliament had been pushed too far, it seemed that an opposite movement had been played out in the United Kingdom for thirty years or so, leading the British Parliament to renounce part of its sovereignty. The principle according to which laws did not apply to the internal workings of Parliament was being increasingly breached. For example, a law of 2000 on freedom of information, which proposed wide access to public documents, was not intended initially to apply to Parliament. Nevertheless, the competent parliamentary committee in the House of Commons had decided that this should be the case, and the implications of this decision had been seen to be much more far-reaching than initially envisaged. This led to a kind of renouncement of a part of parliamentary autonomy. In contrast, one could cite the example of the decision of the British group of the IPU to give up its budgetary dependency on the Treasury, turning instead to Parliament, which had allowed it to escape a 5 per cent cut in its budget planned by the Ministry.

Dr Hafnaoui AMRANI (Algeria) stressed the evolutionary character of the concept of autonomy. He noted that in Algeria, if the Constitution foresaw a separation of powers, in fact the executive power was largely dominant. Added to that was the issue of the powers of the Constitutional Court, which exercised extensive oversight over the laws passed by Parliament and against whose decisions there was no recourse. Finally, although the Algerian parliament had autonomy over its own rules and administration, this was not the case in the area of finances, as the Court of Auditors, which audited

Parliament, answered to the power of the executive. Mr Delcamp's work, which was very interesting and clear, was worthy of follow-up, in order to appreciate the evolution of this concept of parliamentary autonomy.

Mrs Doris Katai MWINGA (Zambia) added that the Zambian Parliament had real autonomy in the areas of administration, internal regulation and security, but that, in contrast, this was not the case in the area of finances. Parliament's assets belonged to the Government and its budget was negotiated with the Ministry of Finance, right now in fact. She hoped nevertheless that this situation was in flux, with Parliament having asked for this financial autonomy, as had the judiciary.

Mr Alain DELCAMP (France) raised the fact, paradoxical on first glance, that the rules defined by Parliament did not apply to the internal functioning of Parliament. This was becoming more and more difficult to explain to public opinion. It was therefore necessary, on a case by case basis, to take the opportunity to apply one or another provision to Parliament. As for the Court of Auditors, he thought that the role played by those in charge of financial control was becoming more and more important, to the detriment of the autonomy of those taking decisions. Now, an organ of control such as the Court of Auditors was made up of people who had been nominated, not elected. It was therefore a good idea to place institutions in a kind of hierarchy: if Parliament has a duty to be transparent, it represents the people and holds a democratic legitimacy from this fact. This was why it should not be denigrated by being placed on the same level as a Ministry.

Mr Anders FORSBERG, President, added that in Sweden, the civil servants in the Ministry of Finance were a bit frustrated not to be able to get involved in the financial affairs of Parliament, but the role of Parliament, the first power of society, was to keep an eye on the Government. He concluded by inviting Mr Delcamp to attend a meeting of the Executive Committee to debate how to pursue this interesting topic.

4. Communication from Mrs Adelina SÁ CARVALHO, Secretary General of the Assembly of the Republic of Portugal: Reform of the Portuguese Parliament – progress and problems

Mrs Adelina SÁ CARVALHO (Portugal) made the following communication:

"**1. The Reform of the Assembly of the Republic of Portugal**

In July 2007 (at the end of the 2nd legislative session of the 10th Legislature), the Portuguese Parliament concluded a parliamentary reform process which, although not unique in terms of methodology, because at various times during its history, working groups or committees have been set up to reform the Parliament, it was, without doubt, unique in terms of its ambition and the objectives that were achieved.[6] This reform was concluded in an exceptionally short period of time; the work began on January 2007 and the rules were approved in July of the same year.

This Reform included:

a) New Rules of Procedure;
b) Amendments to the Statute of Members;
c) Amendments to the Right of Petition;
d) Amendments to the Law governing the form of bills.

Resolutions were also approved relating to:

e) The rules of the Parliament Channel and the Website;
f) The setting up of a Working Group to prepare a Code of Good Practice (Questions and motions);
g) The rules for editing and publishing the Journal of the Assembly of the Republic;
h) The adoption of energy efficiency and water-saving methods; and
i) The progressive reduction of CO_2 emissions inside the Parliament.

From this set of instruments, it is possible to identify the Reform priorities, which have been evident since the beginning of the process:

1. Increasing transparency and moving closer to citizens;
2. More flexible operating rules and better planning of parliamentary work;
3. Strengthening the political control instruments;
4. Strengthening the role of the parliamentary committees;
5. A more demanding legislative procedure;
6. Responses to environmental questions.

[6] In the case of other Parliaments where reform processes were carried out simultaneously, the diagnosis formulation and goal definition processes were seen to converge. In the European Parliament, in February 2007, President Hans-Gert Pottering presented a set of proposals and said that the Conference of Speakers had embarked on an ambitious parliamentary reform programme with the aim of improving the public image of parliamentary work and to make it more efficient.

1.1. Increasing transparency and moving closer to citizens

The need to increase transparency and move closer to citizens is a response to the growing requirements of civil society, which demands immediate and accessible knowledge of **parliamentary activity** as well as of the **profiles** and **activities of its members**; people also expect the **right to participate**.

In some matters, this transparency also involves discarding the need to go through the media, by making the information available to all citizens, and whenever possible, at that moment.

It is now a rule for parliamentary committee meetings to be made public.

All acts and documents which are required to be published in the official Journal, along with all the documents which the Rules of Procedure require to be produced and processed, are now available **in real time** on the Internet and Intranet Websites. Journalists now have the right to access all the documents distributed during every committee meeting, as long as they do not contain confidential material.

The Members of Parliament **register of interests** is public, and can be found on the Internet Website. Members of Parliament **absences** from plenary sittings and committee meetings have also been available on the Internet Website since the beginning of this legislative session, along with the respective justification, if any.

The **citizen participation** process has also advanced, with legislative initiatives subject to **public debate** being published exclusively via **electronic format.** This enables the citizens to subscribe, and to **immediately** submit suggestions.

Petitions, which could already be sent in electronic format, can now be later supported by other citizens and their processing can be monitored.

1.2. More flexible operating rules and better planning of parliamentary work

Although they seem to conflict with each other, in fact, they converge, because they guarantee greater malleability in operational terms and simultaneously allow a better organisation of parliamentary activities.

To improve planning, it is the responsibility of the Speaker, after consulting the Conference of Leaders, to propose the **parliamentary activity calendar** for the following legislative session; its approval by the Plenary takes place before the end of each legislative session.

At the end of the legislative session, the parliamentary committees draw up **their proposed plans of activities and their respective budget proposals** for the following legislative session. These are subjected to consideration by the Speaker, so that they can be included in the budget of the Assembly of the Republic for the following year.

At the end of the legislative session, the committees prepare reports on their activities, to be published in the official Journal.

In order to make parliamentary work more flexible, the Speaker, after consulting the Conference of Leaders, may set aside two days for MPs to keep in contact with their electors and, in the following week, dedicate three days to meetings and other parliamentary committee activities.

The calendar and timetable of the plenary sittings have remained unchanged – taking place on Wednesday and Thursday afternoons and Friday mornings. This was the object of a wide debate, especially because there were those who defended setting aside a greater time for parliamentary committee meetings.

Only the voting time has been changed: it takes place during the final plenary sitting of each week where the order of business includes matters that require a decision by the Members of Parliament. This means that if the sitting takes place in the morning, the vote is held at 12.00, if it takes place in the afternoon, at 6.00 pm.

The order of business is set by the Speaker at least 15 days in advance and it is published on the Intranet within twenty-four hours of being decided.

1.3. Strengthening the political control instruments

Strengthening the political control instruments corresponds to focusing on an area of parliamentary competence that has been taking on increased importance, and has thus needed reassessment of its way of working. A study of the Portuguese Parliament, concluded in 2001,[7] stated: "Sessions of questions to the Government*, which take place on Friday mornings attract little press attention, and are usually described by Members as being monotonous and uninteresting*".

Furthermore, the Working Group on the Reform of the European Parliament, set up in 2007, defined one of its objectives as, in the case of plenary sittings, increasing the interest of the public and the media in parliamentary debates and decisions, with livelier, more interesting sessions, and on strengthening controlling powers.

With the current reform, the **Prime Minister** will now stand before the Plenary every two weeks to a session of questions from Members of Parliament.

The session of questions takes place in two alternating formats:

- in the first case, the subject is chosen by the Government and the debate is opened after an opening speech by the Prime Minister lasting for no longer than 10 minutes. This is followed by a period where there is a single round for

7 "The Portuguese Parliament: a necessary reform" by André Freire, António de Araújo, Cristina Leston-Bandeira, Marina Costa Lobo and Pedro Magalhães, ICS, 2002

Members to ask questions followed by the Prime Minister's answers, which cannot be longer than the questions;
- in the second case, the subject is chosen by the parliamentary groups and the debate starts off with the single round of Members' questions, followed by the Prime Minister's answers.

Every **minister** must appear on the plenary sitting at least once during every legislative session, to answer Members' questions on areas that he/she is responsible for.

1.4. Strengthening the role of the parliamentary committees

The strengthening of the role of the parliamentary committees is a result of their growing importance in parliamentary work and of the efficiency of their action.

Their powers and competences have clearly been reinforced, especially in terms of political control. Thus, **ministers** are now heard by the committees at least 4 times in each legislative session.

The parliamentary groups have the right to demand the presence of members of the Government (this cannot be used on more than two consecutive occasions for the same member of the Government) or of the directors and staff working in the State's indirect administration or in the public business sector.

The committees take part in **hearings** with the appointed directors of the Independent Regulatory Authorities and holders of high level State positions, namely the members of the Media Regulatory Body, the Supreme Council of the Administrative and Fiscal Courts, the National Data Protection Commission, and the Ombudsman.

The rules of work and the **composition of the parliamentary committees** have been changed, and consequently the quorum for committees to operate and take decisions has been modified to more than half of the members in full exercise of their office.

1.5. A more demanding legislative procedure

As far as the more demanding legislative procedure is concerned, it is important to stress the **greater demands imposed on the legislative procedure** and the simultaneous perception that the carrying out of parliamentary legislative competences does not involve simply legislating, but also includes **monitoring the process of applying** and regulating the laws.

The Services of the Assembly of the Republic are responsible for preparing a highly demanding technical note (within a maximum of 15 days) for every legislative initiative. More specifically, the technical note contains:
- an analysis of compliance with the formal, constitutional and regulatory requirements;
- the legal and doctrinal framework of the matter in question;

- indication of any initiatives outstanding;
- checking compliance with the Law governing the form of bills;
- historical outline of the problems raised;
- assessment of the consequences of approval and the expected costs involved in its application; and
- references to contributions from institutions that have an interest in the items in question.

The reports prepared by Members of Parliament are now structured differently, with a mainly political, rather than technical nature, and include the opinion of the rapporteur, conclusions and annexes.

After the admissibility order, parliamentary committees have 30 days to approve the report. Any members' and government bills that are accepted **must mandatorily be debated and voted on the general principles, by the Plenary, within 18 plenary sittings** from the time that the relevant parliamentary committee issues its report.

The debate and vote on the **details** are held within the deadlines set by the Speaker, and the legislative initiatives are included in the order of business according to the order that the reports are issued.

In the beginning of each legislative session, besides the preparation of a **progress report** dealing with the approval and coming into force of new laws and their consequent regulation, which includes compliance or failure to comply with the corresponding deadlines, it is the responsibility of the Conference of Parliamentary Committee Chairpersons to define, as regards the approved laws, those which must undergo a qualitative analysis and content review of how they are being applied and their practical effects.

The parliamentary committees can also ask for a qualitative follow-up report of the regulation and application of a specific law from the rapporteur, or from any other member of the committee.

1.6. Responses to environmental questions

In what concerns environmental questions two Resolutions have been approved, the adoption of energy efficiency and water-saving methods and improving a progressive reduction in CO_2 emissions.

However, if the orientations of these Resolutions imply that the Parliament will need external expertise, it is true that in other aspects, those Resolutions have only confirmed environmental practices that have been followed by the Parliament.

Examples of such practices include the generalised use of recycled paper, the use of low-energy light bulbs, the installation of light sensors in offices, corridors and toilets,

the installation of controlled flow taps, and sending light bulbs, batteries, paper and toner away for recycling, as well as adopting ecological selection criteria in calls for tender for the supply of goods and services.

In this spirit and in accordance with the abovementioned Resolutions, the Portuguese Parliament has launched calls for tender for the development of a project to equip the main building, the São Bento Palace, with a solar-powered heating and air-conditioning system.

2. Problems and progress

A reform of this type is not carried out without problems. The consequences have been severely felt in the services area, more so because the reform came into force during the time that Portugal held the Presidency of the European Council, which led to the Portuguese Parliament having to host an increased number of meetings and international visits and, above all, because it resulted in profound changes to the way of working, which required services to cooperate and coordinate their operations and to accompany parliamentary work much more closely and assiduously. And all this was carried out without recruiting a single person.

As far as the Members of Parliament were concerned, this required an effort to adapt, to the new procedural rules.

Earlier reforms had been carried out by amending the existing Rules of Procedure, thus establishing procedural practices and interpretations that ended up being quite unclear to those who were less familiar with parliamentary activity.

Some years ago, a MP said that the Rules of Procedure were to be used only when they could not reach consensus. The approval of new Rules of Procedure inevitably led to some resistance to change.

As the Report of the Working Group on the Reform of Parliament states, *there is no such thing as perfect reforms and this makes it necessary to closely monitor the political results of this process and of the changes that have been introduced. This evaluation must concentrate specifically on increasing the search for information by citizens and their participation in parliamentary activities, the increased visibility of the Assembly of the Republic, its image in the eyes of the people, the level of satisfaction felt by the Members of Parliament and the financial impact, in spite of the proposals being contained in the Budget of the Assembly of the Republic.*

In Portugal, a formal evaluation of the reform has yet to be carried out, but some conclusions can already be drawn. The media have opened up more space to Parliament. See how the number of news items between 1 October 2007 and 31 December 2007, which coincided with the first three months after the reform came into operation, has increased when compared to the same period of the previous year. There were 5,187 news items about Parliament and 6,208 about Parliament and the

Government in 2006. This increased to 6,025 about Parliament and 6,491 about Parliament and the Government in 2007.[8]

The media has stressed that the rhythm of the debates has made them more interesting. Some radio and television stations that used to broadcast parts of parliamentary debates on the days that the sessions of questions to the Government are held have taken an editorial decision to broadcast them in their entirety.

Newspaper headlines have also reacted to this development:

"The honourable member may conclude...
There is a greater rhythm to parliamentary debates. The new rules have led to short, incisive interventions"
Visão, 7 February 2008

"The new model for monthly parliamentary debates is better than the earlier model. It demands much improved time management and less time for preliminaries. Debates with each of the opposition benches have a beginning, middle and end.
With this new system, questions relating to the Government have acquired greater resonance and require clear answers. Evasive answers do not go down very well. José Sócrates will have to be better prepared to meet the challenge that he has set himself."
Diário de Notícias 22 September 2007

This aim of the reform has therefore been achieved, because the objective was to attract media and public interest and guarantee this type of publicity. If for years, the action of the media reduced the opinion-forming role of Members of Parliament, now MPs have adopted the media's methods, abandoning parliamentary rhetoric and

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1/10/2007 to 31/12/2007	About parliament	About parliament and the executive power
News items in the press	2658	2956
News items on TV (news bulletins)	1279	1305
News items on the radio (news bulletins)	2088	2230
Total	6025	6491

1/10/2006 to 31/12/2006	About parliament	About parliament and the executive power
News items in the press	2003	2795
News items on TV (news bulletins)	1375	1582
News items on the radio (news bulletins)	1809	1831
Total	5187	6208

substituting it by short, quick, incisive debates, which are capable of attracting and holding the public's attention.

The availability of more information about parliamentary activity and MPs, especially with respect to their absences and register of interests, has prevented speculative and partial news, which contributed negatively to the image of the Parliament leading to the need of corrections and denials that would only make the situation worse.

Amendments to the legislative procedure, leading in short periods, to the preparation of the technical note, presentation of the report to the Committee, and including a debate and vote on the general principles, on the order of business of the plenary sitting, has given responsibility to all MPs and staff, and led to a concentration in the legislative procedure whose analysis no longer depends on the will of the majority.

Does a parliamentary reform process ever end? Does it end with its practical application? Or is it a continuous process that starts off with the previous reform and runs until the next one in a process of continuous improvement[9]?[10]

Is it in fact true that all these reforms merely hide the feeling, which was summed up by Garibaldi Alves, the President of the Brazilian Senate, as a desire for *a better Parliament?"*

Mr Anders FORSBERG, President, thanked Mrs Adelina SÁ CARVALHO for her communication and invited members present to put questions to her.

Mr Douglas MILLAR (United Kingdom) wanted to know what the effects of these reforms had been on the behaviour of Members of Parliament.

Mrs Stavroula VASSILOUNI (Greece) asked if the Portuguese Parliament had statistics on the early effects of these reforms, largely based on bringing Parliament closer to citizens, and if a specific office within Parliament had been tasked with dealing with the comments and reactions of citizens faced with these reforms.

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[9] We found that the aims of earlier reform processes, in Portugal, were identical to those that governed this reform. In 1993, a publication which brought together some thoughts and documents relating to Parliamentary reform states:
"The concerns for bringing Parliament closer to citizens, favouring the work of the Committees and recognising that the plenary sittings are the place for solving political, legislative and social conflicts must be stressed right from the start. These are the dominant concerns of all the Parliaments of Western Europe, which are now having to adjust their processes to the demands of a modern society where it has become imperative to overcome the patent "democratic deficit" that concerns all pluralist Democracies."

[10] The UK Parliament has had a Modernisation Committee up and running since 1997, which is responsible not only for defining new measures but also for monitoring those that have already been approved.

Dr Hafnaoui AMRANI (Algeria) wanted to know the nature of the register of Members' interests mentioned, and asked if this reform had led to changes in the administrative organization of Parliament.

Mrs Adelina SÁ CARVALHO replied that the reforms had in effect led to a change in the behaviour of Members of Parliament. They remained active in the constituency, but they were aware that their absence from Parliament would not be understood. The reactions of citizens to these reforms had not yet been statistically assessed; it was the job of committees to deal with them all and to make Members aware of the most useful that had been received. The register of Members' interests detailed the career of Members of Parliament and, if need be, their participation in business ventures, which ensured a large measure of transparency. She thought it would be desirable to be just as transparent about Members' pay, and to publish it on the Internet; discussions were taking place on this point. Thought was also being given to changes in the administrative organization which flowed from these reforms.

Mr Anders FORSBERG, President, thanked Mrs Adelina SÁ CARVALHO for her communication as well as all those members who had put questions to her.

5. Communication from Dr Ulrich SCHÖLER, Deputy Secretary General of the German Bundestag: An example of well developed parliamentary minority rights: the rules of procedure of the German Bundestag

Dr Ulrich SCHÖLER (Germany) made the following communication:

"At the present time a debate is taking place in Germany on enhanced rights for parliamentary minorities.

One of the reasons for this debate is that the two large mass parties, the CDU and the SPD, have been holding the reins of government since the last general election in 2005, and the three opposition parties together provide fewer than a third of the Members of the Bundestag. As a result, the Opposition is currently unable to exercise some minority rights for which a certain quorum is required. This applies especially to the right to demand an extraordinary sitting of the Bundestag and the right to have a law examined for constitutionality by the Federal Constitutional Court, a mechanism known as the *abstrakte Normenkontrolle*, i.e. a review of constitutional norms without reference to a specific case, for which a quorum of a third of all Members is required under the current provisions. Preparations are currently being made for a relaxation of this rule, the intention being that a quarter of all Members will suffice in future.

The debate on enhanced minority rights is also being influenced by developments in the EU and particularly by the Treaty of Lisbon. Following the rejection of the Constitutional Treaty in referendums in two Member States, the Treaty of Lisbon is designed to renew the common contractual foundations of the European Union. Among

the provisions of the Treaty of Lisbon are measures to strengthen the rights of national parliaments, which will henceforth play a key role through the mechanism of the subsidiarity review, the purpose of which is to determine whether a matter can be better resolved in the EU framework or by the individual Member States.

To this end national parliaments are to be empowered to bring an action of their own before the European Court of Justice to enforce adherence to the subsidiarity principle. There is agreement in Germany that this right of action should not be made conditional upon the decision of a parliamentary majority. On the contrary, to protect the interests of the minority, it will suffice if a quarter of the Members of the Bundestag call for a subsidiarity action to be brought. If that quorum is obtained, the action will have to be instituted.

Let me take these current developments as the basis for a few comments about the principles governing the rights of the parliamentary minority in Germany.

Majority principle and minority safeguards

In the German system of parliamentary government, the majority principle and safeguards for the parliamentary minority are inextricably linked. The principle of majority voting ensures that substantive decisions in parliamentary processes are taken by a majority and are then regarded as decisions of the whole parliament, which the minority also respects. The German system, however, is based on the view that real democracy only comes into play when a viable and effective minority or opposition is guaranteed and protected. Only then is the parliamentary majority compelled to deal in parliament, under the public gaze, with the substance of the views put forward by the opposition and to justify its own government policy.

The rights of the parliamentary minority are defined in both the Basic Law of the Federal Republic of Germany and the Rules of Procedure of the German Bundestag. They are formulated in such a way that they can be asserted by either an individual Member, a parliamentary group or a quorum, in other words a certain number of Members acting together.

Let me begin by citing some examples from the Constitution itself:

Constitutional protection of parliamentary minorities

A particularly important right of parliamentary minorities, which is chiefly used by the opposition of the day to examine, in the public spotlight, alleged abuses on the part of the government and the civil service, is the right of inquiry. It only takes a quarter of the Members of the German Bundestag, for example, to demand the appointment of a committee of inquiry. This contrasts with the situation in many other parliaments, where a majority vote would be needed.

In addition, the Basic Law already lays down that an extraordinary sitting of the Bundestag must be convened if the President of the Federal Republic, the Federal Chancellor or a third of the Members of the Bundestag so request. Although in the latter case the minority is not empowered to determine the agenda for the entire sitting, it can at least insist on treatment of the matter that prompted its request.

Finally, I should point out that a constitutional amendment can only be adopted with the consent of two thirds of the Members of the Bundestag. The purpose of this clause is to guarantee that fundamental decisions relating to the organisation of the state and the life of society are based on the broadest possible consensus. Accordingly, before such parliamentary decisions are made, the opinions of the minority must be taken into account with a view to securing the necessary consensus.

Minority safeguards established by the Rules of Procedure

Although the rights of parliamentary minorities are ultimately guaranteed by constitutional provisions, it is in the Rules of Procedure of the German Bundestag that they are systematically defined. They comprise the parliamentary right of initiative, procedural rights, the right to address the House and the instruments of scrutiny, foremost among which is the right to ask questions. Here are some examples:

Parliamentary initiatives

In contrast to other countries, such as the United States, Germany does not give its individual Members of Parliament the right to initiate legislation. As a matter of principle, bills initiated by the Bundestag must be signed by a parliamentary group or by five per cent of the Members of the Bundestag, which is equivalent to the minimum size of a parliamentary group. If that quorum is achieved, however, the Bundestag must examine the proposal. In this way, three weeks after such a bill has been distributed to all Members, the Opposition can compel the House to put its bill on the plenary agenda and to debate it in the chamber.

In the case of bills that are normally given three readings in plenary, however, individual Members do have the right to table amendments at second reading, that is to say after the committee stage which is a customary part of our parliamentary process.

Procedure

In any parliament, the subjects discussed in plenary are the key to the structure of parliamentary business. In Germany the agenda is not determined unilaterally by the majority, far less by the Government, as is the case in some of Europe's national parliaments. Setting the Bundestag agenda is the task of the Council of Elders, on which all the parliamentary groups are represented. And our Council of Elders must act unanimously. This is, therefore, another point at which compromises have to be negotiated. In practice, the Council of Elders almost always manages to reach a compromise. The alternative, which is only used as a last resort, would be a partisan vote in plenary.

In the parliamentary process many minority safeguards are designed to enable an individual Member or a parliamentary group to table a motion on which the Bundestag is required to take a decision. Such motions may seek to add an item to the agenda or to summon a member of the Federal Government.

The Rules of Procedure also contain provisions enabling part of the House, such as a parliamentary group, to exercise a right of veto in certain circumstances. A late addition to the agenda, for example, may be vetoed.

Finally, there are rules which stipulate that certain things must be done if a minority so requests. For instance, a minority can demand that a vote be taken by roll call, which means that the vote cast by each participant is registered and is published in the official record of proceedings. In a committee responsible for discussing a legislative bill or other initiative, a minority can demand a public hearing. If a committee does not complete its deliberations within a reasonable time, a minority can require that the matter be reported to and debated by the whole House.

That brings me to other areas of parliamentary business in which major importance attaches to minority safeguards.

The right to speak

The right of Members to address Parliament is constitutionally enshrined and, together with their voting rights, is essential to the exercise of their parliamentary mandate. Parliament, however, is empowered to lay down its own Rules of Procedure and may therefore structure and limit the right to speak. This is another area where ample consideration is given to the special needs of the parliamentary minority.

This consideration is reflected most clearly in the structure of plenary debates. In practice, the total speaking time to be devoted to an agenda item as agreed by the Council of Elders is distributed among the parliamentary groups on the basis of a formula laid down at the start of the current electoral term. The distribution formula is essentially based on the relative strength of the groups, but the share of speaking time it gives to smaller groups is disproportionately large in relation to the number of their members. In a one-hour debate at the present time, the CDU/CSU and the SPD, the groups forming the governing coalition, are each entitled to 19 minutes, the FDP group is given eight minutes, and the groups of The Left Party and Alliance 90/The Greens have seven minutes each. It should be emphasised that the speaking time granted to the coalition groups normally has to cover speeches by government ministers too. The distribution formula ensures that the Government and the parliamentary majority supporting it cannot hog the floor in plenary debates to the detriment of the Opposition.

The relative strengths of the parliamentary groups are also important when it comes to determining the order of speakers, as is the principle of presenting arguments for and against a motion. Accordingly, the first part of the debate is not devoted exclusively to contributions from the Government and from Members belonging to the coalition parties

but is structured in such a way that representatives of the various groups are heard in turn.

Rights of scrutiny

Scrutiny of the Federal Government is one of the main tasks of the Bundestag. A wide array of instruments is available to Members and parliamentary groups to enable them to perform this scrutinising function. Besides the right to appoint a committee of inquiry, which I mentioned before, the principal powers of the Bundestag in this context are the right to ask questions and the right to obtain information. Many of the instruments of scrutiny are specifically designed as minority rights in order to give the Opposition a fair chance to review the actions of the Government and its parliamentary majority.

To this end, each Member of the Bundestag may address up to four written questions per month to the Federal Government. Moreover, in the weeks when Parliament is sitting, each Member is also entitled to put a maximum of two questions to the Federal Government for an oral reply during question time. There is no provision for a quota system based on group membership or relative group size for question time.

In the weeks when the Bundestag is sitting, question time is regularly preceded by a question-and-answer session with members of the Federal Government, which takes place immediately after cabinet meetings. During this session each Member of the Bundestag may put questions to the Federal Government for an immediate oral reply. Precedence is given to questions on the foregoing cabinet meeting, but they may also refer to issues of topical interest. Quotas based on group membership or strength do not apply to these sessions either.

Other channels through which the Government may be questioned are open to the parliamentary groups or to a number of Members corresponding to the minimum size of a parliamentary group. These channels are known as minor and major interpellations, through which the Federal Government may be required to provide written information on more complex issues. Replies to minor interpellations are provided in written form only, whereas major interpellations are also debated in the Bundestag, which serves not only to uncover factual information but also to initiate a public examination of policies pursued by the government of the day.

Like major interpellations, debates on matters of topical interest are a special type of debate and an important guarantor of open government. For this reason, a single parliamentary group may demand a debate on a specific issue of topical interest. This debate involves short speeches of up to five minutes' duration. It is also subject to the distribution formula based on the relative size of the parliamentary groups, so the views and concerns of the Opposition receive adequate consideration in these debates too.

Minority safeguards in the formation and composition of parliamentary bodies

In the formation and composition of parliamentary bodies too, ample account is taken of the need to safeguard the rights of parliamentary minorities.

Since the specialised and detailed aspects of parliamentary business, especially in the legislative process, are primarily dealt with in committee, it is also important that the parliamentary minorities receive due consideration in the allocation of seats on committees and the appointment of committee chairpersons. For this reason, the Rules of Procedure stipulate that the members of committees are not selected by majority vote but nominated by the individual parliamentary groups. In this case too, the number of committee members provided by each group is based on its relative strength.

The same applies to the distribution of chairmanships. This means that each political group in the Bundestag is entitled to provide the chairpersons for a number of committees. As you know, this is done differently in many parliaments. Following the Democrats' electoral victory in the United States, for example, the chairmanships of all House committees, which had hitherto been held exclusively by Republicans, had to change hands. Such wholesale changes of personnel are unknown in the German parliamentary system. Indeed, there is an unwritten tradition that the committee regarded by many as the most powerful, namely the Budget Committee, is always chaired by a member of the largest opposition group. This is an acknowledgement of the need to exercise parliamentary scrutiny of the Government's management of the budget.

Finally, the membership of the Council of Elders is also determined on the basis of relative group strengths. And, last but not least, each parliamentary group is represented by at least one Vice-President on the Presidium of the Bundestag, which comprises the President (Speaker) and his deputies. Consequently, plenary sittings chaired by a member of the Opposition are a regular occurrence.

Conclusion

Following this non-exhaustive review of various rights accorded to parliamentary minorities, I would like to stress that the array of parliamentary powers and opportunities for parliamentary minorities in the Bundestag is extremely wide. On the one hand, this ensures that all views held in Parliament can be clearly voiced.

On the other hand, the numerous minority rights do not unduly delay, let alone cripple, deliberation and decision-making processes or the essential routine tasks of government. It may be that the odd decision takes longer to reach, but equitable involvement of the Opposition in all decision-making processes ultimately guarantees its acceptance of the outcome of those processes. Accordingly, there is scarcely any obstruction; apart from some exceptional situations, the majority and the minority treat each other with due respect.

In the event of reports or allegations of actual abuses, the right to demand the appointment of committees of inquiry and study commissions gives the Opposition suitable instruments with which it can ensure transparency and obtain information. The deliberations of these bodies always arouse great interest among our mass media.

Democracy as we understand it is more than a procedure designed to obtain parliamentary majority decisions. In our view, minority safeguards must not be confined to situations in which ethnic, national or cultural minorities or any other minority groups within society require protection. Every minority in a parliamentary system must have the means of publicising its alternatives to proposals presented by the governing majority and having those alternatives debated and put to the vote. That occasionally takes more time. Ultimately, however, such delays pay off handsomely in terms of the greater democratic legitimacy of the final decision."

Mr Anders FORSBERG, President, thanked Dr SCHÖLER for his communication. He then invited members present to put questions to him.

Mr Ian HARRIS (Australia) noted that in Australia, as in Germany, the quorum had been reduced from a third to a fifth. This issue had led to debate in Australia, as some people had taken advantage of this reform to cause disturbances.

Mr Ahmed A. ALYAHIA (Saudi Arabia) noted that the procedures existing to protect the rights of minorities within Parliament were in effect in their earliest stages, but he asked what kind of minorities were not represented within Parliament, and could not make their voices heard. How could one help these minorities to access Parliament?

Mrs Jacqueline BIESHEUVEL-VERMEIJDEN (Netherlands) stressed the importance of the points in common between the Bundestag and the Dutch House of Representatives. She then asked if written questions could not be deposited when the Bundestag was sitting, and if the total number of questions that a Member could ask was limited. As for topical issues, since 2004 in the Netherlands, a fifth of Members could ask for an urgent debate. Experience had shown that this possibility had given rise to numerous requests, doubtless too many. How was it in the Bundestag?

Mr Xavier ROQUES (France) indicated that the French National Assembly had copied a rule from the Bundestag relating to the financing of political parties, which foresaw an increase of 10% in these finances in relation to the rule applying to opposition political groups. This provision had caused repercussions after the legislative elections of 2007, when the Socialist Party, an opposition party, had won more seats than in the previous Parliament and had benefited from this fact through such a financial increase.

Dr Ulrich SCHÖLER noted that, on the subject of lowering the quorum, it was worth noting that in Germany, unlike in Australia, a lone parliamentarian could not seek to catch the Speaker's eye, and that only a political group could intervene in debate, which doubtless limited the scope for disturbance. The current situation in Germany was not usual, because in the past, the majority represented 60% of the seats, as against 40% for the minority, whereas in the grand coalition, the majority represents

70%, as against 30% for the minority, the three other parties represented in the Bundestag having each between 8 and 10%. Only those parties gaining more than 5% of the vote could enter the Bundestag: this threshold could be judged too high or too low, according to different points of view. In any case, it avoided a purely bipolar system. It was not for Parliament itself to act to make minorities its members.

He then replied that each parliamentarian could ask up to four written questions a month, as well as two oral questions, the Government being required to reply. Urgent debates were rarely susceptible to abuse; their opportuneness was debated in the Council of Elders, and generally consensus intervened.

Mr Marc BOSC (Canada) asked if the roll-call vote, which could be obtained by the minority in the Bundestag, was often requested.

Mr Edwin BELLEN (Philippines) wanted to know if the Government was allowed not to provide all of the information requested by the Opposition, and if, in this case, the opposition could take legal action.

Mrs Stavroula VASSILOUNI (Greece) noted that in Greece, every Member could present a bill, but that in practice it was very rare that one would be adopted. How was it in Germany? Did it often happen that texts proposed by Members were adopted as laws?

Dr Ulrich SCHÖLER replied that unlike in the Greek Parliament, a Member could not propose a bill, only a political group being able to do this. If members from different political groups wanted to present a bill collectively, they had to represent at least 5% of the Members of the Bundestag in order to do so.

Mrs Stavroula VASSILOUNI (Greece) asked if these bills were debated in the plenary and, in any case, adopted.

Dr Ulrich SCHÖLER replied that every legislative proposal was dealt with. He then indicated that replies from the Government to questions from parliamentarians were sometimes very succinct; when the Government did not wish to reply, it invoked issues of secrecy and confidentiality. On a regular basis, this subject was raised within the Council of Elders, who sometimes decided to send a letter to the minister concerned to remind him of the duties of the executive power. A political group had already brought an issue of this kind before the Constitutional Court, but the court had not yet reached its judgement. Finally, he indicated that only a political group could ask for a roll-call vote.

Mr Anders FORSBERG, President, thanked Dr SCHÖLER for his communication as well as all those members who had put questions to him.

The sitting rose at 12.55 pm.

FOURTH SITTING
Tuesday 15 April 2008 (Afternoon)

Mr Anders FORSBERG, President, in the Chair

The sitting was opened at 3.00 pm

1. Introductory remarks

Mr Anders FORSBERG, President, reminded members that candidacies for election to the Executive Committee needed to be deposited before 11 am on Thursday 17 April. It was usual for experienced members of the Association to be candidates rather than new members; moreover, it would be desirable if candidates from Asia, as well as women could put themselves forward, in order to ensure the best possible representation on the Committee.

2. Presentation by Mr Martin CHUNGONG, Director of the Division for the Promotion of Democracy of the Inter-Parliamentary Union, on recent developments in the activities of the IPU

Mr Anders FORSBERG, President, invited Mr Martin CHUNGONG, Director of the Division for the Promotion of Democracy of the Inter-Parliamentary Union, to make his presentation, a summary of which follows:

The IPU's activities followed three main paths: the promotion of democracy, the strengthening of Parliaments and the defence of human rights.

The IPU had recently welcomed three new members, Mauritania, whose membership had been suspended following a coup d'etat, but where a constitutional system of government had been restored, Iraq, also readmitted after a period of suspension, and Timor-Leste, which was a new member. A decision on the Palestinian National Council was awaited – its adhesion was being debated at the moment, with this discussion needing to be brought to a conclusion before the end of the week.

Many areas of work were under way: among the three permanent committees, the committee on peace and international security was working on the theme of the balance between national security and individual liberty, with a draft resolution in preparation; the committee on sustainable development, finance and trade was studying the theme of migrant workers and the trade in human beings, with its work having been brought to completion that morning; the committee on democracy and human rights was working on the issue of parliamentary oversight of state policies on foreign aid.

In parallel, on Wednesday morning, there would be a round table dedicated to maternal, neonatal and infantile health, while on Wednesday afternoon, there would be a meeting and debate on peace-building in the interests of reconciliation.

Moreover, on matters of mutual interest, work was being carried out to promote human rights, the participation of women in political life, the development of democracy and the strengthening of Parliament. Once a year, the IPU published a report for the Governing Council of the IPU on the promotion of democracy, which would be placed at the disposal of members of the ASGP for their next meeting.

During the previous months, the IPU had given priority to supporting Parliaments of states emerging from conflict. The training programme for the Parliament of Timor-Leste and its partners had been continuing; at the same time, the IPU had begun an exploratory mission in Sierra Leone with the aim of launching a programme promoting the role of Parliament in national reconciliation. The IPU had continued to provide support to Burundi, putting in place a good offices proposal to promote political dialogue and the emergence of a consensus on the smooth running of Parliament; other Parliaments had expressed an interest in this mechanism, Kenya in particular. The IPU, at the request of the Democratic Republic of Congo, had carried out an evaluation of the needs of its national parliament and its regional parliaments, and was going to sign with the UNDP a protocol agreement for the support of these parliaments. In Cambodia, the IPU had introduced training on legal issues for parliamentary employees.

In general, the IPU's programmes for parliaments tended more and more to strengthen technical capacities, chosen in co-operation with the parliaments, and were less interested than in the past in procedures and processes. These programmes were carried out through regional and sub-regional seminars, for example promoting the participation of parliaments in sustainable development. A special process had been launched for parliaments from the least developed countries seeking to facilitate their participation in the implementation of the Brussels Programme of Action (UN, 2001): of the ten parliaments targeted, seven had asked to participate. On this subject, the IPU relied greatly on the ASGP, which provided important support, especially in terms of documentation and information.

The IPU also showed itself to be very active in the areas of the defence and the protection of human rights. In the course of the previous months, it had placed an emphasis on protection against attacks on the freedom of expression of parliamentarians. A growing number of cases related to the link between a parliamentary mandate and membership of a political party, taking account of the pressures which parties could exercise; this was why the IPU had decided to carry out an in-depth study on this theme. Moreover, the IPU had facilitated, in Sri Lanka, the work of an independent international group of eminent personalities created to observe the work of the national commission charged with inquiring into various allegations of human rights violations, in particular the murders of two parliamentarians. The IPU was working to bring together the parliamentary committees on human rights and organized meetings each year at which members of these committees exchanged points of view

with human rights specialists. The 2007 meeting had focused on human rights and migration.

As for the participation of women in political life, the IPU had concentrated on regions where women were under-represented. For the second consecutive year, it had organized a conference for women decision-makers in the countries of the Gulf Cooperation Council States. In Burundi, a technical and material assistance project for female parliamentarians had been launched, to allow them to make a useful contribution to decision-making in Parliament and to forge solid links with civil society organizations ready to fight for equal rights. At the beginning of 2008, the IPU had published a new edition of the planisphere of women in politics and had finished a large-scale inquiry on equality in politics, the report of which would be presented at the 188th Assembly.

The ASGP had been very active in the promotion of democratic values. Following a first conference in Geneva in autumn 2007 on the e-Parliament, the first world report on the electronic parliament had just been published, more than a hundred parliaments having participated in this study.

Moreover, a research programme looking to develop knowledge in the initial and continuing training of parliamentarians had been instituted by the IPU in collaboration with a team at Monash University. This study was to come out as a manual and the IPU wanted the ASGP to help to finalise it.

The IPU had undertaken a complete revision of the Panorama of parliamentary elections and had improved it in several ways. It was also pursuing its work on tools of self-evaluation by Parliaments, so that parliaments could themselves perfect their own practices; this process also allowed for the promotion of good practice. From 2008, a complete version of these tools would be published.

Furthermore, the joint IPU-UNDP research project on the representation of minorities and indigenous peoples had made great progress. Financing had been obtained from the Canadian international development agency and a consultative committee, on which there was space for a member of the ASGP, was currently being set up.

The IPU had modernized the PARLINE database to make information more accessible to users; there was currently movement towards revising its content, to ensure the accuracy of the information and it was hoped that this tool would be used by the ASGP.

In the course of the following months, programmes would be undertaken in the Democratic Republic of Congo, Sierra Leone, the Maldives, Burundi, Laos and Guinea. The study on the control exercised by political parties on parliamentarians would also be a priority, as would the promotion of parliamentary participation in instruments for the protection of human rights. In November 2007, the General Assembly of the United Nations adopted a resolution aiming to make 15 September the international day of democracy; this date coincided with the tenth anniversary of the Universal Declaration of Democracy, adopted by member parliaments of the IPU in 1997 in Cairo. The IPU

wanted to be involved in the preparations for this day and was preparing proposals which would be submitted to the different parliaments.

Mr Anders FORSBERG, President, said that the range of activities carried out by the IPU was always impressive. On the research projects on the representation of minorities and indigenous peoples, he noted that he had asked the members of the ASGP to participate in this work. Mrs Ionescu, at the time a member of the Executive Committee, had proposed that the ASGP should take part and had shown herself to be interested, but she had since left her post. He welcomed the co-operation between the ASGP and IPU through conferences on subjects such as Parliaments and television channels, and Parliaments and information and communication technologies, while a new seminar was being prepared on parliamentary research, documentation and information services.

Mr Martin CHUNGONG agreed, with a reminder that the conference on parliamentary research, documentation and information services, co-organised by the ASGP, IPU and IFLA (International Federation of Library Associations and Institutions) was to take place on 16 October.

Mr Anders FORSBERG, President, thanked Mr CHUNGONG for his presentation.

3. Communication from Mr Douglas MILLAR, Director General of Chamber and Committee Services and Clerk Assistant of the House of Commons of the United Kingdom: The role of the backbencher

Mr Douglas MILLAR (United Kingdom) made the following communication:

"What is a backbencher?

In the House of Commons, Members who are not Ministers in the Government (of whom there are more than 80) and nor members of the Official Opposition team of senior spokespeople (the Shadow Cabinet) are said to be "backbenchers". Also excluded from the definition would be the leaders of the smaller parties. There are well over 500 out of the total of 646 Members of the House who can therefore be described as backbenchers. The term derives from the fact that Government and opposition spokespeople sit on the front benches on either side of the Table of the House while other Members sit on the "back benches".

The role of the Back bench Member

Because of the nature of the British parliamentary system where Ministers are members of the House and the continuation of the Executive in power depends upon the continuing support of the House for the Government, Members of the House of Commons have to fulfil a variety of tasks which may not apply in all legislatures. The workload for front and back benchers alike is greater now than it has ever been. It is

not surprising therefore that the House sits for more days and longer hours than the parliaments of most developed countries in the world.

The multiplicity of activities in which Members are involved and the increasing volume of work associated with being a constituency Member of Parliament has led to some concern about what actually is the role of a backbencher in the modern House of Commons. How should a Member prioritise their work? How important is it for Members to participate in the Chamber of the House rather than work in their offices or participate in Committee or party activity? The Select Committee on the Modernisation of the House of Commons recently undertook a study of this matter and reported last summer.

The report of the Modernisation Committee analysed the various roles performed by Members, many of which have to compete against each other for a Member's time. These were identified as

- supporting their party in debates and votes in Parliament;
- representing and furthering the interests of their constituency;
- representing individual constituents, taking up their problems and grievances;
- scrutinizing and holding the Government (the Executive) to account;
- initiating, reviewing and amending legislation;
- contributing to policy development, whether in Parliament or within party structures and in public forums.

It is noticeable that even when tackling this disparate group of tasks, Members find many different ways in which to perform them. In relation to scrutiny of the Executive for example, some are active in the Chamber—asking Questions or taking part in debates; others concentrate on correspondence or meetings with constituents and influencing those who deliver services. In developing party policy for example, is it more important to write pamphlets, take part in party committees or address meetings or public policy institutes?

A background to the choices that Members must make, is the enormous growth in constituency work which Members are expected to do, faced with far speedier communications and a more vociferous and demanding citizenry than existed thirty years ago. In short, expectations upon Members have grown; the opportunities for activities have also grown and they are forced to choose between competing demands on their time. At one extreme, a Member might spend most of their time in their Westminster or constituency offices dealing with constituency cases: at the other a Member could spend twenty or thirty hours in the Chamber or Committees of the House, participating publicly in questioning and debating Government legislation and activities.

The Committee (and the Clerk of the House who gave evidence to the Committee) wisely did not seek to prescribe how Members should do their job. It is ultimately for the electorate, prompted by competing candidates from other parties, to decide whether a Member has done a satisfactory job when the next election is held.

Participation in the Chamber of the House

One aspect of concern to the House is the increasing emptiness of the main Chamber of the House and the unwillingness of Members to attend the Chamber except when they can expect to ask a Question or speak in a Debate. The empty benches in the Chamber have been highlighted in the media and this has led to further questioning of the role played by individual Members.

The Modernisation Committee made a number of proposals to attract Members to the Chamber:

- more topical Questions;
- more topical debates;
- shorter or more flexibly timed debates
- time limits on speeches
- facilitating multi-tasking by allowing Members to use PDAs in the Chamber.

The House adopted all of these proposals in October last year on an experimental basis with mixed results

Topical Questions

The traditional centrepiece of the Parliamentary day, Question time now regularly has a fifteen minute slot when the Secretary of State can be questioned without notice on aspects of his or her responsibilities. This has removed an element of artificiality from Question time when Members sought to link their current concerns with Questions tabled a few days previously on other topics. It has largely met the aim of the Modernisation Committee to enable each Minister to be questioned on the latest issues.

Time limits on speeches

The standing Order on Time limits on speeches was made much more flexible in order to allow as many Members to participate in debates as possible. The Speaker has announced that he will use powers to limit speeches so that time limits can be relaxed or tightened even during a debate. Limits of between three to twenty minutes have been used at different times.

Electronic Devices in the Chamber

The House agreed that electronic devices could be used by Members in the Chamber for the purpose of keeping up to date with e mails. The Speaker has therefore permitted the use of PDAs in the Chamber provided that they are not an obvious distraction from proceedings or debates. However some Members have been seen to use the camera function of the PDA in the Chamber which is strictly not allowed. Members are also not allowed to be prompted by electronic messages in the course of debates.

Topical Debates

The most problematic area of change has been the introduction of topical debates. There has been no consensus that the choice of subject by the Government has been appropriate or even topical. The Government response is that such debates form part of their debating time and so they should have the right to select the subject for debate. A further review of this procedure is now underway some time before the experimental period has been concluded.

E petitions

Another change on the horizon is the introduction of e petitions. The Procedure Committee has agreed the House should accept e petitions. Unfortunately, the technology is quite complicated if the essence of the traditional Commons procedure is to be maintained, that presentation of a petition should be done by an individual Member. It has been mooted (no doubt by Government) that the House could in effect take over petitions to the No.10 (Prime Minister's) website. This, it is suggested, might result in several thousand extra petitions a year coming to the House—and take up an enormous amount of Parliamentary time.

Conclusion

Whatever is done, the House is unlikely to return to a time when the seats on the benches of the Chamber are regularly crowded. New ways of working and demands for Members to be in several places at once are so entrenched that it is practically impossible for Members to attend the Chamber regularly in large numbers except for limited periods on special occasions such as Prime Minister's Questions or the Queen's Speech. In any event, it was never the case in days gone by that the benches in the Chamber were always full. Some commentators would like the House to return to habits that never existed!"

Mr Anders FORSBERG, President, thanked Mr MILLAR for his communication. He then invited members present to ask questions.

Mrs Claressa SURTEES (Australia) wanted to know if the questions asked to ministers for fifteen minutes, without notice, as Mr Millar had explained, had to all be on a common subject.

Mr Douglas MILLAR replied that this was not the case. However, when, for example, the Minister for Transport was being questioned on a given day, the questions asked of him had to more or less concern those areas for which he was responsible.

Mrs Doris Katai MWINGA (Zambia) said that sometimes, during committee debates, a parliamentarian gave a certain opinion on a subject, but, under pressure from his political party, he changed his position in plenary sitting. As a result, while a given subject could seem consensual at first, it could lead to debate and difficulties in the Chamber. An example of this was a bill on financial arrangements for mines. It would

therefore be necessary to investigate in Zambia the concept of the backbencher and the issue of party whipping.

Mrs Jacqueline BIESHEUVEL-VERMEIJDEN (Netherlands) tackled the issue of absenteeism: permanent committees had a full agenda, and plenary business often brought together few parliamentarians, except for debates of the moment and budget discussions. It was probably necessary to explain to citizens the reasons for this absenteeism from the sittings, in particular the obligations on and activities carried out by parliamentarians over and above appearing in the Chamber. On the subject of questions to the Government, the Presidium of the Parliament had formulated strict rules, in particular the requirement for questions asked to have a direct link with current events. For each question time, twenty to twenty-five requests were made, but only four questions were allocated each week. The current arrangement worked very well. Questions to the Government were very lively; carried live on television, they attracted between 20,000 and 90,000 viewers.

Mr Douglas MILLAR said that in general, party discipline was strong within the House of Commons; Members followed their party's instructions, even if some academics claimed that there were more rebels than there had been in the past. As for questions to the Government, the Dutch system of four questions in an hour was closer to that of the House of Lords than the House of Commons, where a larger number of Members asked questions. In any case, no parliamentarian had ever expressed any regret with regard to the previous arrangement, which required notice to be given of questions. As for absenteeism, he stressed that given the current media context, which was rather biased against parliamentarians, to explain why Members were absent from the Chamber would doubtless be useless, and would not help to improve their image. But in fact, the growth in meetings of different committees and within the parties explained why Members were often everywhere except in the Chamber!

Mr Anders FORSBERG, President, thanked Mr MILLAR for his communication as well as all those members who had put questions to him.

4. Communication from Mr Ali Osman KOCA, Secretary General of the Grand National Assembly of Turkey: Participation in the legislative process of the NGOs in Turkey

Mr Ali Osman KOCA (Turkey) made the following communication:

"Representative democratic regimes, which are regarded now as the most democratic form of government ever found by humanity, are in a continuous progress of development and change. In the countries which are presently governed in representative democracy, the concepts of participatory democracy and co-government have long been concepts referred to still more frequently. The level of participation in the democratic system differs from country to country. Obviously, this is being

determined by the democratic accumulation of the country in question and its historical past.

Parliaments which are the basic institutions of democratic regimes, have been the legal fora of political participation. As an obvious consequence of their nature, Parliaments enable political parties, the most important actors of the political system, as well as the NGOs that are supposed to build the ties connecting the public to the political system, to take part in the political system. It is through these organizations that political resolutions are made and laws are enacted.

In modern representative democracies, the manners and degrees of participation in the process of political decision-making of the NGOs differ from country to country. When the practice in many European countries is viewed, one observes that NGOs take part in the process of political decision-making in two stages. The first stage of participation occurs during the preparatory work carried out by the executive. And the second during the proper activity of enactment in Parliament. If and when the level of participation goes beyond this degree, one approaches direct or semi-direct democracies. Such a participation manifests itself as citizen initiatives, referendums and tabling draft laws by citizens.

The participation in lawmaking of the NGOs is effected in two stages in Turkey. Law drafts are first drafted by the ministries concerned, then submitted to the Prime Minister, then forwarded to Parliament if approved by the Council of Ministers, it is clear that the NGOs provide their contribution in the course of consultations taking place with the ministries concerned and public institutions and organizations.

Under the Regulation put into effect in 2006 as regards the procedure and essentials of how to prepare legislation: local governments, universities, trade unions, professional organizations are recognized as public institutions, and NGOs are entitled to express and communicate their views on the proposed legislation.

The public is to be informed of drafts that interest the public at large through the internet, the press and various publications before being submitted to the Office of the Prime Minister. Moreover, at this stage, an opportunity is offered to examine in depth the probable effects of the proposed legislation in question on stock-exchange, society, environment and legislation already in effect.

As for the second parliamentary stage, the NGOs are empowered to take part in the process. Yet the said participation is only possible when the proposed legislation is discussed in parliamentary committees. When the proposed legislation is discussed at a full house meeting of Parliament, the NGOs are not allowed to take part in it. Yet it is worth underlining that discussions at full house meetings are open to the general public, unless restricted. One more aspect: parliamentary committees are entitled to invite experts and take their views in course of their discussions. But they are not bound, under the parliamentary by-laws, to invite representatives of NGOs to their meetings.

The latest developments that is the country's stepping in a new period, membership negotiations with the European Union. a new understanding of public administration and the growing importance of the NGOs in public matters led to amend the by-laws in order to increase the power of NGOs. So, an amendment was effected in the by-laws to enable them to take part in the work of parliamentary committees, which is sort of parliamentary kitchen work.

The main aim of the amendment effected in the by-laws was to allow the NGOs to actively take part in legislative work, NGOs being organized groups carrying out the important function of controlling the political power in view of the fact that the legitimacy of the operation of democratic political system is ensured by control only. Because the NGOs are the units which promote the conscious of the participation in mass by the nature of volunteerism and participation and also assist in operating the system by participating directly in the decision-making and information accumulation and specialization.

The concept of the administration focused on citizens, which is the main principle in today's information society, needs the active participation of NGOs to process the decision-making of executives and parliaments. The primary trend in administration today is governance. Governance envisages the participation not only of elected persons or bureaucracy but also ruled people who are affected by this process.

The amendment of by-laws is very important for the purposes of controlling the leading persons by people continuously, operating the system in a good manner, making the system more transparent and increasing the effectiveness of democratic management.

The other point about the participation of NGOs in the process of legislation is that today the roles of NGOs in the execution and legislation process in either the members of the European Union or in the number of countries is advisory rather than an imperative part in the method of making law. This is the same in Turkey. The main principle is that the government bills and the notice of motions should be open to criticism and participation of NGOs in the legislation process. In this context, there is evaluating and harmonizing of different views and opinions but the last and final decision belongs to the parliament. The importance of what we did: first time, by the amendment in the by law which regulates the working methods of parliament, the participation of NGOs to the legislation process is institutionalized.

In this context, the panel namely "NGOs participation to the legislation process: searching a system" was organized by the Secretariat of the Grand National Assembly of Turkey and Legislation Society on 19 November 2007 in order to establish a base for the planned amendment with the participation of more than 80 NGOs and 150 representatives. Academics, bureaucrats, and, representatives of the European Commission, United Nations Development programme and the Secretariat General for EU Affairs participated the meeting. Thus, the matters of the participation of NGOs effectively and the preparation for the legal regulation were discussed together.

Finally, I would like to underline the importance of the participation of NGOs to the legislation process and in general to the political process. Because NGOs establish the inputs of political systems and reflect the social requests. The participation of NGOs, which are the fundamental elements for communicating the social requests to the political system, to the legislation process provides great contribution to promote our democracy.

On the other hand, I would like to give short information about the Notice of Motion, which is foreseen to amend in the parliament's rules of procedures within the framework of the law of public financial management and control. This Law brings many developments in the field of public financial management and financial control relating to the legislative budget process. The main objective of the Law is to enhance transparency and accountability in public financial management in conformity with EU standards. It improves Parliament's information on the government's finances, assets and liabilities.

I don't want to take your time but shortly I would like to give information about the excavation in Patara Antique city in Southern Turkey. In this excavation, the first democratic parliament ruins have been found belonging to the Lycia period. On the prompting of this, Turkish Parliament is planning to make a meeting of World Speakers in 2009."

Mr Anders FORSBERG, President, thanked Mr KOCA for his communication. He then invited members present to ask questions.

Mr Ian HARRIS (Australia) said that in some countries, parliamentarians felt a certain resentment of non-governmental organizations, as they had the impression that these organizations got between them and the people, that they hijacked their work and that they were sometimes led by foreigners. Was there such a feeling in Turkey?

Mr Dagnachew BEFEKADU (Ethiopia) asked Mr KOCA what difference there was between, on the one hand, non-governmental organizations and, on the other, civil society and lobbyists. How could they be managed?

Mr Alain DELCAMP (France) explained the differences that existed between the concept of the "ONG" in France and the notion of NGOs in Anglo-Saxon countries: while the latter referred to civil society, all actors outside of Government, in France "ONG"s referred rather to international and institutional organizations – this was thus a concept to be handled with care. Research on the role of civil society tended to promote the notion of governance, in which Parliament and various other actors were said to take part. This approach had the disadvantage of trivializing Parliaments, by classing them together with all the other actors. Now, Parliaments also represented civil society, and carried a particular legitimacy.

Mr Ali Osman KOCA added that in effect if non-governmental organizations comprised organized groups conveying the will of citizens, and representing society, then Parliament did indeed also represent civil society.

Mr Anders FORSBERG, President, thanked Mr KOCA for his communication as well as all those members who had put questions to him.

5. Proposal from the Executive Committee under Rule 30 (5) that the rights to vote and to stand for election be suspended for members where there is a delay of at least three years in the payment of subscriptions

Mr Anders FORSBERG, President, recalled that the operation of the ASGP depended on the contributions paid by its members, and that, for countries comprising two Chambers, each of them had to pay its own contribution. He said that following a discussion within the Executive Committee in Geneva in October 2007, he had sent a letter in January 2008 to all members who had not paid their contribution for more than two years. Applying the rules of the Association, the plenary could decide, on a proposal from the Executive Committee, to suspend rights associated with membership when contributions had not been paid for at least three years.

The Executive Committee had decided to make this proposal today, but not to ask for a definite decision until the next meeting in Geneva, which would allow the members concerned to regularize their situation. He asked members to ensure that their payments were up to date by October, and, in case of difficulty, to come to speak to one of the Joint Secretaries.

The sitting rose at 4.30 pm.

FIFTH SITTING
Thursday 17 April 2008 (Morning)

Mr Anders FORSBERG, President, in the Chair

The sitting was opened at 10.00 am

1. Introductory remarks

Mr Anders FORSBERG, President, thanked Mr DINGANI, Mr MANSURA and Mrs MATYOLO-DUBE for the especially interesting visit to the Parliament as well as for the excursion into the winelands. He reminded members that the time limit for presenting candidacies for election to the Executive Committee had been fixed for that day at 11 am. Finally, he asked members with proposals or initiatives for the next session in Geneva to talk to the Joint Secretaries.

2. Administrative questions: new members

Mr Anders FORSBERG, President, indicated that the ASGP secretariat had received several requests for membership, which had been submitted to the Executive Committee and accepted, as follows:

Mrs Nining Indra Shaleh	Deputy Secretary General of the House of Representatives of the Republic of Indonesia (replacing Mrs I. Gusti Ayu Darsini)
Mr Mohamed Vall Ould Koueiri	Secretary General of the National Assembly of Mauritania (replacing the previous Secretary General)
Mr Baptista Ismael Machaieie	Acting Secretary General of the Assembly of the Republic of Mozambique (replacing Dr Carlos Manuel)
Mr Sitor Ndour	Deputy Secretary General of the National Assembly of Senegal (replacing Mrs Marie-Josée Boucher-Camara)

These candidates presenting no particular problems, Mr Anders FORSBERG proposed that they should be accepted as members of the ASGP.

It was *agreed* to.

3. Issues brought by African members of the ASGP

Mr Anders FORSBERG, President, welcomed Mr Morad BOULARAF, Deputy Secretary General of the Pan-African Parliament, and invited him to make a presentation on the Parliament's work.

Mr Morad BOULARAF made the following presentation:

"**Relationship between PAP and National Parliaments**

1) The Pan-African Parliament was established in March 2004 under Article 17 of the Constitutive Act of the African Union as one of the ten (10) Organs of the African Union.

2) The establishment of the Pan-African Parliament is informed by a vision to provide a common platform for African Peoples and their grass-roots organizations to be more involved in discussions and decision making on the problems and challenges facing the Continent.

3) At its first mandate, the Pan-African Parliament has consultative and advisory powers. The ultimate aim is to evolve into an institution with full legislative powers whose members are elected by universal adult suffrage.

4) Out of the fifty-three (53) Member States of the African Union, forty-six (46) have already ratified the Protocol to the Treaty establishing the African Economic Community relating to the Pan-African Parliament and are represented in PAP.

5) Each Member State is represented in the Pan-African Parliament by five (5) Members at least one of whom must be a woman. The representation of each Member State must reflect the diversity of political opinion in the National Parliament or other deliberative organ.

6) The Bureau of PAP comprises five (5) Members representing the five (5) regions of Africa. PAP has got ten (10) Permanent Committees.

7) Among the objectives of the Pan-African Parliament we can mention the following:

   – facilitate the effective implementation of the policies and objectives of the African Union;
   – promote the principles of human rights and democracy in Africa;
   – encourage good governance, transparency and accountability in Member States;
   – promote peace, security and stability;
   – facilitate cooperation and development in Africa;
   – Strengthen continental solidarity.

8) Regarding the relation between the Pan-African Parliament and National Parliaments in Africa, Article 18 of the Protocol to the Treaty establishing the African Economic Community relating to PAP states:

"The Pan-African Parliament shall work in close cooperation with the Parliaments of the Regional Economic Communities and the National Parliaments or other deliberative organs of Member States".

9) The Pan-African Parliament keeps the National Parliaments and other deliberative organs of Member States informed on its activities by transmitting them its annual legislative programme, its hansards and committee reports.

10) In practice, Pan-African Parliament which is in its third year of existence is facing some difficulties and challenges regarding this relation with National Parliaments.

11) Because of financial constraints, some National Parliaments are not sending all their representatives to participate in the Sessions of PAP. It is to be recalled that the National Parliaments have the responsibility to bear the costs of the participation of their representatives to the statutory meetings of PAP.

12) This low rate of participation hamper the work of Committees and Plenary Sessions in making decision or adopting resolution because of the lack of quorum.

13) The PAP expects from National Parliaments to facilitate their representatives to entirely take part in its works and assist in the achievement of the objectives of PAP.

14) At PAP, we think that it is necessary for National Parliaments to organize debates on the main topics examinated and adopted by PAP.

15) These debates as well as the organization of parliamentary days on PAP will help the latter to be known by the peoples of Africa.

16) For a better following up of the work of PAP, we see it very useful if a special structure dealing with African Affairs is created in each National Parliament. This will greatly facilitate the coordination and the follow up.

17) It is also expected that the National Parliaments will make sure that their Governments associate the African parliamentarians in the election process and allow them to carry out their role of observers.

18) At each Session, PAP receives new Members number varies from 20 to 30. this is another difficulty PAP is experiencing.

19) PAP wishes that the National Parliaments ensure through their website, a link to PAP Website for a better promotion of PAP all over Africa.

20) Finally, PAP must pay tribute and express its gratitude to the National Parliaments of Africa for the assistance they are giving by providing staff during the Committee Sittings and the Plenary Session PAP organises.

21) The PAP is also having relationship with similar bodies:

- the European Parliament;
- the Parliamentary Assembly of the Council of Europe;
- the Latin American Parliament;
- the Canadian Parliament;
- the Parliamentary Assembly of the Commonwealth of Independent States

22) The PAP hosts Regional Parliamentary Fora in Africa."

Mr Anders FORSBERG, President, thanked Mr BOULARAF for his presentation. He then invited members present to ask him questions.

Dr Hafnaoui AMRANI (Algeria) observed that at the end of its first term, the Pan-African Parliament continued to have a consultative status, while the objective was that it should become a parliament with legislative powers. Were any developments expected in this direction? In this context, it was foreseeable that national parliamentary representatives within the Pan-African Parliament would be elected, and no longer nominated by parliaments. Moreover, the training programmes for staff could be useful for national parliaments as well as for the Pan-African Parliament.

Mr Ernest Sipho MPOFU (Botswana) remarked that, on the subject of the lack of assiduity of members at the meetings of the Pan-African Parliament, the fact that this Parliament made significant financial demands, in the form of a charge on national parliaments of around 500 dollars per member per day, partly explained the problem.

Mr Anders FORSBERG, President, wanted to know the main challenges and difficulties faced by the Pan-African Parliament when preparing for its sessions.

Mr Morad BOULARAF explained that the first term of the Pan-African Parliament, as a consultative body, marked a period of transition, from the standpoint of the transformation of the Parliament into a legislative body. Now, the protocol bringing the Parliament into being had to be reviewed every five years: since 2005 work had been undertaken within the Parliament to study the conditions for this change, emissaries had been sent into the five regions of Africa, and the parliamentary session of May 2008 would have the transformation into a legislative body as its main theme. As for the training of staff of the Pan-African Parliament, they looked at their recruitment for people coming from national parliaments and worked with the European Parliament to build their capacities in human resources.

In reply to Mr MPOFU, he indicated that the Pan-African Parliament did not prescribe any obligatory sum to take care of the needs of members, but constrained itself to

issuing reminders of the constraints resulting from the cost of living where the sessions took place, in South Africa, particularly in regard to hotels. It was certain that the resulting costs for national parliaments were not negligible. Among the challenges faced by the Parliament were finance issues, with the Parliament having created a fund to complement the budget provided by the African Union; furthermore, emphasis would be given to the transformation of the Parliament into a legislative body.

Mrs Doris Katai MWINGA (Zambia) asked for details of the results of the work of the Pan-African Parliament within national parliaments of member states; did they take the form of resolutions, recommendations or of reports sent to the national parliaments?

Mr Morad BOULARAF replied that following its work, the Pan-African Parliament adopted a report containing recommendations. During African Union summits, which happened twice a year, this report was presented to the heads of state of the African Union. The Pan-African Parliament's rules also provided that the report should be sent to national parliaments; delays or difficulties with punctuality might explain why the reports were not always received. In any case, members of the Pan-African Parliament were asked to present the reports to their own national parliament.

Mr Anders FORSBERG, President, wanted to know what members' expectations had been of the Pan-African Parliament, particularly at the time of its establishment.

Mrs Doris Katai MWINGA (Zambia) thought that national parliaments expected more information on the work carried out by the Pan-African Parliament, beyond the useful mechanism for providing information for African heads of state during African Union summits. Relations between national parliaments and the Pan-African Parliament seemed rather weak.

Mr Austin ZVOMA (Zimbabwe) said that national parliaments wanted to be more involved in the preparation of the agenda of the Pan-African Parliament, for example an upstream project allowing national parliaments to debate in advance those issues being tackled. It would also be a good thing if the Pan-African Parliament could send national parliaments the reports it had adopted in electronic form. The issue of the per diem needed to be examined, because it was a pre-condition for the attendance of Members of Parliament, and thus for the meetings of the Pan-African Parliament.

Mr Morad BOULARAF replied that it would indeed be a good solution to send the Pan-African Parliament's reports electronically. On the subject of the per diem, furthermore, the Pan-African Parliament did not fix the amount, but provided indications, based on the cost of living in South Africa, where the Parliament met.

Mr Anders FORSBERG, President, thanked Mr BOULARAF, and called Mr Austin ZVOMA, Clerk of the Parliament of Zimbabwe, to present his communication.

Mr Austin ZVOMA (Zimbabwe) presented the following communication on 'The role of parliamentary committees and their impact on the budget process in the SADC region'.

"1. INTRODUCTION

The national budget in every country is one of the most important pieces of legislation introduced in Parliament. In essence, the national budget is an important policy statement by the Executive reflecting its "fiscal, financial and economic objectives and reflects its social and economic priorities".[11] According to former member of the South African National Assembly Hon. Colin W. Eglin, the national budget and procedures relating to its implementation underscore a fundamental constitutional relationship between the Executive and the Legislature".[12]

This fundamental relationship is explicitly expressed in the Constitutions of most countries of the Southern Africa Development Community (SADC) which borrowed, or were derived, from the Westminster or British System. A perusal of the chapters dealing with Finances in most of the Constitutions of SADC countries reveals a similar pattern, namely;

a) the existence of a Consolidated Revenue Fund or its equivalent, into which all public funds (i.e taxes and revenues) are to be paid, except as otherwise provided for by an Act of Parliament;

b) that the Minister responsible for Finance shall cause to be prepared and laid before the Parliament, within a specified period, the Estimates of the Revenues and Expenditures of the country for that or ensuing financial year; and

c) that it is the role of Parliament to authorize the raising of revenues and approving withdrawals from the Consolidated Revenue Fund to meet the country's expenditure.

Thus in most Parliamentary systems, the Executive is responsible for crafting and implementing the national budget while Parliament exercises control over public finances by approving the raising of revenues, withdrawals from the Consolidated Revenue Fund and scrutinizing how the Executive utilizes the approved funds.[13]

The Congressional system, exemplified by the United States, differs significantly from the Westminster system. While the Executive prepares the national budget, Congress has the power to reject the entirety of the budget prepared by the Executive and to draft its own version. Thus there exists a fundamental difference in the genesis of the national budget in the Westminster and Congressional systems. However, both systems emphasise the important role that the Legislature plays in the budget process. The power of the Legislature in the budgetary process is aptly summarized in the words of James Madison who stated in 1788 "this power over the purse, may in fact be regarded as the most complete and effectual weapon with which any Constitution can arm the

[11] http://www.undp.org/governance/docs/Parl_Events_kenbudg_pdf
[12] Introductory statement by The Hon. Colin W. Eglin at the Regional Seminar for English-Speaking African Parliaments on Parliament and the Budgetary Process, Including from a Gender Perspective, held in Kenya, Nairobi from 22-24 May 2000
[13] http://www.internationalbudget.org/resources/libray/parliament

immediate representatives of the people for obtaining the redress of every grievance, and for carrying into effect every just and salutary measure." [14]

From the foregoing, it is clear that Parliament has an important constitutional role to play in the budget process. However, while provisions of legislative control over approving taxes and appropriating funds are found in the Constitutions of most democratic countries, the extent and nature of mechanisms for executing this differs from country to country. This presentation, therefore, seeks to scrutinize the role that Parliamentary Committees in Parliaments of the SADC region play in the budget process. This is especially important given that Committees do most of the work of Parliament.

2. BACKGROUND

Wikipedia, the free encyclopedia, traces the roots of the Parliament of England to the reign of Henry III, even though the concept of a King/Queen seeking consent for his/her laws was not new to this period. The English Monarch, post-1066, established Great Councils comprising entirely of nobility and senior clergy. The Great Councils were consulted and their consent sought when the King/Queen was making major decisions. These Great Councils eventually evolved into the Parliament of England, with the term Parliament coming into use during the 13th century. The Great Councils were initially summoned when the King/Queen needed to raise money through taxes thus laying the foundation for the financial relationship between the Crown and Parliament. The precedent that no law could be made, or tax levied, without consent of both Houses and the sovereign was established during the reign of King Edward III.[15] In the United States the evolution of the principle of "no taxation without representation" emerged as the colony rejected the power of the United Kingdom to impose a stamp duty on the colonies when the colonies had no representation in the British Parliament.[16]

Erskine May's Parliamentary Practice (20th Edition, 1983) traces the emergence of the financial relationship between the Crown and Parliament to the times when the King/Queen still ruled through Ministers responsible to him/her. The House of Commons only exercised negative power in so far as it could withhold supplies. The central pillar of this relationship is that the Crown makes known to the Commons the financial requirements of the nation, while the Commons grants the resources needed to meet the requirements.[17] This forms the major basis of the Westminster system in relation to financial matters.

With the exception of Angola, the Democratic Republic of the Congo and Mozambique, financial procedures in most of the Parliaments trace their roots to the Westminster system. This system also influenced the development of budgetary processes and systems in countries like New Zealand, Australia, Canada and India. Thus most of the

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[14] Legislatures and the Budget Process: An International Survey: National Democratic Institute for International Affairs: Washington, United States of America: 2003: p37

[15] http:en.wikipedia.org/wiki/English-Parliament

[16] Morison S.E and et al: The Growth of the American Republic: Oxford University Press: United Kingdom: 1969.

[17] Erskine May: Parliamentary Practice: Butterworths: London, United Kingdom: 1983 p 756-7

current practices on financial matters in SADC countries are variants of the Westminster system.

Both the British and Canadian Parliaments, especially the Houses of Commons, have, undertaken Parliamentary reforms in the 1970s to make the Institution more effective in the discharge of its mandate. The reform process in Canada saw the establishment of departmentally related Committees that shadow government departments. These Committees are staffed and serviced by professional researchers and Committee Clerks.[18] Since the 1990s, reforms in the SADC region have also been initiated in the Parliaments of Angola, South Africa, Tanzania, Zambia and Zimbabwe. These reforms, in the case of Zimbabwe, are a result of criticism from the public that the institution was a mere "rubber stamp" of policies initiated by the Executive and that there was a lack of public participation and transparency in parliamentary processes, especially the budget.[19] The reforms in these Parliaments have, among other things, resulted in the introduction of Portfolio Committees to assist the institution in the execution of its constitutional mandate and the involvement of the public in the legislative process. The mandate of the Parliament in Zimbabwe "is to make laws for the peace, order and good government…" of the country.[20] The mandate of Parliament in most SADC countries is similarly worded.[21] However, the role of Parliamentary Committees in the budget process differs significantly in the five Parliaments surveyed as will be highlighted below.

3. PARLIAMENTARY COMMITTEES AND THE BUDGET PROCESS

As a precursor to developing this paper, a questionnaire was developed and circulated to all the SADC Member Parliaments soliciting for information on their respective budgetary processes. The questionnaire specifically sought to facilitate the collation of information on the role that Parliamentary Committees in the region play in the budget process. Five of the 13 Parliaments namely, Angola, Tanzania, Namibia, Zambia and Zimbabwe, responded to the questionnaire. Due to the limited number of responses, an analysis of the role of Parliamentary Committees in the budget process is thus based on the responses received and information gathered from various sources. This ensures that a broader coverage of the practice in Parliaments in the region is achieved.

The general pattern in the national budget process in most of the countries in the region is for the Ministry of Finance to issue general guidelines for budget preparation early in the financial year. Ministries then prepare their draft budget proposals for the following year and these are forwarded to the Ministry of Finance. Consultations with Parliamentary Committees may be held at this stage as Ministries develop their proposals. The proposals are then discussed with the Ministry of Finance following which Ministries refine their bids accordingly. The Minister of Finance then prepares and tables the national budget in Parliament within a constitutionally specified

[18] Hugh A. Finsten: Assisting Committees in the Canadian Parliament: Library of Parliament: Canada: July 1996: p 2
[19] Final Report of The Parliamentary Reform Committee: Implementation Proposals and Summary of Evidence: Parliament of Zimbabwe: Harare: May 1999: p58
[20] Constitution of Zimbabwe: Revised Edition 1996: Government Printer: Harare: 1996: p25
[21] Note: See also Article 63 (1) of the Constitution of the Republic of Namibia

timeframe. This pattern has variations in the different countries but borrows heavily from the Westminster system. Zimbabwe has since 2005 moved away from this pattern as the Ministry of Finance gives Ministries expenditure targets for the coming year and, in turn, they submit their bids. Thus in developing their proposals for the following year, Ministries in Zimbabwe are guided by the expenditure targets set by the Ministry of Finance.

Parliament and its Committees in each of the SADC countries surveyed plays its part in the budget process differently guided by its procedures. Committees as delegates of Parliament perform functions assigned to them by Parliament. From the available literature and responses to the questionnaire, it is clear that the role of Parliamentary Committees in the budget process differs across the region. The Parliaments of Angola, Tanzania, Zambia, and Zimbabwe have Committees shadowing the work of Government Ministries. In Angola, Tanzania and Zimbabwe there are Portfolio Committees that receive reports on the implementation of the current budget and that scrutinize Ministries' priorities for the next budget. In both Zambia and Zimbabwe, the chairperson or a designated Member of the Committee presents the Committees' report and recommendations on the Vote allocation of a Ministry immediately after the motion on the Ministry's Vote has been proposed. In Zimbabwe, the recommendations of each committee are also included in the composite report of the Committee on Budget, Finance and Economic Development. That report gives a broad overview of the national budget while those of the other Portfolio Committees focus on the major highlights of the individual Vote allocations of Ministries. The Parliament of South Africa also has Portfolio Committees that play a similar role to those in Zimbabwe in that the Portfolio Committees shadow government ministries and they also have a role to play in the budget process. In Zambia, it is the Parliamentary Committee on Estimates that has a role to play in the budget process. The Committee on Estimates, among other responsibilities, examines the Estimates and Supplementary Estimates, Appropriation Bills, and carries out regular examinations and scrutiny on the budgets, estimates and management thereof. The Committee also makes recommendations to Parliament in the formulation and implementation of future budgets. It is important to note that the report of the Committee on Estimates on the budget is not tabled in Parliament but is used as an important source of information by Members. Other reports of the Committee on Estimates, are however, debated before adoption by the National Assembly.

In Namibia, there is no provision for the National Assembly to make inputs into the Budget as is the case in Angola, South Africa, Tanzania, Zambia and Zimbabwe. In addition, Parliamentary Committees are not involved in the budget process. The National Assembly has, however, been pushing for prior consultations before the budget is presented in the National Assembly. As a result of this initiative, consultants were able to make an input into the budget in 2007. While there is no express constitutional provision allowing for Parliament to input into the national budget, there is nothing to prevent Parliament from doing so. A recent survey by the National Democratic Institute (NDI) indicates that the Namibian National Assembly's Economics Committee demonstrated the role that other National Assembly Committees could play by holding public hearings and consulting widely with interest groups and the public. The Economics Committee played an active role in amending the Value Added Tax Bill

resulting in 60 of its amendments being adopted.[22] The Zimbabwean constitutional provisions on the budget are similar to those in Namibia, but through the reform process, Parliament asserted its financial oversight role and claimed a stake for itself and its Committees in the budget formulation process. In Zimbabwe, Portfolio Committees engage Ministries when they formulate their priorities for the next financial year. Additionally, Parliament also conducts annual pre-budget consultations co-organised with the Ministries of Finance, and Economic Planning and Development and with the participation of other line Ministries thus providing another avenue for Parliament to input into the national budget process.

Responses from the five Parliaments surveyed also indicate efforts by responsible Committees in each Parliament to involve the public and civil society in the budget process. In both Tanzania and Zimbabwe, the public is invited to hearings on the budget at Committee level as each Committee considers the respective Ministry vote. In the Zimbabwean case, stakeholders/ interest groups are also involved during the setting of priorities for the next financial year. In Zambia, the Committee on Estimates also invites comments from the public and civil society during consideration of the budget estimates. In all the five Parliaments that responded, meetings of Committees are open to the public and the press thus keeping the public informed of the work of Committees while at the same time affording the public an opportunity to participate in Committee proceedings on the budget. The South African Constitution has express provisions for Committees to involve the public in the legislative process. The Finance Committee in the South African National Assembly has seven days to hold hearings on the budget and to report to the House. Portfolio Committees can also hold hearings on the individual vote allocations of Ministries.[23]

The Public Accounts Committee (PAC) in the Parliaments of all SADC member countries also plays an important part in the budget process. The PAC plays an important post-audit function by receiving and considering the Auditor General's reports on Ministries' accounts. The reports of the PAC in all the countries are tabled in Parliament thus contributing to Parliament's financial oversight function. The PAC also plays an important function in carrying out value-for-money audits to ascertain whether the resources that are appropriated by Parliament are used in the most efficient and effective manner.

Responses from the five countries (Angola, Namibia, Tanzania, Zambia and Zimbabwe) and literature from South Africa and Malawi indicate differing views as to the overall impact of Parliamentary Committees in the budget process. There is general agreement in Angola, South Africa, Tanzania, Zambia and Zimbabwe that involvement of the public and civil society in the budget process through Parliamentary Committees has enabled legislators to speak from an informed position on the budget. This has generally helped to improve the quality of debate on the budget among Members. Tabling of Committee reports immediately after the Ministry's vote has been tabled has helped to highlight the

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[22] Legislatures and the Budget Process: An International Survey: National Democratic Institute for International Affairs: Washington, United States of America: 2003: p 9

[23] http://www.internationalbudget.org/resources/libray/parliament

salient features of the individual votes and hence to focus debate on the votes. In South Africa, while the public has an opportunity to participate in the budget process through Committee hearings, there have been some misgivings about the effectiveness of the consultations. In 1997 the Deputy General Secretary of COSATU had this to say before the Finance Committee "We are frustrated by the constraining nature of the budget process, which renders meaningless both contributions of civil society and deliberations of elected people's representative. ... We will only participate in future parliamentary hearings if meaningful participation is made possible through a reformed budget process."[24] Thus while there are genuine efforts by Committees of Parliament to involve the public in their processes, there may still be perceptions among some members of the public that the consultations are not meaningful. It is, therefore, important that these perceptions are addressed and managed to retain the credibility of the consultation processes and the role of Parliament in the budget process.

From the responses received, it is important to note that the interaction between the Executive and the Legislature on the role of Committees in the budget process has resulted in the Executive acknowledging this important function of Parliament. Both the Zambian and Zimbabwean cases show that Parliament, through its Committees, has been able to influence the budget process. In the Zimbabwean situation, Portfolio Committees, through interaction with the Executive, have managed to influence the inclusion of new budget lines in future budgets (e.g. a budget line on children in difficult circumstances). Thus while the results of the efforts of Committees may not be immediate, through inclusion in the budget under consideration, which may be frustrating for the public, they have the potential to influence future budgets. Committees, therefore, have the challenge to convince the public that while some of their views may not be reflected in the budget under consideration, they could still be incorporated in future budgets when circumstances allow. Committees, therefore, need to create a platform for providing feedback to the public on their submissions. It is also particularly important that Committees of Parliament are forthright in their dealings with the public and should not unnecessarily raise their hopes. They should inform the public of the many competing demands on the fiscus which place limitations on what can be accommodated in a national budget.

In considering the role of Committees in the budget process, it is also important to consider some of the challenges that may hinder the effectiveness of Committees in their role. To begin with, Committees of Parliament invariably do not possess necessary expertise to effectively contribute to the crafting of the national budget or to expertly review the proposed budget. The Executive has an arsenal of expert personnel at its disposal for this purpose and hence its predominance in the budget process. It is, therefore, important that, as far as possible, Committees try to utilize the expertise of outside consultants or institutions of higher learning in analyzing national budgets. They should, however, also be supported by their own staff to assist with consideration of the budget. There is, therefore, need to build internal capacity and competence within Legislatures to enable Parliamentary staff to effectively assist Committees in

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[24] Legislatures and the Budget Process: An International Survey: National Democratic Institute for International Affairs: Washington, United States of America: 2003: p 35

analyzing national budgets. This is especially important given that there may be insufficient time or resources for Parliaments to engage outside experts to assist them in this exercise.

In addition, there are always competing demands on the time of Committees to enable them to effectively consider proposed budgets and to monitor the implementation of approved budgets. Thus it is important for Committees of Parliament to have ample time from presentation of the budget to the time budget debate commences. This allows Committees sufficient time to consult with the public and civic society and to come up with reports for tabling in the House. The involvement of the public and civic society gives credibility of, and also helps in developing consensus in, the budget process. The Executive should also exhibit willingness to constructively engage Parliamentary Committees so that the public has confidence in the consultation process.

A major challenge in the efficacy of the role of Committees in the budget process is the whip system and the Westminster system in which members of the Executive are appointed from within Parliament. This makes it potentially difficult for members of the ruling party to effectively and critically analyse the budget as this would amount to criticizing their party policy. The role of effectively critiquing the budget, therefore, tends to fall heavily on the opposition. However, this is mitigated by a nonpartisan and consensus approach in Committee business.

4. CONCLUSION

The role of Parliamentary Committees in the budget process in different Parliaments in the SADC region is in many ways similar as the majority of them evolved from the Westminster system. Parliament plays its part in the budgetary process through approving the national budget and monitoring the use of the approved budget. The Legislature makes use of Parliamentary Committees in different ways to exercise its mandates in the budget process. Reforms in some of the countries (Tanzania, Zambia and Zimbabwe) have resulted in significant differences in the role played by Parliamentary Committees even though most of the countries' financial systems have their roots in the Westminster system. There are countries in the region in which there is no role for Parliamentary Committees in the budget process (e.g. Namibia). In some countries there is a system of Portfolio Committees involved in the whole budget cycle from initiation, approval and monitoring (South Africa, Tanzania and Zimbabwe). The Zambian Committee on Estimates, which is expanded at budget time to include all chairpersons of Portfolio Committees, considers the national budget and monitors Government Expenditure. A salient element of the Parliaments surveyed (Angola, Malawi, Namibia, Tanzania, South Africa, Zambia and Zimbabwe) indicates that while there are various approaches to the budget process, there is an element of public and civic society consultation and participation in the process. This helps to ensure public involvement in the budget process and fosters ownership of the budget. However, the effectiveness of the consultations is perceived differently by the public in those countries."

Mr Anders FORSBERG, President, thanked Mr ZVOMA for his communication.

4. Administrative questions: election of three ordinary members to the Executive Committee

Mr Anders FORSBERG, President, said that the Joint Secretaries had only received three nominations for election as ordinary members of the Executive Committee, those of Mrs Jacqueline BIESHEUVEL-VERMEIJDEN (Netherlands), Mrs Martine MASIKA KATSUVA (Democratic Republic of Congo), and Mrs Doris Katai MWINGA (Zambia).

As it was no longer necessary to hold an election, he declared that Mrs Jacqueline BIESHEUVEL-VERMEIJDEN, Mrs Martine MASIKA KATSUVA, and Mrs Doris Katai MWINGA were elected as members of the Executive Committee of the Association.

5. Issues brought by African members of the ASGP (resumed)

Ms Heather LANK (Canada) said that, as Mr ZVOMA had stressed in his communication, committees did not always have the necessary expertise to work on the budget. It had been decided to create a post of official responsible for budgetary documentation within Parliament, allowing access to a centre of expertise on this subject for committees.

Mr Austin ZVOMA (Zimbabwe) replied that he would follow with interest the experiment carried out in Canada. In Zimbabwe, training courses had been organized for parliamentary staff, and economists had been taken on.

Mr Anders FORSBERG, President, wanted to know when co-operation between parliaments of SADC countries had begun, and in what way the Pan-African Parliament and the SADC states co-operated.

Mr Austin ZVOMA said that co-operation between the parliaments of the SADC countries had begun with the creation of the parliamentary forum of the SADC countries. This co-operation had been launched two years before in Angola, and would be continued this year in Mozambique. Given the common history of the SADC countries, these meetings were very useful, and constituted a forum for exchange. Co-operation with the Pan-African Parliament had not yet begun. In the beginning, the Pan-African Parliament only had temporary staff; it now had permanent staff, but was currently under-manned. It was only to be hoped that the SADC parliaments could co-operate, as soon as possible, with the Pan-African Parliament.

Mr Alain DELCAMP (France) wanted to know if the secretaries general of the SADC parliaments and of parliaments of member states of the Pan-African Parliament had met in order to promote the early development of inter-parliamentary co-operation.

Mr Austin ZVOMA replied that such meetings would be desirable and useful, and that they should be instituted, especially so as to allow better co-ordination of work programmes.

Mr Anders FORSBERG, President, thanked Mr ZVOMA for his communication as well as all those members who had put questions to him.

Dr Hafnaoui AMRANI, Vice-President of the ASGP, Secretary General of the Council of the Nation of Algeria, presented the following communication on 'The challenges of parliamentary administration in African countries: the case of Algeria'.

"**Introduction**

1. Some facts about Algeria

- A country in North Africa, Algeria (capital Algiers) is, at 2,381,741 square kilometres, the second largest African country by area (after Sudan). It has nearly 1,200 km of Mediterranean coastline.

  The total population is estimated at 34,400,000 inhabitants, with a density of 14 people per square kilometre.

- At the political level, Algeria has been a republic since its independence in 1962.

  - The current constitution confers on the head of state a central role in the government of the country: he is the head of the executive branch and supreme head of the armed forces.

The main economic indicators:

Indicator	Value
GDP	135 billion US dollars (2007)
GDP per capita	3,968 US dollars (2007)
Growth (excluding hydrocarbons)	6.5% (2007)

2. The parliamentary system in Algeria

- Having been unicameral since its establishment the day after independence, the Algerian Parliament became bicameral following the constitutional revision of 28 November 1996 which altered the Algerian institutional landscape and instituted the first pluralist Parliament of an independent Algeria.

- Legislative power in Algeria is thus exercised by a parliament made up of two chambers, the Popular National Assembly (APN, lower chamber) and the Council of the Nation (upper chamber or senate), opened on 4 January 1998.

- Each of the two chambers of Parliament has a distinct membership and is endowed with its own powers. However, they have to act in close dialogue. Indeed, to be adopted, any bill must be considered in turn by the APN and the Council of the Nation.

- The 389 members of the APN are elected by universal suffrage, using a direct and secret ballot on a general ticket basis, for a mandate of five years.

- As for the 144 members of the Council of the Nation, two thirds (96) are elected by indirect secret ballot from among and by the elected members of local assemblies. A third (48) of the members of the Council of the Nation are appointed by the President of the Republic from among personalities proficient at a national level in the areas of science, culture, the professions, the economy and society.

- The mandate of the Council of the Nation is fixed at six years. Half of its members are re-elected every three years. The President of the Council of the Nation is elected after each of these elections.

  Parliament sits for two ordinary sessions each year; the spring session which opens in March and the autumn session with opens at the beginning of September. The length of each session is a minimum of four months and a maximum of five months.

- Parliament can meet in extraordinary session on the initiative of the President of the Republic or at the request of two thirds of the members of the APN.

- The organisation and functioning of the two chambers of parliament are determined by law, as are their practical relations both between themselves and with the Government.

- Each of the two chambers has rules of procedure which determine how it operates and within the framework of which permanent committees are created (12 at the APN, 9 at the Council of the Nation).

  The right to initiate legislation belongs both to the Government and to Members of Parliament.

I. The administration of the Council of the Nation

The fundamental mission of parliamentary administrations in nearly all Parliaments, whatever their system and form, consists primarily in the provision of technical and

logistical support to the work of Members of Parliament thus ensuring the conditions necessary for them to carry out their work.

This is why the administration of the Council of the Nation takes care, through its mode of organisation and operation and its policy of evaluating its human and material resources, to ensure permanently the effectiveness and the efficiency of its action.

a. The organisation and operation of the administration of the Council of the Nation

Attached to the Secretary General's office, the administration of the Council of the Nation is mainly grouped around two broad areas of competence covered by two Directorates General:

1. the directorate general for legislative services

Charged with carrying out all of the tasks connected with legislative and parliamentary activity, to prepare for and to follow the plenary sessions of the Council of the Nation and to keep their minutes.

It is charged moreover with providing legal and technical support to the permanent committees, to carry out studies and research relating to the texts of bills which have reached the Council of the Nation, to carry out all of the printing, editorial and translation work, to ensure the management and preservation of the archives of the Council of the Nation and to account regularly for their work.

This structure comprises three directorates:
- The directorate of chamber services;
- The directorate of studies and legislative research;
- The directorate of documentation and publications.

These directorates are subdivided into sub-directorates made up of offices and services.

2. the directorate general for administrative financial services and for the business of members

Charged with providing all of the human and material resources needed for the functioning of the institution and for safeguarding their rational use.

This structure is subdivided into three directorates:
- The directorate for human resources and finance;
- The directorate for the business of members of the Council of the Nation;
- The directorate for procurement.

These directorates are subdivided into sub-directorates made up of offices and services.

As well as the two directorates general cited above, the following also report to the secretary general's office:
– The department for computing and new technologies;
– The audiovisual department;
– The financial control service.

b. The staff of the administration of the Council of the Nation

Numbering 461, the staff of the Council of the Nation are distributed as follows:

- Number of women: 142, or nearly 31%
- Number of senior civil servants: 34 (of whom 6 women), or nearly 18%
- Number of university graduates: 77, or nearly 17%.
- By structure:
    - legislative services: 67
    - administrative services: 91
    - shared and technical services: 303.

c. the difficulties encountered by the administration of the Council of the Nation

Constantly on the watch for new needs created by the development of the institution's legislative and parliamentary work, the administration of the Council of the Nation continuously looks to satisfy these needs effectively and promptly.

With this in mind, it works without slackening to adapt its organisation and the tools at its disposal to overcome the various difficulties with which it has been confronted since its creation.

Indeed, the speed with which the structures of the Council of the Nation were put into place on its creation (in 1998) and the need to ensure its smooth operation have led to certain difficulties, as much of an organisational as a functional nature, which can be summarised in the following points:

– the inadequacy of the level of qualification of personnel, in particular because of the anomalies and of the anarchy which characterised the initial recruitments, which were carried out in haste, in conditions often lacking in standards and sometimes on personal recommendation.

– the old-fashioned mentality of certain personnel who find it difficult to understand the issues and the challenges of performance and efficiency to which a parliamentary administration must rise.

- the monolingual training of staff, which constitutes an unquestionable difficulty for those interested in assimilating and adapting to developments and new methods of parliamentary work.

- the sensitivity of the relations between the administration and Members of Parliament, characterised often by members' suspicion with regard to the administration, and sometimes even by a lack of consideration and under-estimation.

- inadequate coordination with the administration of the APN (1st chamber of the Parliament) and the Ministry in charge of relations with Parliament, in particular as regards planning plenary sessions, determining the orders of the day for these meetings, written and oral questions...

- inconsistency in the system of performance evaluation for staff, a system which is characterised by generosity, even laxity, in evaluation. This has generated a simplistic egalitarianism, an obstacle to and a source of frustration for those staff with real ability and professional competences.

- the poorly adapted statute governing the staff of the institution, which has a negative influence on their career and their prospects.

II The challenges of the parliamentary administration

It is established today that the parliamentary administration plays a role of ever growing importance in the legislative process and in the improvement in the quality of parliamentary work.

With this in end, the administration must not only assimilate and understand the problems of the legislative and parliamentary work of the institution, but also face up to the issues and challenges created by the development of its environment and by new ways and methods of working.

These challenges comprise principally the following points:

1. the rationalisation of the management of resources

It is obvious that society today has become more aware of the requirement for efficiency and transparency in parliamentary work. This new reality requires Parliament and consequently the parliamentary administration to adopt the rules of the good governance in its management so as to optimise the performance and costs of its activities. For this purpose, the parliamentary administration must introduce as much in its organisation as in its operation approaches and methods of modern management which are more concerned with rigour, effectiveness and professionalism. The realisation of this objective inevitably requires a set of measures, in particular:

a. the modernisation of the management of human resources, in particular through the following actions:

- The putting into place of a predictive system of human resources management.
- The mastery of manpower and its adaptability to the needs of the service.
- A greater ability to match staff profiles to posts available.
- A more pronounced specialisation of functions and a more precise definition of objectives and tasks.
- The installation of a reliable and capable evaluation system revealing and rewarding personal qualities and abilities and allowing a closer link between promotion, remuneration and return.
- Greater rigour in the management of staff (control of discipline, conduct at work, punctuality, open-mindedness, interest in work, behaviour...)

b. the development of mobility

From a point of view of predictive management and reconciliation of the needs for the administration and the aspirations of civil servants, mobility must allow on the one hand, to assign staff according to the needs of the services and, on the other hand, to increase and adapt the competences of staff through the work to which they are exposed. It is thus a question of allowing mobility to deploy its full range as a research tool to achieve a better tally between the needs of the administration and its resources.

This dimension, which needs to be taken up on a permanent basis, implies the following measures:

- Transparency in the management of staff and a systematic use of open advertising for vacancies.
- A communications system with can help reconcile the aspirations of staff with the needs of the administration.
- Mechanisms and administrative rules which can ease mobility between services.
- Taking mobility into account as one of the factors giving value to a professional trajectory, especially for promotions.

c. **the modernisation of the tools of work**

notably through the introduction and spread of computing and the recourse to new technologies to accomplish administrative and technical tasks, such as the electronic transcription of debates and parliamentary works, the use of electronic messaging, electronic documents management...

d. **the rationalisation of the organisational system**

and this by a better definition of the tasks of the different functions (in tandem with the evolution of the objectives of the institution) and a judicious redistribution of appointments, thus avoiding any duplication and interference or conflict over competences.

Within this framework, the Council of the Nation has aimed ever since its creation to ensure the coherence of the activities of its structures and the continuous adaptation of the internal organisation of its services to the needs resulting from the development of legislative and parliamentary work.

It is in this spirit, moreover, that the internal organisation of the services of the Council of the Nation, put into place on the creation of the institution in 1998, was subject to adjustment in 2003, and is constantly subject to revision.

2. **training**

An essential engine for growth and for the evolution of knowledge and professional skills among parliamentary staff, training remains an incontrovertible element for the assimilation and adaptation of these staff to modern working practices and techniques, thus guaranteeing the means necessary for the permanent improvement of their professional performance and thereby of the quality of their services.

This shows that training is at once a challenge for the parliamentary administration and the place where its interest meets that of its staff.

As a consequence, training must constitute for Parliament a permanent strategic activity needing to be brought into effect through the institution of programmes to evaluate and reinforce the professional competences and capabilities of its staff.

Based on these considerations, the Council of the Nation has developed a policy for the training and improvement of all of its staff, no matter their level (from senior officials to support staff), consisting particularly in:

– the organisation of training and improvement courses in all areas and specialisations relating to legislative and parliamentary work (law, economics, politics, international relations, management, IT, protocol, librarianship, archives, foreign languages, secretarial and office skills, security and control,

car driving...). This training is carried out by specialised national and/or foreign institutions.

- the secondment of staff, especially graduates with a professional background, into foreign or international parliamentary institutions and organisations (such as the IPU).

- the participation of staff in regional and international meetings (seminars, conferences, themed workshops).

- accompanying Members of Parliament in their visits evaluating and following up the execution of the Government's programme, carried out in the different regions and institutions of the country.

3. the development of legislative research

In effect, albeit that the right to initiate legislation is, in all of the Parliaments of the world, recognised as belonging to parliamentarians, the Government remains the real source of legislative proposals, and, as a result, has significant resources and skills at its disposal in conceiving, analysing and drafting laws.

Nevertheless, this situation must not affect the will and need of Parliament to examine pertinently the direction and foundations of and opportunities provided by texts submitted to it, and to contribute effectively to their improvement.

These objectives, which constitute a permanent challenge for Parliament require it to pay particular attention to legislative research, which remains one of the means of providing parliamentarians with trustworthy and relevant information, studies and expertise, allowing them to understand and to figure out problem areas, to evaluate their impact, and thereby to ensure the constant improvement in the quality of their legislative and parliamentary work.

With regard to its present state (especially in African parliaments) and to its impact, which is decisive and vital in the development of legislative and parliamentary work, parliamentary research demands, in our view, the combination of the efforts of all parliaments if it is to be conducted efficiently and appropriately.

With this in mind, it would be opportune, even necessary, to begin to think about the creation of an African centre for parliamentary research, study and analysis.

4. communication and information

The process of democratisation underway in the world has brought about greater freedom of expression, greater freedom of the press and greater transparency in the activities as much of public bodies as of Parliament.

Moreover, society sees its real participation in the management of public affairs becoming increasingly important. Its demands in this regard have been increasing for information about Parliament, especially about how it carries out its legislative competence and its role as a check on the activities of government, as well as about the quality of its legislative and parliamentary work.

Furthermore, the political representation within parliaments is becoming increasingly selective and of higher quality, which makes parliamentary debates more dynamic and relevant, all the more so as they are mostly carried by and repeated in the media.

Also, informing and communicating with society seems to be a social need. This constitutes a genuine challenge for parliament as an emanation of the people and symbol of democracy.

With this in mind, through its institutional role and constitutional attributes, parliament must work unstintingly towards the development of information and communication and towards the promotion of social and political values within society.

Conscious of these challenges, the Council of the Nation has developed a genuine policy for internal and external communication and information, thanks to the modernisation of the means of communication and information at its disposal and the institution of a policy of openness towards society.

- **internal communication and information**: Within this framework, the Council of the Nation has put into place a reliable and high-performing system of communication and of disseminating information, notably by means of:

  - the introduction of an Intranet and electronic messaging system;

  - the modernisation and reinforcement of computer and audiovisual equipment;

  - the widespread use of computer systems throughout the staff;

  - the rehabilitation and development of the archives, as sources of information and technical support for research and analytical work;

  - the compilation and distribution of a regularly updated catalogue of the documentary contents of the library and of new acquisitions of works, reviews and periodicals;

  - the publication of two magazines which comprise undeniably reliable sources of information, communication and training. These are:

  - "The magazine of the Council of the Nation", a fortnightly information sheet on the range of legislative and parliamentary activities carried out by the institution during this period.
  - "The magazine of parliamentary thought", a magazine with an academic slant, containing studies and research into areas associated with legislative and parliamentary work.

– the automatic display of all of the notes and documents relating to the institution's legislative and parliamentary work (programme of plenary sittings, orders of the day, scientific and cultural activities) as well as to the management of the careers of staff, social works, etc.

Beyond these activities, other projects are currently in the process of being brought into effect. These are in particular:

– the creation of a virtual library which will allow Members and staff of the institution to obtain easily, instantly and at all times, even remotely, all of the information they need whatever its format or support (printed or electronic) and whatever its location (internal or external).

With this in mind, the Council of the Nation has begun various activities, notably: the finalisation of the technical design of the project, the production of a service specification and the selection of a study team to carry through the project, the organisation of specific training for staff made responsible for the management and monitoring of the virtual library and, finally, the process of digitising the works chosen for inclusion in the digital library.

- **the opening of the Council of the Nation to society**

For this purpose, the Council of the Nation has adopted a methodical approach, permitting it not only to make itself known and to popularise its activities, but equally and especially to be aware of the major preoccupations and national interests of society.

This approach, which aims to bring about the emergence of a parliamentary culture, comprises in particular the following activities:

a – the setting up of a website for the institution: a genuine mirror of the institution for the outside world and a reliable and modern means of information, the website allows access, for every interested citizen, to all of the information and data relating to the institution, in particular:

– the fundamental texts relating to it: constitution, basic law, rules and regulations,

– legislative and parliamentary activities: plenary sessions, meetings of agencies and authorities...

- the diplomatic activity of the President and Members: hearings, visits...

- scientific and cultural activity: seminars, colloquia, study days, open days, exhibitions

- the internal organisation of the institution

- a detailed list of the members of the Council of the Nation

- the official journal of debates

- the catalogue of the documentary resources held in the library

- all of the publications edited by the institution: the magazine of the Council of the Nation, the magazine of parliamentary thought, the outcomes of the colloquia, study days and seminars organised by the institution

- specific sites created to mark particular events organised by the Council of the Nation (sessions of the African Parliamentary Union, parliamentary days of the child, etc.)

b – the organisation of scientific and cultural events: going beyond its constitutional role and wishing to contribute to and accompany effectively the process of development and the motor of society, the Council of the Nation has been transformed, thanks to the organisation within it of scientific and cultural events, into a genuine platform for debate and exchange for the national elite.

In effect, through the relevance of their themes, the quality and high level of expertise of the participants (political scientific and cultural personalities, both domestic and international), the seminars, study days, conferences and colloquia organised by the Council of the Nation constitute real opportunities for direct contact by the elite with parliamentarians—"men of politics"—the mutual exchange of knowledge, the meeting of ideas and mutual awareness raising on questions of national importance.

c – the organisation of open days: intended for all social and professional categories, open days are an effective means (even the best means) of bringing citizens close to state institutions, which serves to reinforce their democratic character and, as a consequence, their credibility.

These visits in effect allow their beneficiaries to immerse themselves more fully in the goals of the institutions, their organisation and their operation.

This is why the Council of the Nation continually organises guided visits of its different bodies, intended for different categories of citizens (civil and public

servants, all and any sectors, university students, secondary school pupils, pupils at different levels of national education etc)

d – the organisation of exhibitions: This activity is in line with the desire of the Council of the Nation to make a parliamentary culture emerge, and to participate in influencing and developing a national culture with all its components, diversity and richness.

This is why the Council of the Nation organises, within its precincts, periodically, and particularly on the occasion of certain events (opening and closure of sessions, scientific exhibitions etc) numerous and varied themed exhibitions (painting, books, archives, manuscripts, environment, new technologies, etc.)

e - **the organisation of parliamentary days of the child**:

The Council of the Nation's aim, by way of this activity, is to contribute to getting children, the future of the nation, interested in public life on the one hand, and to encouraging effort and personal merit on the other.

In effect, bringing together the most meritorious pupils from the three tiers of education, at a national level, this activity allows the children involved to become, for the day, genuine members of the Council of the Nation and to question the members of the government (required to attend and to reply) on all the questions and preoccupations relating to school life (curriculum, system of evaluation, health, hygiene, sport, transport, environment etc).

Beyond the activities outlined above, and implemented, the Council of the Nation intends in order to reinforce its means of information and communication, the institution of:

- a virtual library;
- an electronic document management system;
- a government intranet network;
- parliamentary television and radio stations.

5. the institution of an strategy of interparliamentary co-operation and of reinforcing relations with international parliamentary organisations

This activity is of a kind to allow, as is obvious, capacity building by the administrations of parliamentary institutions, especially African ones, in order to realise their common objective, which is to say the permanent improvement of their methods of organisation and operation and the quality of their performance in the service of parliamentarians.

It is therefore convenient with this in mind to encourage and increase the number of meetings, exchanges and co-operation between the administrations of African

parliaments, on the one hand, and those of the administrations of the parliaments of the rest of the world on the other.

This activity is to be equally directed towards inter-parliamentary organisations and international organisations, such as the IPU and the UNDP.

In this context, and for its part, the Council of the Nation spares no effort in reinforcing and developing this co-operation, notably through the increase and the diversification of exchanges in the context of its bilateral and multilateral relations on the one hand, and its participation in the gamut of regional, continental and international parliamentary events on the other.

With this in mind, on an internal level, the Council of the Nation has proceeded to reinforce both in quality and in size the office within it charged with inter-parliamentary co-operation and external relations.

6. The integration of gender into parliamentary administration

A glance at the representation of women (as parliamentarians or civil servants) in African parliaments (and to a lesser degree in other parliaments) shows that this representation remains limited, notably because of socio-cultural barriers and socioeconomic factors.

This situation, which constitutes a further challenge for African parliaments, requires, over and above the implementation of a strategy of consciousness-raising, information and explanation on this question, real political will which could translate into a courageous coherent and transparent demarche, comprising one of the following steps:

- The institution of a principle of positive discrimination in favour of women. This principle will allow, in effect, where qualifications and requirements for a job are fulfilled equally, that the female candidate should be preferred.

- The reservation of a quota of jobs (among them executive posts) for women.

After this general and non-exhaustive presentation of the situation of the parliamentary administration (common among African parliaments), taking the example of the parliamentary administration of the Council of the Nation, and the challenges which they have to face, are we not allowed to ask some questions which appear to us to be relevant?

These questions involve in particular finding out what we have to expect from parliamentary cooperation:

a – inter-African?
b – international?
c – with international organisations?

a- Concerning the first question, relating to intra-African parliamentary co-operation, where the effort required is colossal because of the derisory level of the means of a large number of African parliaments and the lack of training of their staff, a basic manual, including a modus operandi for a maximum of case studies and a list of the reactions or attitudes that could be systematically adopted would be one of the most useful things.

This would be a genuine "case law of parliamentary administration".

On this subject, we can only be delighted by the efforts and activities undertaken by the African Network of Parliamentary Staff (RAPP) to build the capacity of African parliamentary institutions.

In effect, this non-governmental organisation dedicated to good governance forms a privileged space (which should be supported and strengthened) for exchange, co-operation, training and development of the professional capabilities of the staff of parliamentary administrations.

Moreover, it would be easy to describe our expectations and hopes, all of them legitimate, and to summarise them in reinforcing inter-African co-operation on parliamentary administration, through in particular:

- an increase in exchanges about and information on experiences, practice and shared techniques, especially in organisation and operation.
- the organisation of meetings for information and for parliamentary administrative staff training in the context of seminars, colloquia and conferences on themes relating to the missions of parliamentary administrations.
- the strengthening of methods of information and communication about the administration of African parliaments (on this subject, a large gap is apparent in this area to the extent that there is a complete absence of information on this administration on all of the websites of these parliaments).
- integration into the new entity "the e-parliament initiative" or virtual parliament to allow us as the people responsible for parliamentary administrations:
    - to be in permanent contact with colleagues across the world and to keep one another informed.
    - to develop collaborative solutions to our problems.
    - to encourage and dynamise the creation of the "African e-Parliament".
        - thinking about the development and realisation of an African guide on practices and techniques of parliamentary administration. It is obvious that such a guide will be a reference point for each parliament, which will adapt it according to its specific circumstances and constraints.
        - thinking about the creation of friendship groups for parliamentary administrative staff, following the example of friendship groups for

parliamentarians. This could happen in parallel with or independent of the friendship groups for parliamentarians.

- the creation of an African institute for training and legislative research.

The aim is to put in place a technical support structure which would respond to the information, research, study and analysis needs for parliamentarians and all of the staff of the Secretary General.

This organisation which will have a double mission of study and training will be charged in particular with:

- carrying out retrospective and forward-looking research into parliamentary law and inter-parliamentary co-operation.
- compiling papers on the major problems of today: debt, poverty, HIV-AIDS, globalisation etc
- providing support and legal assistance to permanent parliamentary committees, decision-making bodies and organs of parliament.
- carrying out, on request, studies, research and preliminary analysis on every question and legal text submitted to parliaments.
- compiling statistics.
- possibly assisting parliamentarians in therir work.
- participating in the organisation of training for the staff of parliamentary administrations.
- putting forward ideas and strategies.

To bring these missions to fruition, this centre will need to rely on a certain number of structures such as the library and archives, exploiting to its utmost the documentary resources and all the research tools: files, notebooks, catalogues, bibliographies, etc.

It is obvious that this requires the updating of all of the data banks held by parliaments.

b – As far as international co-operation is concerned, this must also be strengthened and adapted in accordance with the real needs of the parliamentary administration and their development.

With this in mind, there is scope initially to try to discover a common denominator among the practices of the Anglo-Saxon, Francophone, Asian, African and Arab worlds. Secondly, a genuine course for the parliamentary administration should be worked through, for the training of the different parliamentary staffs.

For the parliaments of developed countries, enjoying a wealth of experience, their task will be above all to become aware of the challenges faced by their African counterparts.

Moreover, possible secondments to these African countries should be organised by way of well-targeted training seminars on one or another aspect of legislative assistance, or administrative and financial management of Parliament.

In contrast, the secondment of the staff of African parliaments should always take the form of improvement or refresher courses.

This activity, which should be carried out on a bilateral basis, could be expanded into regional or international initiatives, the better to share experiences.

Another way of adding value to these relations would be to make video-conferencing more widely available; this would lead to frequent direct exchanges and, in the long run, to significant savings.

This co-operation should also encompass new information and communication technologies, which are a genuine force for development and interaction.

Moreover, good governance could also be the central consideration of this co-operation, through the introduction of a genuine code of worldwide best practice in parliamentary administration, in the form of a "guide" which can be enhanced by all the Secretaries General, on the basis of the daily life of their institution.

In parallel, an alert or alarm mechanism could be established to anticipate disturbances or agitations harmful to the image of parliaments.

From what has just been said, the idea is obvious of a partnership between the parliamentary administrations of African countries, both among themselves, and with the parliaments of the other parts of the world.

This partnership, which should be organised by Secretaries General, will need to be able to make the missions to accomplish clearly visible and give a predictability to the release of adequate means to accomplish them within the time foreseen.

c – Finally, as far as co-operation with international organisations (UNDP etc) is concerned, it is worthy of note in the first place that a number of parliaments in Africa are still seen as rubber-stamp chambers. All the same, this situation has changed radically and numerous international organisations are currently working with parliaments, above all, because parliaments, notably those of the emerging democracies, have become more important thanks to the wave of democratisation which has been taking place since the 1990s.

Thus parliaments and parliamentarians are more and more frequently considered as partners of choice for international organisations, especially those promoting development.

However, this increased co-operation has not always been accompanied by a better understanding of the role and working methods of parliaments.

The staff members of international organisations have not always familiarised themselves with the different resources they can call on in parliaments and how to access them.

For their part, parliaments and parliamentarians are not necessarily always aware of the advantages flowing from a partnership with international organisations, and even when they are, they do not always know where to turn and how to get in touch with these organisations, from which arises a number of misconceptions and misunderstandings.

It is therefore necessary to perfect a tool to compensate for these gaps and to simplify the partnership between international organisations and parliaments.

Moreover, and in order to ensure, as far as possible, the basic conditions for the harmonious and homogenous development of all African parliamentary administrations, solutions need to be found for certain questions of a financial kind, which are a constraint, nay a major handicap, for some countries in the realisation of their aims. This could be achieved through the granting of aid and financial contributions to the benefit of the parliamentary administrations of these countries.

As regards the co-operation of the Council of the Nation with specialised international organisations (to which it pays much attention), there is reason to point out that this is illustrated in particular with the UNDP through the agreement concluded within the framework of a programme of co-operation lasting several years entitled "Support to the Algerian parliament". This agreement rests on the following fundamental paths:

- the strengthening of access to information as well as tools for disseminating information about Parliament.
- the consolidation of the role of parliamentary control and the relations between Parliament and society.
- the strengthening of Parliament's legislative capacities.
- the integration of the gender dimension into the different activities of the Algerian Parliament.

Various activities have been completed within the framework of this programme and have consisted in particular in the organisation of seminars, colloquies, study days, training programmes, and missions for the information and improvement of the Members and staff of the Algerian Parliament.

To conclude, it seems useful to me to point out that, like you, I remain convinced of the modest but particularly effective role which the administrations of our parliaments play alongside the decision-making process, in particular in promoting

knowledge and exchange between our respective parliaments and in ensuring diligent follow-up to actions undertaken or planned with that aim.

These are the few thoughts and observations that I have thought it useful to impart to you on the theme of "The challenges of parliamentary administration in African countries: the case of Algeria".

Mr Anders FORSBERG, President, thanked Dr AMRANI for his communication. He then invited members present to put questions to him.

Mr Mohamed Vall Ould KOUEIRI (Mauritania) recalled the situation of the Mauritanian Parliament: the coup d'etat of August 2005 had been followed by a period of transition of 18 months, during which work had been led by all the political parties as well as civil society. A referendum on a new constitution had then been organized by a national independent commission, as a result of which Mauritania acquired a bicameral Parliament. Efforts had been made to strengthen the place of women in political life. The Mauritanian Parliament comprised 19% women. In addition, the opposition had been given a special status, offering it defined prerogatives.

Mr Gherardo CASINI (Global Centre for ICT) stressed the importance of the issue of training for parliamentary staff. The United Nations had been working for several years with about fifteen African parliaments. The UN Department of Economic and Social Affairs had organized a conference in Nigeria in 2007, attended by about 20 delegations, in order to develop an African network for the exchange of parliamentary knowledge. A new conference on the same theme would take place in Egypt next June, and Mr Casini invited all African parliaments to participate.

Mrs Martine MASIKA KATSUVA (Democratic Republic of Congo) said that, among the challenges the parliamentary administrations had to face were the difficulties that could arise between the administration and parliamentarians. This was the case in the Democratic Republic of Congo: for example, each member of the Bureau had a large personal staff, who had awarded themselves the rights of the administration. Did such a phenomenon exist in Algeria?

Mr Xavier ROQUES (France) welcomed the frankness of Dr Amrani's communication, and underlined the importance of the quality of parliamentary staff. He wanted to know if the situation described by Dr Amrani had improved, and in particular if the pressure of the policies on recruitment had lessened.

Mr Marc BOSC (Canada) added that the question of resources, human as well as financial, was crucial when considering the running of a parliament.

Replying to Mrs MASIKA KATSUVA, **Dr AMRANI** said that all staff were provided by the parliamentary administration, and that, unlike in the Democratic Republic of Congo, the members of the Bureau could not recruit their staff from outside this administration. Within the Council of the Nation, which had been created in rather a rush, the current policy was to interrupt recruitment, and rather to prioritise the redeployment of staff in

accordance with their abilities and the training of those whose skills needed refreshing. Some people had in the past gained their posts thanks to recommendations, although they did not have the skills required. In the future, it would be necessary to give thought to recruitment methods, resorting to examinations. The main problem for the Council of the Nation was not insufficient financial resources, but rather human resources: its organogram had been hastily constructed, and after a first revision, a second was currently under way.

Mr Anders FORSBERG, President, thanked Dr AMRANI for his communication as well as all those members who had put questions to him.

Mr Brissi Lucas GUEHI, Secretary General of the National Assembly of Côte d'Ivoire, presented the following communication on 'The African Network of Parliamentary Staff'.

"In this Africa Day, the Inter-parliamentary Union gives us the opportunity to discuss about a framework of training, capacity building and experience sharing for helping the African Parliaments staff: this is the **Reseau Africain des Personnels des Parlements** (African Network of Parliaments Staff) **(RAPP)**.

I- ORIGIN AND MOTIVATION

The idea of creating an African Parliament Staff association was set up in May 1995, This idea has been improved and finally reached the step of a project in the meeting organized by the National Conference of State Legislature (NCSL) in Porto Novo (Benin) in September of the same year. NCSL is an American Organization which gathers MPs and staff members of different legislatures (Senate and Chamber of representatives) of the United States of America.

However it was only after the investigation trip organized by NCSL from 14 to 30 September 2002 in the United States of America, that the decision of implementing the African Network was strongly established. This investigation trip enabled many delegates from Côte d'Ivoire, Madagascar, Mali and Chad to share the American's experience of similar organizations. All these activities have been organized with the significant support of the NCSL and the American State Department.

From 19 to 24 February 2003 in Bamako (MALI), a meeting permitted to complete the creation of this pan-African organization of parliament's staff under the name of "***Reseau Africain des Personnels* des *Parlements*** "(African Parliament Staff Network).

The main purposes of this network are to contribute to:
- parliament staff training;
- continuous improvement of their professional skills;
- Inter parliamentary cooperation.

In fact the RAPP activities started by the International Conference in N'djamena (Chad) where about sixty delegates came from 15 African countries to settle the new

organization. This conference also gives to the participants the opportunity to take part in training workshops and professional exchanges.

Then the **Reseau Africain des Personnels des Parlements** was born. It is a political and professional consultation framework which missions consist in contributing to:

- the establishment of African parliaments in their context within republican institutions;
- the promotion good governance; and
- the improvement of parliamentary agents' professional skills.

All these measures will allow the workers to be more professional, efficient and dynamic in their mission of parliamentary assistance.

The objective assigned is to permit the members to share their experiences and exchange different methods and working procedures in order to reach an efficient management of parliamentary institutions.

II- MEMBERS COUNTRIES AND ORGANISATION

The RAPP is a pan-African organization whose head office is in Abidjan (Côte d'Ivoire). Its different members are:

- The National Assembly of Benin;
- The National Assembly of Burkina Faso;
- The National Assembly and the Senate of Burundi;
- The National Assembly and the Senate of Congo;
- The National Assembly of Democratic Republic of Congo;
- The National Assembly of Côte d'Ivoire;
- The National Assembly of Djibouti;
- The National Assembly and the Senate of Gabon;
- The National Assembly of Guinea;
- The National Assembly and the Senate of Madagascar;
- The National Assembly of Mali;
- The Chamber of Councillors and the Chamber of Representatives of Morocco;
- The National Assembly of Niger,
- The Chamber of Deputies and the Senate of Rwanda,
- The National Assembly of Senegal;
- The National Assembly of Chad;
- The National Assembly of Togo.

At this time, 24 Parliaments from 17 countries are members of the RAPP, which is definitively, organized like this:

The General Assembly is the head organ of the RAPP which holds once a year (in July or August), a meeting in one of the member countries. General Assemblies provide

opportunities to organize round tables, training workshops and exchange platforms on various subjects relating to the network and to the parliamentary staff missions.

The Executive Committee which includes secretaries general of the member parliaments is the managing organ of the RAPP. Its mission consists in preparing the next general assembly, by making a first partial assessment of the annual activities and identify the topic of other issues for communications to be presented to the General Assembly.

The Bureau is elected within the executive committee for a two-year mandate. It is formed by eight (8) members:

- ✓ A president;
- ✓ Four vice-presidents;
- ✓ Two secretaries;
- ✓ A treasurer and his assistant.

The choice of vice-presidents is made according to the regional configuration of the continent in order to ensure a real, regular and permanent presence of the RAPP. This configuration includes the following regions: Southern Africa, Central Africa, Northern Africa (Maghreb), Western Africa. The bureau ensures the implementation of both decisions of the General Assembly and Executive Committee. It also represents the network wherever necessary.

Working committees:
For an efficient management of the network activities, five (5) committees have been created:

- ✓ Finance and budget committee;
- ✓ Legal texts committee;
- ✓ Communication and development committee;
- ✓ Study and training committee;
- ✓ Information and Communication Technologies Committee.

At each general assembly, these committees present their comments and suggestions for best management of the network; so as to reach its mains purposes.

III- PURPOSES AND MEANS

As statutes emerge, the objectives assigned to the network are:

- Strengthening capacities of parliamentary institutions;
- Contributing to the professional training of parliaments' staff;
- Forward constitution of data bank and parliamentary experiences;
- Creating a point of convergence for inter parliamentary cooperation.

To reach these objectives, the network has been equipped with various means:

- **The Website**

The RAPP is equipped with a website available for consultation at the following address: www.rappafrik.org. Through this website, the Network certainly wanted to open in to its members but also to offer itself as an interface on the whole world and in the direction of all potential partners. This site has a drive door on the "CHAT", being a discussion forum through which the parliaments' staff can exchange their work, make consultations, seek notices and submit points of view, in an immediate and interactive way.

- **The listserv**

The listserv is another data processing instrument available for parliamentary staff. It is a common email box for all RAPP members' staff. By sending one message through this email box, all RAPP members' staff can receive it. The email address to join the listserv is "rapp-discussion-l@ncsl.org".

- **The RAPP newspaper "RAPP INFO"**

Through its newspaper the RAPP aims to be an open showcase on the word. This newspaper relates RAPP's activities and other events which can have an interest for the RAPP and contribute to its expansion. It also relates the contributions of parliament's staffs in terms of training, information and assistance for the upgrade of the staff.

General assemblies

They are also a channel of dissemination of parliamentary practices and a tool of parliament staff training. General assemblies have this interesting particularity to be occasions of gathering parliament staff; who at these moments move on to meet their brothers and colleagues from other countries. The RAPP uses these opportunities and turns them to good account to introduce training and information sessions on diverse subjects, concerning parliamentary practice and general knowledge on the world.

Besides the training shutter, General Assemblies are also a real channel of communication, conviviality and linkage for the parliaments' staff. Furthermore, they are used as opportunities for informal exchanges between participants and weaving of bonds of friendship, quite as they are also an occasion of discoveries, because General Assemblies' programs always try to foresee excursions on places of interest.

Training sessions

In its expansion program, the RAPP plans to introduce and to undertake an ambitious training program for its members. Regional training sessions have been planned. This program is soon going to start, for it is important to allow the RAPP to perform its purposes, which consist in the upgrade of the parliaments' staff and the improvement of their skills.

IV- <u>EXHORTATION</u>

Today, the RAPP includes 24 member Parliaments from 17 countries, essentially francophone States. The other States, English-speaking, Portuguese-speaking, Spanish-speaking, Arabic-speaking, are awaited. That is why, I have the pleasure to invite the Secretaries General of African Parliaments here present and who do not yet subscribe to the RAPP, to join their brothers.

Subscription to the RAPP is not subjected to payment of a right. Only the payment of an annual contribution of about 1000 Euros per Parliament is required, in addition to the participation in the activities organized. The RAPP's bank account has taken up residence in a bank of Abidjan, where the head office is located.

We, Parliaments' staff have a common purpose and work for an ultimate goal, that of being active, efficient and devoted assistants for political actors of the institutions. Only training can enable us to perform our role in the parliaments. We thus have the duty to be constantly informed and aware about drafting techniques and parliamentary practices and procedures. Parliamentary work is a work of accuracy, a real vocational work which cannot afford any kind of amateurism, Parliaments' staff must be thus trained at the responsibility they have to perform for the best of a modern and democratic Africa; an Africa with strong institutions, aware of their role in the establishment of good governance.

Furthermore, as it addresses to parliaments 'staff, the RAPP is also avid to establish cooperation relations with similar organizations or with others which have the same purposes."

Mr Anders FORSBERG, President, thanked Mr GUEHI for his communication and invited members present to put questions to him.

Mrs Claressa SURTEES (Australia) wanted to know if, when a parliament needed a response to a specific question, it could form a network with other parliaments and ask this question of a contact in one of these parliaments.

Mr Moussa MOUTARI (Niger) said that the RAPP consisted only of Francophone parliaments, but that it was open to all African parliaments, whether Anglophone, Lusophone etc.

Dr Ulrich SCHÖLER (Germany) said that he found the RAPP initiative, of which he had not known, particularly interesting, and that it could promote training activities for African parliamentary staff, or even rationalize them. Currently, many African staff went to Germany to follow training courses, when it would be more effective and less costly for German staff to go to Africa to work with African staff via this network, being able in this way to adapt their training activities to the needs and circumstances of the place.

Mrs Madeleine NIRERE (Rwanda) asked about the prospects for developing the RAPP and about ways of making it better known. She wanted to know how the RAPP co-operated with member parliaments and, if need be, with other organizations.

Ms Fatou Banel Sow GUEYE (Senegal) asked if the lack of human resources available did not constitute a handicap to the operation of the network and the realization of its objectives.

Mr Samson ENAME ENAME (Cameroon) suggested that other African parliaments should join the RAPP. He himself, who had just learned of its existence, intended to join. The RAPP office could with this in mind contact its Anglophone equivalent, the Commonwealth Parliamentary Association (CPA).

Mr Brissi Lucas GUEHI thought Dr Schöler's proposal very interesting. Such a kind of co-operation could allow for professional capacity-building for parliamentary staff. He said that he would mention the proposal at the next meeting of the RAPP in Dakar. On the links between the RAPP and African parliaments, Mr Guehi said that each member parliament had an RAPP office. At each general assembly of the RAPP, the offices put together a report on their activities. The lack of resources available, common to all African parliaments, necessarily constrained their activities, and the RAPP tried to adapt its policies to its means. In conclusion, the RAPP constituted a dynamic structure, but one insufficiently well-known. It was so as to make it better-known that it had been decided to create a vice-president for each zone. Moreover, Francophone and Anglophone parliaments had much to learn from each other.

Mr Anders FORSBERG, President, said that the ASGP could help to make the RAPP better known by mentioning it on its internet site. He then thanked Mr GUEHI for his communication as well as all those members present who had put questions to him.

The sitting rose at 12.40 pm.

SIXTH SITTING
Thursday 17 April 2008 (Afternoon)

Mr Anders FORSBERG, President, in the Chair

The sitting was opened at 3.00 pm

1. General debate: Parliaments as peacebuilders in conflict-affected countries

Mr Ian HARRIS (Australia) made the following contribution:

"*What is the role of Parliament in addressing contentious issues and relationships in conflict affected countries?; Advancing Parliament's legislative function in conflict and social accountability*

Westminster inheritance
Some legislatures under the Westminster parliamentary system have needed rebellion or armed insurrection to achieve their independence. Other legislatures have achieved their national parliamentary system by more peaceful means such as discussions and decisions by the people at the ballot box in plebiscites etc. While a united response external threats (more perceived than real) was one of the motivating elements in the formation of the nation, Australia is fortunate in being an example of the attainment of legislative sovereignty by more peaceful means. Australia basically chose to follow the Westminster system for the new nation, but with some significant variations to accommodate local proclivities.

However, whether or not formed by peaceful means, the procedures of all legislatures following the Westminster system reflect elements of a post-conflict scenario, the English Civil Wars of the 17th Century. In some countries, the monuments to those who fought hard for their parliamentary democracy are the bullet holes in the walls and trees. The bullet holes of Parliaments under the Westminster system are in the parliamentary procedures that those legislatures, in the main, follow.

Importance of doctrine of separation of powers
The 18th Century enlightenment French philosopher Baron de Montesquieu was responsible for the term describing the concept of the separation of powers. There are many areas the discussion of the topic of the legislature's role in peace-keeping that are affected by the doctrine of the separation of powers. For example, the following matters fall within the province of government:

- declarations of war and the conclusion of peace,
- internal security,
- the making of treaties,
- poverty reduction and conflict management,
- representation & electoral systems.

However, Parliaments are in a unique position to make a significant contribution in the process, to provide a channel of expression to elements in society below the Executive, and because of the system of responsible parliamentary government that many jurisdictions follow, to influence the Executive that is part of the legislature.

Internationally - Parliament's role in war, peace, treaty-making
Similarly, declarations of war, entering into peace, and treaty-making are all functions of the Executive. However, in some non-Westminster systems there is a legal requirement for Congressional approval for declaring war (or placing the country on a war footing). Moreover, is some Westminster-style jurisdictions there has been an increasing tendency for parliamentary endorsement of a government's commitment to go to war. The Executive must carry a parliamentary motion of endorsement of this kind, and do so without significant defections. The process gives voice to those who oppose a conflict, and perhaps tempers a government's actions.

Some legislatures have a Treaties Committee to pass comment after treaties are concluded but before they come into effect. This may extend to peace treaties, but in any context, it permits parliamentary input into areas previously thought to be the sole province of the government.

Three factors for Government and Parliament
There are three important factors for Government and Parliament to successfully resolve conflict and build peace: These`are:

- Timing: Recognition by all parties that force will not prevail;
- Patience by all concerned to work towards the end despite setbacks; and
- Involvement by the media and civil society in the process.

The causes of conflicts
An effective response to conflict requires a agreement on understanding of its causes. Some of the many reasons for conflicts are:

- **Artificial boundaries**

Boundaries established without due consideration to linguistic and long standing traditional, social and cultural relationships are usually essentially regarded as being artificial. The result could lead to a nation finding most of its national resources based in the regions bordering other countries, and these regions increasingly becoming attractive centres for the initiation of rebel wars.

- **Natural resources wealth**

Some countries accommodate two type of resources based conflict; wars of resources scarcity relate to central grazing and water rights for nomadic people, some countries whose economies are dependent on natural resources such as oil and minerals, face very high risk of conflict.

- **The abuse of ethnicity**

Political leaders in some countries have made increasing use of ethnic hatred. Such abuse prolongs conflict, and creates long term divisions that reduce the effectiveness of peacebuilding efforts.

- **State collapse**

The collapse of the state institution has caused many internal and regional conflicts. Collapse is rarely sudden, but arises out of a long degeneration process that is characterized by predatory governments operating through coercion, corruption and personality politics to secure political power and its benefits are monopolised by one group.

- **Over centralised system**

This occurs in highly centralised administrative systems that make the centre very strong marginalising constituent regions and minority groups and limiting access to opportunities, thus creating a critical mass of disaffected members of the population particularly the youths.

- **Limited Enabling Environment**

Many countries fail to provide rudimentary conditions for stability and development, the rule of law, basic services, a predictable commercial environment and personal security and well being. Warlords, international criminal elements along with some key government officials conspire to undermine the existence of the state through pursuit of wealth under the guise of social revolutionary movements.

Parliament's role in managing conflict and poverty

Parliament's role in peacebuilding from below, and in influencing the Executive in responsible parliamentary government environments, has been mentioned under the section on separation of powers. Parliament can be an important element in establishing, discussing and promoting a national consensus around commonly-held values.

Parliament can put in place institutions needed to assist with conflict resolution and peacebuilding, and then oversight them to make sure they fulfil the intrended role.

However, there are more specific ways that Parliament can contribute to peacebuilding:

- **Participation, representation & reconciliation**
    - Representation so as to include minority groups – Electoral systems to ensure that Parliament is as representative as possible.
    - Involvement in international initiatives and processes, such as the Poverty Reduction Strategy Process, and the Millenium Development Goals.
    - Bridge-buiding between parties with conflicting interests.

- **Legislation & Oversight**
    - Parliament needs resources for its oversight & accountability function.
    - Best way to do this is strengthening the parliamentary committee system.
    - Public Accounts Committee is essential (some jurisdictions have an Opposition Chairman).
    - Oversight over security sector (military, police & intelligence services)
    - Also, legislation to establish Office of Auditor-General (possibly working closely with PAC), Ombudsman, Anti-Corruption Commissions and Human Rights Commissions.
    - Establishment of special commissions, for example a Truth Commission: The mechanism most closely associated with transitional justice is the truth commission. Truth commissions are temporary non-judicial fact-finding bodies, and usually operate for periods of one year. Parliaments can play many key roles in relation to truth commissions. They can enact legislation establishing the commission, participate in the appointment of individual commissioners, provide financial support during the commission's operational phase, and implement the recommendations contained in its final report.

- **Dialoguing with Civil Society & Free Media**
    - Civil society's links with the public. A two-way flow of information needed.
    - Media is often the legislature's principal or sole means of communicating with the public.
    - A diverse media sector is much preferable to a State-dominated media.
    - Need to ensure media's access to information.

- **Role of political parties & The Opposition**
    - ***The Role of the Opposition* -** The opposition can play an important role when the relationship between the executive and sectors of the community has become acrimonious. Opposition parliamentarians can act as a bridge between the conflicting groups and the executive. This is particularly the case in parliamentary systems where the executive is drawn directly from the party that commands a majority in parliament; thereby the opposition party is the only democratically elected group not directly involved in the dispute. Opposition parliamentarians can act as third party intermediaries and instigate confidence-building measures, which are essential preconditions to fostering negotiation among conflicting groups. In such a situation a peaceful solution to an escalating conflict should override other considerations,

therefore both the executive and opposition parliamentarians should be willing to put politics aside and work across party lines to resolve the conflict. Citizens have a right to expect a Government that can govern, and an Opposition regarded as the loyal Opposition as an alternative government, with teeth.

- **Promoting Socio-Economic Equality**
    - Conflict can arise out of competition for scarce resources. Conflict and poverty go hand-in-hand. Parliaments should ensure equality of opportunity and take affirmative action in favour of disadvantaged groups.
    - Parliaments can mitigate conflict over resources by promoting dialogue and promoting third-party mediated talks.
    - Where demand for resources exceeds supply, parliamentarians can promote dialogues with constituencies explaining reasons behind allocation of resources.

- **Rule of law**
    - Strengthening the rule of law has a positive impact on economic development, which assists in creating an enabling environment conducive to peace. The rule of law is able to contribute to peacebuilding not only by building a framework of laws, based on social norms, which the community will voluntarily adhere to, but also by providing stability through justice.
    - The judicial system should be viewed as a whole, with good laws interpreted by a skilled judiciary. The judiciary is one of the primary institutions responsible for state enforcement of the rule of law and also happens to be a key player in managing conflict between different groups in society. Parliament should interact with their constituents and civil society so as to ensure the legislation it passes is a true reflection of social norms, thereby aiding economic development. Furthermore, parliament is in a fortunate position in that it can facilitate the effectiveness and impartiality of the judiciary through their oversight and budgetary processes.

- **Decentralisation**
    - Need to commence with clear, well-defined reasons, which should be kept in mind in developing a decentralisation stategy.
    - Whether federalism, devolution or adminstrative decentralisation, it can contribute to promoting particpation, accountabiltiy and responsiveness as well as conflict resolution.
    - Decentralizing power and resources can contribute to conflict management, as it increases the chances that local citizens, who were previously disenfranchised, can participate more directly in decision making and therefore have more 'buy-in' to the decisions made. Parliament should use its legislative and oversight functions to ensure that any decentralization scheme succeeds in overcoming a number of reoccurring obstacles that hamper such schemes, as a failure to address pre-existing power relationships; countering elite capture of the process; properly defining fiscal

relations between the central authority and decentralized decision-makers; and providing for the accountability of localized decision makers.

- **Regional Parliamentary Peace-building**
  - Legislator-to-legislator contact is one of the most effective forms of communication, and helps when governments find it politically necessary to maintain an arms' length relationship with another country. Parliamentarians face similar challenges in different jurisdictions.
  - Associations such as the CPA and/or, for national legislatures, the IPU, the East African Legislative Assembly, ECOWAS or SADC Parliamentary Forum may assist. Others may be formed.
  - Often scarce resources act as a hurdle to developing regional parliamentary relationships. However, parliamentarians, to the extent that they are able, should seek to build regional relationships, whether through informal networks, professional associations or formal regional institutions. Such networks promote regional dialogue, build confidence and facilitate learning about conflict management, whilst helping mediate regional disputes. There are some strategies parliaments and parliamentarians can adopt in order to manage emerging conflicts; whether that is via developing better relationships within their communities, supporting institutional reforms that take into account the interests of all stakeholders in an inclusive fashion or by creating an enabling environment, through poverty reduction initiatives, which are conducive to peace rather than conflict. It is hoped that by developing a fuller understanding of the nexus between parliament, poverty and conflict, parliamentarians will be better able to take on the mantle of peacebuilders and guide their communities.
  - Often, an international negotiator or facilitator can assist where lack of trust internally makes it difficult or impossible.
  - This has worked in the South Pacific with the Regional Assistance Mission to the Solomon Islands (RAMSI). It is also supported at officer level, with the first parliamentary srtengthening offcier being from the Australian House of Representatives, and the current officer from the NSW Legislative Council.

Contribution of staff

- The immediately preceding point raises the question of what staff can do in playing a part in the peacebuilding exercise. There is a whole industry of parliamentary strengthening, particularly as previously conflict-affected countries come to realise that a move to economic strength invloves the development of the rule of law, where investors are confident to place their funds. Many participants in this industry have an academic awareness of what is required, and have made a career telling others what to do, but have never actually done anything practical themselves.
- Parliamentary staff are ideally placed to fill this void.

Discussion points:

- To what extent can successful or unsuccessful attempts to resolve conflict situations provide lessons for the future. Any examples?
- What positive role can international organisations play in conflict resolution and peace-building exercises?
- Of the identified specific roles that parliaments can play in the conflict resolution/ peacebuilding process, which is the most important? The most impractical?
- What role can staff play in the conflict resolution/peacebuilding process?
- Particular issues that participants would like to pursue?"

Mr João Rui AMARAL (Timor-Leste) presented the following written contribution:

"Timor-Leste's Parliament has been in the centre of all major national initiatives to promote peace and reconciliation. I will report on a few cases that illustrate the role and the contribution of the Parliament.

CAVR - Commission for Reception, Truth and Reconciliation

First, I would like to mention the most important peace and reconciliation initiative in the country that is the CAVR - Commission for Reception, Truth and Reconciliation. This Commission was created during the UN Transitional Administration and after the restoration of independence the Parliament took over the responsibility related to work of this Commission, which includes: (a) set up the legal framework; (b) define the terms of reference; (c) determine the extension of its mandate. This power to redefine the functions, mandate and objectives of the Commission was given by the Constitution itself, that has a section dedicated to reconciliation.

Most important is that Parliament has assumed the responsibility of becoming the depositary of the Commission's report and taking the lead of the implementation of its recommendations. The report was concluded in October 2005 and it is currently under consideration by the standing committee which has the portfolio for justice and human rights.

National Liberation's Veterans Act

Another example of Parliament's contribution to peace and stability was the approval of the Veterans Act. With an estimate of more than 70,000 National Liberation Veterans, Timor-Leste has learnt other countries experience about the importance of fair treatment of war veterans for peace maintenance.

The bill was a major and decisive contribution for the fulfilment of the State's responsibility under section 11 of the Constitution that provides for the acknowledgment and valuing of the all national liberation combatants. The act recognizes and values their contribution, through condecoration and other honours, and ensures for the provision of material assistance for the vulnerable ones. The bill is a very comprehensive one and was drawn upon comparative international experiences and an

extensive assessment work and broad public consultation. Before that two Commissions created by the President of the Republic had worked intensively, for more than two years compiling data, assessing the situation and organizing the veterans census. The two Commission's report was then delivered to the Parliament.

Commission for International Independent Inquiry on the 2006 Events

In May 2006, more than two weeks of demonstration by more than 600 military soldiers and their supporters, who have petitioned before the Government complaining against discriminatory treatment, have ended in violent confrontation between demonstrator and security forces that degenerated in deadly fights throughout the capital between military and police forces, and involving armed civilians.

After these violent events, Timor-Leste decided to request to the UN to conduct an international independent inquiry, to identify responsibilities, both individual and institutional, and recommend for prosecution and institutional reforms, mainly for the security forces and judicial institutions.

The report was delivered to the Parliament which set up a selected committee (*ad hoc* committee), that has looked at the findings and recommendations by the International Independent Inquiry Commission. The selected committee has proposed and the Parliament has approved 17 different recommendations.

IDPs and Petitioners

As a consequence of the 2006 crisis, the capital Dili principally and other towns were flooded by more than 120,000 IDPs (Internally Displaced Persons). Dili alone had in its pick more than 70,000. Most of them are currently still living in IDPs camps. The main reason for not returning to their neighbourhoods and houses is the fear of attack by hostile neighbours of different ethnic and/or regional origins.

There have been many programmes and initiatives to promote reconciliation and the return of the IDPs. Many MPs have been very actively participating in dialogue and reconciliation initiatives.

Parliament and its members share the same view with other state institutions that the most immediate priority when we talk about peace and stability is to solve the IDPs and Petitioners' problem, and because of that Parliament is increasing its contribution and participation.

Challenges

To conclude, I would like to mention what I think are the two main challenges for the Parliament:
1 – The need to increase our capacity to gather international experiences and benefit from best practices in other Parliaments. We think IPU and ASGP have a role to play;

2 – The need to envisage a process that could make parliament more effective in following up and evaluating the progress in the implementation of its decisions and recommendations."

Mr Anders FORSBERG, President, thanked Mr HARRIS for his contribution, and opened the debate to the floor.

Mr Alain DELCAMP (France) emphasized that international relations were a competence of the executive, but that parliaments still played a role in this area, making ties with their counterparts, by means of parliamentary co-operation. He then tackled the question of the representation of society as a whole within Parliament. In this context, bicameralism could allow the resolution of certain conflicts, the reconciliation of legitimate differences and the representation of contradictory interests.

Mr Douglas MILLAR (United Kingdom) discussed the role that parliaments could play in international relations, opening up paths towards more peaceful relations. For example, the British Parliament had played an important calming role during the Cold War in the 1980s. When Mr Gorbachev had still been a member of the Politburo, he had been invited to London by the British Group of the IPU, allowing for discussions as well as the creation of links between the two countries at a level other than the intergovernmental. In a certain manner of speaking, and not getting things out of proportion, Parliament had taken on the role of Government. During the process of reconciliation between the Republic of Ireland and the United Kingdom, links had been established thanks to the creation of the British-Irish Inter-Parliamentary Body. Such contacts had allowed the Parliaments to better understand their respective positions, and had constituted an important step in the advent of peace.

Mr R.K. SINGH (India) raised issues about the quality and credibility of the leaders concerned, about informing public opinion within this process, as well as the will of decision-makers to find solutions.

Mrs Doris Katai MWINGA (Zambia) said that the Constitution of Zambia provided for the possibility that the Executive could declare a state of emergency; since 1991, this declaration had had to be approved by Parliament within fifteen days. This new provision was a great advance. Up until 1991, Zambia had lived in a sort of permanent state of emergency, and since that date, the Government had had to provide a justification for the installation of this state, which brought with it important consequences, and Parliament could bring it to an end.

Mrs Jacqueline BIESHEUVEL-VERMEIJDEN (Netherlands) added that article 100 of the Dutch constitution provided that before any Government decision on peace-keeping operational matters, Parliament had to be informed within the framework of a debate. Now, it was very important for Government to have the support of Parliament on the matter. The last debate conducted in Parliament had been about the peace-keeping operation in Darfur.

Mr Hans BRATTESTÅ (Norway) said that the idea of "parliamentary diplomacy" did not seem very satisfactory to him, and that it appeared better to him to think of Parliament as a protagonist intervening in the interests of peace. He judged, for example, that the peaceful rebirth of the Baltic states had been made possible through the efforts of Parliaments. When, in a tense situation, it was too early for governments to work together, parliaments could play a role upstream by sending parliamentary delegations. He ended by explaining that, under the Norwegian constitution, the government could declare war, without the agreement of Parliament, but parliamentary approval was needed to sign a treaty.

Mr Ian HARRIS (Australia) said that the diversity of representation allowed by bicameralism constituted a significant force. Thanks to the existence of two chambers, all opinions could be represented. Moreover, the Senate created a channel between local and central authorities. He emphasized that, although declarations of war came from the Government in the British political system, it seemed clear that the involvement of the United Kingdom in the Iraq war would not have been possible without the approval of the House of Commons. As for the declaration of a state of emergency, he indicated that Parliament's agreement, representing civil society, seemed essential.

Mr Anders FORSBERG, President, noted that in the room colleagues were present from countries which had known conflict. He asked about the aid which could be provided to the parliaments of countries during and after a conflict.

Mr Anildo DA CRUZ (Timor Leste) noted that his country was emerging from a period of twenty-four years of conflict, and that at the end of this phase, in 2002, it had gained its independence. At that time, Parliament was confronted with a very difficult task, and played a central role in promoting peace and reconciliation. A commission had been established, along the same lines as the "Truth and Reconciliation Commission" in South Africa, which subsequently reported to Parliament. Parliament then put together a series of recommendations to be implemented, in particular in the area of reform of the judicial institutions. In 2006, there were violent incidents between the army and the police, which led to the institution of an international inquiry. Its report was likewise submitted to Parliament, which subsequently adopted 17 resolutions, in particular the strengthening of security forces. Nevertheless, the Timorese Parliament continued to need external aid and expertise, especially in order to implement more effectively the recommendations of the commissions which studied the conflict, the measures recommended having often proved difficult to apply.

Mr Oum SARITH (Cambodia) said that he shared Mr DELCAMP's opinion on the importance of bicameralism, which could contribute to the establishment of peace and political stability. At the same time, as Mr SINGH had emphasized, the role of political leaders was of the essence. Parliament constituted a forum where politicians could hold debates, and it played a central role in the establishment of peace and national harmony, as the case of Cambodia illustrated, having experienced a civil war of more than twenty years as well as a genocidal government. He added that today, within Parliament, the different political parties could hold debates, establish common values

on democracy, rule of law and transparency, and could participate in the process of national reconciliation.

Mr Amjad Abdul HAMID (Iraq) noted that Iraq was still in a conflict situation. The state of emergency was still in force, despite a resolution of the Parliament and the Government's will to end it. He said that he wanted to draw on the experience of countries which had been through similar testing situations, and he proposed that a meeting should be organized among these countries, in order to work together in the search for solutions and proposals. Many countries had sent forces to Iraq, but had failed to re-establish peace. Currently, two million Iraqis were refugees abroad, a further two million were internally displaced, a million children were no longer in school, and a further million were orphans. He said that he hoped to count on the help of countries which had overcome their difficulties, and to be able to continue to work with the ASGP.

Mr Ian HARRIS (Australia) concluded the debate by thanking all of the contributors, in particular members coming from countries which had experienced conflict situations.

Mr Michael COETZEE (South Africa) called on the experience of his colleagues concerning the work of parliament on budgetary matters. A reform was under way in this area within the South African Parliament, and it would be useful to him to gather information and data on the rules and practices implemented by other parliaments.

2. Communication from Mr Hans BRATTESTÅ, Secretary General of the Parliament of Norway: Impeachment: still a relevant institution? Recent changes in Norway

Mr Hans BRATTESTÅ (Norway) made the following communication:

"It is a great pleasure for me to have the opportunity to address you all on the issue of impeachment. An institution that may be of more theoretical than practical interest to many of us, but which is nevertheless an interesting feature of the political and judicial systems in many of our countries. In my communication I will give a brief introduction to the amendments to the impeachment procedures that we have lately carried out in Norway. I would also like to convey some personal thoughts on the question asked in the heading of my speech – is impeachment still a relevant institution? Couldn't these cases preferably be brought under the competence of the regular courts?

I would like to start by giving you an overview of the main elements of the Norwegian impeachment system including the recent amendments, before addressing a couple of important issues the institution of impeachment raises: Firstly; what – if anything – can an impeachment system add to the parliamentary sanctions and the regular judicial system? And secondly – what basic conditions should be met if such a system is in fact going to work satisfactorily.

In spite of the fact that the Court of Impeachment in Norway has been idle since 1928, the issue of impeachment has provoked a relatively animated debate in recent years. As a result, a new impeachment system was introduced in February last year. Even though the Court of Impeachment as such had not been in actual session for nearly a hundred years, the process of impeachment has been initiated on some occasions, though this has always resulted in the charges being dropped. However, as the supervisory role of the Parliament became – well if not more important, at least more visible during the 1990s, proposals to initiate an impeachment process also became more frequent. During the last 20 years, 6 proposals to initiate an impeachment process have been put forward by different political parties in the Parliament. This indicates that the institution, which was first and foremost used as a weapon in the fight for power between the Storting and the Norwegian-Swedish King during the nineteenth century, might be in for a renaissance.

As the Parliament's supervisory role developed, the means and aims of supervision became the object of increasing debate. In the year 2000 a parliamentary working committee was set up to discuss the issue of impeachment as part of a larger term of reference concerning the Parliament's supervisory work. A majority of this committee – consisting both of judicial experts and MPs, concluded that impeachment as a separate system had outlived itself and should be repealed. In the Norwegian system at the time, the lower legislative chamber of the Parliament acted as prosecutor, and the upper legislative chamber, along with the Supreme Court judges, constituted the judges of the Court of Impeachment. The political element of the court held the majority, and thereby had the final say. Only crimes committed by Cabinet Ministers, MPs or Supreme Court judges in the line of their official duties were subject to the jurisdiction of the Court of Impeachment. At this time - the undeniably close relationship between the prosecution and the court was criticised as well as the vague nature of some of the statutes on constitutional responsibility dating back to the 1930's. Furthermore, the procedure was claimed to be too comprehensive, inefficient and demanding on resources. In short, a cabinet minister could risk being prosecuted and convicted by the votes of a majority of the Parliament for breech of an ambiguous constitutional duty, and the case could drag on for years occupying a large part of both the Parliament's - and eventually - the Supreme Court's resources. Clearly not an ideal situation. As I've just said - the committee's solution was basically to abolish the whole system and refer offences committed by those concerned to the regular judicial system as is the case for all other citizens. The special constitutional responsibility laid down in the legislation (the Act relating to the Legal Procedure of Offences Indicted before the Court of Impeachment) was to be replaced by the statutes in the penal code – although with a few additions concerning breeches of fundamental governmental duties towards the Parliament. Furthermore, a concession to the previous system was made in that prosecution for breech of these fundamental duties would require the consent of the Storting.

In the debate that followed in the Storting, the role of prosecutor of constitutional, criminal offences became an important issue. This issue was one main reason why the committee's proposal did not get the necessary endorsement. It was obviously important for the Storting to retain greater political control over the impeachment

process. Moreover, the Storting was inclined to uphold the legal statutes on constitutional responsibility. As a consequence, the Presidium was asked to set up a new committee to review the impeachment system. An all-party proposal to amend the Constitution as well as the Act on Constitutional Responsibility and the Storting's Rules of Procedure was submitted and adopted as a result of this work.

The system adopted by the Parliament in February 2007 preserves the institution of impeachment, but introduces some new features to make it more efficient and legally safeguarded – especially in the investigative phase, - reduce ambiguity in the statutes on responsibility and last but not least – make the Court of Impeachment more independent of the present Parliament. The Parliament in plenary now holds the position of prosecution, while the standing Committee on Scrutiny and Constitutional Affairs prepares the matter. If a minority of 1/3 of the Storting so decides, an external investigative body – the Storting's Accountability Select Committee ("The Accountability Commission") – may be asked to investigate the matter and give an opinion on the question of responsibility. This permanent body is elected by the Parliament, and consists of external experts on penal law, parliamentary practice and crime investigation. The committee can not be instructed by the Parliament as to their conclusion on a specific matter. One hopes that this body, combined with the minority's right to initiate investigation, will lower the threshold for looking into potential criminal matters. It remains to be seen however, whether this procedure will be less time-consuming than the previous one. The Accountability Select Committee will at any rate replace the ad hoc inquiry committees that have been appointed on several occasions during the last twenty years to clarify matters where impeachment has been a possible – though perhaps not a likely - outcome. The new system also rendered the internal ad hoc Parliamentary Committee on Constitutional Responsibility superfluous.

Perhaps a more fundamental amendment is the new composition of the Court of Impeachment. The Court still consists of a judicial and a political element. The judicial element consists of 5 Supreme Court judges, while the political element is a group of 6 lay-judges elected by the Storting for a fixed term of 6 years. These can no longer be active representatives of the Storting. The group of lay-judges is composed on the basis of nominations by the different party groups in the Storting, and most of its members are former MPs. Incidentally, "Lay-judge" is not an altogether appropriate term; these judges represent political expertise that is regarded as desirable to the impeachment system as the professional judges' expertise in law. The new court aims to strengthen the judicial element of the system and thereby secure a fair legal process more in compliance with the human rights principles of a fair and impartial trial.

As I mentioned earlier - the Court of Impeachment has not been summoned since 1928, and there are few that find it likely that this will become more frequent in the future. So why bother to have this comprehensive apparatus in readiness for the off-chance of it being activated once every 100 years or so? Furthermore – as you will all be aware – the main target group of the impeachment system must be said to be government ministers. All previous cases dealt with by the Court of Impeachment in Norway have concerned such ministers' responsibilities. With the development of the parliamentary system, another – and far more effective - sanction has been introduced as the

Parliament may force a minister or a government to step down by expressing a vote of no confidence. Moreover, the constitutional responsibility handled by the impeachment system has always been very limited. It only concerns offences committed in the capacity of being a minister, judge or MP. This has been further stressed in the new regulations, which explicitly limit the responsibility to "a breech of a constitutional duty". There are in fact very few offences that may lead to impeachment – most offences committed by an MP, a minister or a Supreme Court judge will be dealt with in the regular courts.

So – why not just write off the impeachment institution as the anachronism it seems to be? Well – the situation is not that simple. An increased public expectation that authorities should be answerable to the people for their actions creates a need for sanctions. With great power follows great responsibility. Those trusted with the power to make vital decisions on behalf of all of us, using our common resources in the process, must be held responsible if they abuse this power. Our democracy relies on these individuals to manage their power with honesty, wisdom and without undue consideration of self-interest.

It would of course be perfectly possible to refer these cases to the regular courts. But the value of a democratic foundation on which to base a charge and a verdict in such a case should, I think, not be underestimated. The Parliament is the actual democratic institution among the three state powers. By representing the people, it is perhaps the most legitimate body to follow up on possible criminal exploitation of power in office. Furthermore, some of the offences that are included in the impeachment jurisdiction are of a very particular kind – caught in the intersection between politics and penal law. A dispute between the government and the Parliament on the fulfilment of the government's obligations towards the Parliament strikes the very roots of the democratic system, and the outcome may have implications for the constitutional life as a whole. The parliamentary principle was in fact introduced in Norway for the first time through a verdict by the Court of Impeachment in 1884, and this verdict has certainly had a lasting impact on the relationship between the government and the Parliament.

The fact that impeachment is a rare phenomenon is not in itself a valid counter-argument. The impeachment process is after all a criminal procedure, and the frequency of ministers, MPs or Supreme Court judges committing crimes when executing their powers is almost inevitably low – at least that is what we must hope. I would also like to point out that the possibility to call for a vote of no confidence is first and foremost a political instrument designed to tackle political differences and crises - not criminal matters.

By having a separate court and a separate process reserved for those who lead the top constitutional institutions, one underlines the particular responsibility these institutions have to uphold constitutional principles in their daily work. It is a reminder that decisions made by the members of these institutions are made in a constitutional framework, and that an error of judgement in these positions is regarded as more serious than errors made by other citizens.

That being said; it is important to acknowledge that the Court of Impeachment is a criminal court – not a constitutional court which may settle legal disputes between the three state powers. Consequently, the basic principles guiding the impeachment system must be based on the rule of law and be in compliance with the same human rights principles as any other criminal case. This implies a need to secure the defendant equal legal rights as other defendants – such as the right to a lawyer and a fair trial. In our case it also led to certain amendments being made to clarify the regulations on constitutional responsibility, which of course is especially important when sanctioned by penal remedies.

The impeachment system in Norway establishes a set of rules and all necessary bodies that are needed for clearing up a possibly criminal matter should such a matter arise. The likelihood of being the object of an investigation is far greater than the likelihood of actually being prosecuted and convicted. Still – even an investigation that does not lead to a charge will clearly be a burden, and is regarded as highly undesirable by those involved. The mere possibility of such a process may promote more caution and awareness among those responsible, and by that also – perhaps – more solid and well founded decisions for the benefit of all. A lack of an efficient procedure to make MPs, ministers or Supreme Court judges responsible for criminal acts – be that in the form of a separate impeachment procedure or managed by the regular judicial system – would in fact mean that our most powerful leaders were granted immunity for their offences. Now, in my view that is clearly not an option. Our experience from the new system is as yet very limited, but it may appear that the intention to lower the threshold to initiate investigations, and thereby make the impeachment process more usable, has been achieved."

Mr Anders FORSBERG, President, thanked Mr BRATTESTÅ for his communication. He then invited members present to put questions to him.

Mr Edwin BELLEN (Philippines) said that in the Philippines, the impeachment process could apply to the President, the Vice-President, the members of the constitutional council and the Supreme Court, but also to civil servants. Subject to their own regulations, parliamentarians could not be impeached, but they could be suspended or expelled. According to the Philippine constitution, the impeachment process could be used only on limited grounds, in particular treason or corruption. The House of Representatives had exclusive power to initiate the impeachment process, the Senate playing the role of court of justice, whose rulings required a two-thirds majority.

Mrs Jacqueline BIESHEUVEL-VERMEIJDEN (Netherlands) wanted to know which crimes and misdeeds could instigate the impeachment process.

Mr Alain DELCAMP (France) noted a tendency in France to take to the courts proceedings against politicians, ministers especially. Following a constitutional revision, the President of the Republic could be subject to the ordinary courts, but could not be brought before them for the duration of his mandate. It was nevertheless a good idea to remain vigilant in respect of this development, to ensure that it did not turn

into a step backwards, with a system in which criminal responsibility could become a substitute for the absence of political responsibility.

Mr Hans BRATTESTÅ said that the revision which had occurred, linked to the development of the oversight functions of Parliament, allowed for the use of a mechanism to provide a sanction for misdeeds of which ministers were guilty. Nonetheless, impeachment did not constitute an adequate sanction, and it should not give the impression that it put an end to accusations made against a minister. Among the acts which could give rise to the impeachment process were the violation by the people concerned – ministers, parliamentarians, judges of the Supreme Court – of their constitutional obligations, for example a failure in the duty to provide information to Parliament, or the refusal to resign after a vote of confidence. When the impeachment process was instigated, the permanent parliamentary committee for oversight and constitutional affairs was called. If it judged that the acts committed did not give rise to the impeachment process, it transferred the case to the ordinary courts.

Mr Anders FORSBERG, President, thanked Mr BRATTESTÅ for his communication as well as all those members who had put questions to him.

3. Presentation by Mr Xavier ROQUES, Secretary General of the Questure of the French National Assembly, of the responses to a questionnaire on parliamentary relations with the media

Mr Anders FORSBERG, President, invited Mr Xavier ROQUES, Secretary General of the Questure of the French National Assembly, to present the responses to his questionnaire.

"I first wish to thank you for your many, compact contributions which have given me a lot of work!... When you skim through them for the first time, you are struck by how imaginative people can be: no Parliament appears to have the same rules; of course many similar provisions are to be found, but with a very high number of variations underscoring many differences, whether of the context, resources, history or mindsets.

In this respect I'd like to say straight away that I hope I haven't wrongly interpreted some of your documents: indeed, further to the difficulties of translating from one language to another there are the differences of conceptions and of customs that can sometimes lead to inaccuracies of understanding. Therefore, rather than painting an exhaustive picture, I intend to shed light on the various different practices. This will also help avoid over long and tedious lists of examples.

I'll address 5 issues:

- Media access to Parliament,
- Attendance at proceedings,
- Press work conditions,

– Archives,
– Existence of parliamentary channels.

I. – MEDIA ACCESS TO PARLIAMENT

A. – Accreditation

Contradicting my initial words on diversity, it is striking to note that practically all Parliaments have adopted the accreditation system, except Guinea, where the National Assembly can be accessed freely by any journalist outside the session, and Luxembourg, given the low number of journalists. Differences appear however concerning the procedures for issuing this accreditation, its length and the number of accredited journalists.

1) Issuing procedures
In all the cases where this point was addressed in detail, the **media** for which the journalist works – or the journalist himself – **must send an application** to the assembly whose proceedings he wishes to follow and, in general, to its press service, but sometimes the application is sent to another authority of the assembly (for instance: in Brazil, to the executive secretary; in Korea, to the general secretariat; or in a few Parliaments, to the security service), various documents having to complete this application.

The definition of the term 'journalist' varies considerably from one country to another. The **United Kingdom does not base itself on any definition** to examine an application and issue accreditation.

Other countries have **quite a broad definition**: in Germany, the Bundestag considers as a journalist he whose main occupation it is; in Chile, he is a professional who officially represents a media; in Belgium, a person who writes regularly on parliamentary proceedings and belongs to a news organisation having a column or a programme of a political nature. In Korea, a journalist is a person attached to a newspaper, a press agency, a television channel or a news organisation broadcast on the Internet, or a reporter attached to a national institution or considered as such by the secretary general.

Other Parliaments take into account the **existence of an official document**: in Germany, at the Bundesrat, in Portugal, in Morocco, at the National Assembly and the Senate in France, the term journalist is applied to anybody with a press card; in both chambers in Italy, persons registered in the journalists' association professional register; in Brazil, any person proving he has a journalism diploma or recognised experience on his work permit.

The population covered by the definition is also more or less broad: in Thailand, like in France, press editors are added to journalists strictly speaking; the Canadian House of Commons also takes into account television programme producers, researchers, cameramen and technical employees; the Spanish Senate, Slovenian National

Assembly, and Swedish Riksdag also include technicians among journalists. The definition by some Parliaments also encompasses any persons participating in the production of a Web portal (Korea, Poland).

The decision is taken, in most cases, **by the administrative authority** (secretary general, press service, security service), but exceptions can be observed and the intervention of other players, especially the press itself. In effect, roughly half the Parliaments which answered the questionnaire mentioned the existence of an **association of parliamentary journalists** (with no financial or administrative ties to the assembly), which, in most cases, participates in the accreditation award process. At the National Assembly and Senate in France, accreditations are issued by a committee made up either of deputies or of senators and press representatives members of the parliamentary press association; in Norway, the parliamentary journalists' association proposes names to the security bureau which then issues accreditation; in Brazil, accreditation is issued with a statement by the press committee; in Canada, members of the press gallery meet to examine accreditation applications; at the Italian Chamber of Deputies, the parliamentary press association grants permanent accreditations. Apparently, France and Morocco are the only countries where parliamentarians intervene in the accreditation procedure.

2) Length of accreditation

The length of accreditations is relatively standard. All Parliaments issue **long or so-called permanent accreditations**: for the session (India, WEU, Romanian Chamber of Deputies), but above all annual (German Bundesrat, Morocco, Poland, Norway, France, Portugal, Canada); or for two years (Thailand, Brazil, Korea, Sweden); or even for the length of the legislature (Bundesrat, Belgium, Spanish Senate). Almost all parliaments also issue **authorisations for specific events** for a day or for the length of the given event.

3) Number of accredited journalists

The number of accredited journalists also varies greatly. A number of Parliaments issue accreditation to a few hundred journalists: approximately 300 at the UK House of Commons and at the French National Assembly; 200 in Morocco; nearly 100 at the French Senate and at the Belgian Chamber of Representatives; 336 at the Brazilian Chamber of Deputies; 425 at the Canadian House of Commons; 330 in India; 270 in Norway; 400 approximately in each of the two Italian chambers; 750 in Slovenia; but there are more than 11,000 at the Japanese Diet; 3,800 approximately at the Spanish Senate; nearly 1,200 in Poland and as many in Sweden. Conversely, there are only thirty or so in Chile, 35 in Portugal and 70 in Greece.

On the face of it, it may well appear surprising that these figures are not always proportional to the population of a country; one of the explanations resides in the fact that technicians are, we have seen, accredited like journalists at some Parliaments, for instance in Slovenia and Spain, but not at others.

The breakdown among media is not the same. At approximately half the Parliaments, accreditations concern predominantly the written press (Brazil, Italy, Canada,

Switzerland, Ukraine, Korea, Morocco, Portugal, France); at others, the television channel press dominates (Spanish Senate, both Romanian chambers, Lithuania); lastly, at a third group, no clear pre-eminence can be seen between the various types of press – written, television, radio; this is the case in particular in Poland, Portugal, Belgium Thailand and Chile. When the television channel press is higher, this can be ascribed, once gain, to the fact that technicians are counted among those accredited.

B – Access in practice

1) Access restrictions
There aren't many Parliaments where journalists, even accredited, can **circulate freely in all the Parliament building**: mention can be made of Guinea, the Bundesrat, Lithuania, Morocco, Poland, the Romanian Senate, PACE, Japan and Estonia. Yet it must be underscored that in nearly all these countries, journalists cannot access the hemicycle itself, but the press gallery or a precisely limited part of the hemicycle. Other Parliaments are almost as 'liberal': in Korea, all the building can be accessed, except committees sitting in camera; in Monaco, access is unrestricted throughout sessions. Portugal alone states that journalists can stay in the premises two hours after the end of the sitting.

In the great majority of Parliaments, **access** to some areas is **subject to authorisation**. Some Parliaments give a 'positive' definition of the places where journalists are admitted, thereby indicating that all other places are subject to authorisation: they can access places of a public nature (for instance, in Belgium, the entrance hall, the conference hall, the reading room, and corridors next to the sittings hall); the places where parliamentary activity takes place (Romanian Chamber of Deputies); and common areas (Norway). It appears that, in these cases, they are approximately the same areas. Conversely, other assemblies do not mention the authorised places but those that are the subject of restrictions such as the offices and areas reserved for the Speaker, parliamentarians, political groups and personnel (Belgium, Brazil, Italian parliament, Portugal, Romanian Chamber of Deputies, Sweden, France), or areas where services are provided to parliamentarians and the administrative personnel, like restaurants and cafeterias (Canada, Belgium).

Other **places** are **forbidden** to journalists (**without any authorisation possible)** and we find the same classification: the offices (in Poland, those of the Speaker and of committee chairmen; in Monaco, that of the Speaker; at the Spanish Senate, those of the Bureau); the places of services (in France, access to the bar and restaurants is forbidden, while in Norway filming and taking photos in the cafeteria is banned); places protected by a code card (Estonia). At the National Assembly, in France, a large area is banned comprising various rooms around the hemicycle, called in our jargon the 'sacred perimeter' in order to preserve peace and quiet for the deputies who insist on this point. On the contrary, at a few parliaments, no place is totally forbidden and authorisation can always be applied for: Guinea, Chile, Japan, Lithuania, Romanian Senate, PACE.

Other parliaments, lastly, have adopted **very strict rules**: in Luxembourg, journalists can access only the press gallery and the press bar.

2) Power to fix these restrictions
This power is held either by the political authority or by the administration. In the first case, **the political authority**, it can be the Speaker (Poland, Portugal, Belgium, France), the Bureau (Luxembourg), the College of Quaestors (Italian Senate, France), the Chairmen's Conference (Belgium). At the UK House of Commons, the decision is taken by the Administration Committee composed of MPs.

In the second case, the **administration,** the decision belongs to the secretary general (Slovenia, Thailand, India), the bureau of directors (Brazil), or the administrative departments (Monaco). Other parliaments mention the existence of **instruments**: at the Bundestag there are regulations for access to the buildings, and at the Swedish Riksdag the administration has set directives.

II. – ATENDANCE AT PROCEEDINGS

A. – Plenary sitting

All journalists can attend the plenary sitting, at least as long as they aren't photographers.

A distinction should indeed be made between the rules applying to written press journalists and those to audiovisual media and photographers.

1) Written press journalists
Written press journalists attend the plenary sitting from the press gallery reserved for them; in no case, apparently, can they enter the hemicycle itself, apart from at the Brazilian Chamber of Deputies, where however a special area in the hemicycle is reserved for them, which amounts to the same in fact. It can be seen that, in some cases, journalists not going to the hemicycle can watch the sitting on a screen in the press room: this is the case at the WEU. In Iraq, the situation is slightly different: journalists can follow the sitting only on the screen in the press room. I also suppose that in many Parliaments an internal television circuit allows the sitting to be watched in many places, including the corridors, even if this was not specified in the answers.

2) Television channel journalists

At some Parliaments, **television channels do not as a rule film the public sitting**, as it is already filmed by a general secretariat department (whereas in other countries the teams cohabit). In Canada, at the House of Commons, the debates are televised via a parliamentary television network (closed circuit) and the images are transmitted to all television broadcasters whereas, at the Senate, channels can access only by invitation some special events in the hemicycle, such as the Speech from the Throne. In Portugal, TV channels are not authorised to film the sitting itself, since they are fed by the parliamentary channel. However, it appears that one camera per operator can film

its journalist or film briefly from the press gallery. Similarly, in Slovenia and Luxembourg, the sittings are filmed by an assembly department and the signal broadcast free of charge to TV channels. In Italy, in both chambers, channels can film sittings from the gallery after being authorised; on the other hand the public television channel must do so on request by the Speaker; at the Chamber of Deputies it must systematically film Question Time. In Switzerland, the sitting is recorded exclusively by an external operator, the *Société suisse de radiodiffusion et de télévision*. At the Spanish Senate, channels may film only at the beginning of the sitting.

It should also be mentioned that, at some Parliaments, **the sitting may be held in camera**, which obviously excludes the presence of the press (Korea, Lithuania, Poland).

When they are allowed to film the sitting, **the usual place** of TV channels, at the great majority of Parliaments, is **in the press gallery**, from where they can film (United Kingdom, Thailand, Bundestag, Belgium, Estonia, Japan, Korea, India, Lithuania, Greece, Portugal, Sweden...). However some cameramen can film in the **sitting hall** itself: this is the case at the Bundestag (only cameramen with equipment with a tripod); at the Senate in France (only for brief filming); at the Romanian Chamber of Deputies; at the PACE; and in Brazil.

Not all the answers specify **whether all channels can access the public sitting**; the Brazilian Chamber of Deputies, like the Korean Assembly, stated there was no limit on the number of television teams; as for France (at the Assembly and the Senate) all channels can film the sitting, except the questions to the government sitting, highly prized, where there would be too much of a crowd, which led to the decision that only one channel (public) could film, in addition to the Assembly audiovisual department which, for its part, records all the sittings; this department moreover broadcasts free of charge these images, by fibre, to any TV channel asking for them. At the Bundesrat, for security reasons, it can be decided that only one public channel and one private channel can film and that they are to distribute their filming to their colleagues. In India, the central government official television channel can alone film the debates; private channel correspondents can simply take notes in the press gallery. In Iraq, only the Al-Iraqia TV channel records debates live; the other channels are not admitted but can contact the assembly communications department.

3) Photographers

The solutions differ even more for photographers for whom access to the sitting is less generalised. In effect, in India, they are not authorised to cover proceedings in the chamber; at the British House of Commons, no photographer is admitted during the debates; in Norway, they can take photos only before the sitting. In Canada, the number of agencies is limited (only two) and they can operate only during the questions to the House of Commons sitting and in very precise and infrequent circumstances at the Senate (for instance, the Speech from the Throne). Further examples: in Belgium, they are not accredited on a permanent basis but on the occasion of a specific event; at the Bundesrat, it can be decided that only three photographers shall operate (the first, belonging to an agency; the second, a member of the federal press conference; and the

third, a freelance), it being their responsibility to mutualise their work with their colleagues.

On the other hand, some Parliaments are far more 'liberal': at the Spanish Senate, photographers have a certain freedom of movement at the beginning of public sittings and, in Luxembourg, photographers can access the hemicycle at the beginning of the sitting before returning to the gallery from where they can take photos any time.

B. – Committee meetings

The attendance of journalists at committee meetings is far less systematic. Sometimes it is not planned: they are never present at these meetings in Chile, at the Bundesrat, in India, Monaco, Switzerland, Iraq and at the WEU.

In some cases, their attendance is possible, **whenever the meetings are public**: in the United Kingdom, Germany, Belgium, Brazil, Canada in both chambers, Korea, Lithuania, Poland, Romania in both chambers, Slovenia, and in the Italian Chamber of Deputies (where, however, journalists do not attend committee meetings but follow them on the internal television circuit). Additional help is provided to the media in Portugal where the instruments debated and the speeches pronounced in committees are distributed to them.

The sittings appear even more accessible at the Spanish Senate where their presence is **always** possible, and in Korea where journalists are **systematically** present.

Lastly, in other countries, journalists can be present **for some types of meetings** only: in Thailand, they must obtain an authorisation, and the same applies in Estonia; at the Italian Senate, committee proceedings are public only in the event of a drafting or debate procedure and for hearings, which journalists can find out about exclusively via the internal circuit.

The German Bundestag has adopted **an original solution**: journalists do not attend meetings not open to the public, except for the newspaper *Das Parlament,* published by the institution, which reports on committee proceedings. This procedure appears quite close to that which we follow in France, at the National Assembly, where press service officials attend meetings not open to journalists and report orally and immediately on them at the end of the press meeting. I have learnt that the British House of Commons has also adopted this approach, but with media specialists.

As is the case for the public sitting, some Parliaments **do not accept the presence of cameras** even when meetings are public (in Italy and at the Romanian Chamber of Deputies they are recorded only by the internal circuit; they cannot be filmed in Portugal if the parliamentary channel films them; in Slovenia, if the competent assembly department does the filming).

C. – Occasional filming

As for occasional filming in the corridors or various rooms, it is usually the subject of specific authorisations, except in Ukraine, Switzerland and Chile. These authorisations are granted by the press bureau (Bundesrat, Belgium, both Italian chambers...); by the secretary general (Romanian Chamber of Deputies); or by the political authorities (Belgium, Canada, France). Filming in offices must generally be authorised by their occupant.

III. – JOURNALISTS' WORK CONDITIONS

A. – Press rooms

In the very great majority of cases, journalists have press rooms to work in. These are sometimes reserved for accredited ones alone (Belgium, Italian Chamber of Deputies, Switzerland, PACE); in other cases, separate places are assigned to accredited ones and to other journalists (Brazil, Canada, Korea); but most answers do not specify this.

A great number of Parliaments have provided them with the necessary equipment for their work: office supplies, computers, telephones, fax machines, Internet access, wifi: apart from a few variations, the assemblies supplying such equipment provide the same services. In Switzerland, moreover, journalists enjoy reductions on their phone costs; in Luxembourg, studios are made available to radio stations and the national television channel.

However, **some Parliaments do not supply any equipment**: the Bundesrat, the Japanese Diet; the UK House of Commons provides only limited phone facilities and systems broadcasting information on debates taking place in both chambers; in all these cases, it lies with media to bring their own equipment. The French National Assembly represents an intermediary category, basic equipment being provided, as well as radio booths, but not data processing equipment.

These rooms are sometimes used for press conferences (Thailand, Japan, Poland, Ukraine, PACE, Slovenia). In these Parliaments, these conferences can also take place in other rooms, such as committee or meeting rooms and in areas near the hemicycle. In many Parliaments, **special rooms are provided for press conferences** (in the United Kingdom, Chile, both Canadian chambers and both Italian chambers, Korea, Lithuania, Portugal, the Romanian Chamber of Deputies, Sweden...). In still other cases, press conferences are not held in the press room, and there is no specific room: **any other solution is then** adopted; the sitting hall itself can be used (Luxembourg).

As for interviews, there is no general rule: they can take place around the sitting hall, in the press room, in the offices of parliamentarians, and in various other rooms. The solutions appear to be pragmatic depending on available space and the layout of the premises.

Ties with press agencies are of two types: a number of accredited journalists work for agencies (Bundesrat, Thailand, Belgium, Canada, Spain, Norway, Portugal, Romania, Sweden, Ukraine PACE, France....). Also, journalists present in Parliament can consult press agency dispatches: Italy, Switzerland, France....

B. – Press service and press attachés

1) Press service
Let's begin by what's most simple in this complicated subject: **all Parliaments have a press service** (dubbed a variety of names), which is part of the general secretariat. It would be too long to enter into all the nuances of its role but I feel I can simplify as its tasks appear so similar: it ensures good relations between Parliament and the press; informs the latter by providing it with information on the legislative procedure, on the institutional aspects of the assembly, on the agendas, the ceremonies and specific visits; organises press conferences, drafts institutional press communiqués and manages or monitors the parliamentary channel when there is one. In some cases, it also takes charge of parliamentary publications, of its Internet site, and of exhibitions. However, this may not be the case, this distinction simply showing a different sharing of tasks between departments. The press bureau therefore generally has two remits: building press awareness of the assembly and ensuring that the press works in good conditions. As summarised well by the Bundesrat, *it is the door through which the Bundesrat communicates with the public and conversely*. It should also be recalled that most press services, as we have seen, deal with accreditation applications.

2) Communication by parliamentary authorities
We have referred to institutional communication; the communication methods of parliamentary authorities are far more disparate. While **the Speaker** has, in some cases, his own press attaché (India, Korea, Morocco, Portugal, Canada, Spain, Romanian Senate), or spokesperson (Sweden, Ukraine, Italian Chamber of Deputies), in others, his communication is taken care of by the press service, in addition to the previously mentioned remits: Guinea, Belgium, Canada, PACE, Bundesrat, Monaco, Switzerland, Greece, the various solutions not necessarily excluding one another. The terminology employed does not make it easy to determine, in some cases, the type of help the speaker uses.

The solutions adopted are also quite varied regarding **committees** which, in the same manner, may have their own logistics or call on the assembly press service. In the first case, we find for instance Thailand, Brazil, Italy, Lithuania, and the Romanian Senate; in the second, mention can be made of the Canadian Senate, Luxembourg, PACE, the Bundesrat, Greece and Sweden.

The situation adopted by Brazil is very clear: the chamber press service is tasked only with institutional issues; each deputy, party or committee can call on a press attaché. Conversely, the Canadian Senate press service provides support at the same time to the speaker, the various committees and the administration. In a number of other Parliaments, the situation is not so clear-cut: the press service may take charge of the

communication of an authority but not of another, and there may be duplication between the press service and the attachés of the various authorities or bodies.

3) Existence of an assembly spokesperson
The answers are also varied regarding the existence of a spokesperson: approximately half answered no, and the other half yes.

Among those which answered **'no'** appear Guinea, Chile, Korea, Japan, Monaco, India, Lithuania, Luxembourg, Morocco, Norway, Portugal, the Romanian Chamber of Deputies, Slovenia, Sweden, Ukraine, PACE, Iraq, and France for both chambers.

Those which answered **'yes'** can be split into two groups. For some of them, the spokesperson is **an official or a member of the personnel**: in Thailand (a parliamentary executive appointed by the speaker); in both German chambers; both Italian chambers (the press bureau director); in Switzerland; as underscored by the Bundesrat, the spokesperson must be politically neutral. For others, the spokesperson is **a parliamentarian**: at the Canadian House of Commons, the Board of Internal Economy (composed of parliamentarians) appoints two parliamentarians as spokespersons, one for the party in power and the other for the opposition; at the Senate of the same country, the chairman and vice-chairman of the Board of Internal Economy act as spokespersons for financial or administrative issues. At the Spanish Senate, the first vice-president explains the Bureau's decisions, parliamentary procedure and any other issue of interest to the press; although he is a parliamentarian, his position is always institutional. I will finish these press service and parliamentary attaché matters with two remarks that are far more standard: group communication and that of parliamentarians (can we call them 'grassroots'?).

4) Communication by groups and parliamentarians
In the very great majority of cases, or even in all cases, political groups have their own press attachés.

As for communication by the parliamentarian, either he deals with it himself (Chile, Belgium, Italian Chamber of Deputies, India, Lithuania), or he turns to his group (both Spanish chambers, Norway, Portugal, Romania), or to the press service (Canadian House of Commons, Monaco, Sweden, Korea, Switzerland) which provides him with material aid (rooms, computers, phones, fax machines), and some of them even provide intellectual and logistic aid (drafting and distribution of communiqués).

IV – ARCHIVES

Very few parliaments do not have audiovisual archives (Chile, India where this matter is under study); as for the WEU, it has only sound archives.

A. – Recording of archives

Archives are often recorded by a general secretariat department (Bundesrat, Thailand, Brazil, Canadian Senate, Italian Chamber of Deputies, Korea, Spanish

Senate, Estonia, Japan, Lithuania, Greece, both Romanian chambers, PACE...). A few assemblies call on an **external provider of services** (in the United Kingdom and at the Italian Senate, an independent production company; in Belgium, a private production company under contract with the chamber; in Switzerland, the *Société suisse de radiodiffusion et télévision*). Luxembourg has adopted a mixed solution: recording is taken care of by a chamber official assisted by a technician from an external company.

A few answers concerned the **preservation of archives**, most often taken care of by the assembly, but sometimes by an external body: in Canada by the *Archives canadiennes*; in Norway, by an external producer.

B. – Content of archives

Archives concern the **public sitting** in all cases, and sometimes, only that (Guinea, Bundesrat, Belgium, Estonia, Luxembourg, Slovenia, Switzerland, WEU).

Other countries extend them to **committee sittings**, or even to **other events**. For instance, the Bundestag archives contain, in addition to recordings of the public sitting, those of public committee meetings and of hearings, the assemblies tasked with electing the Federal President since 1949, and ceremonies and special events taking place at the Bundestag; the archives of the Japanese Diet include recordings of interparliamentary meetings; and those of Monaco, formal receptions. Archives do not always contain all committee meetings, but only some of them, for example hearings (Thailand, Italian Chamber of Deputies, Norway, Sweden), or meetings recorded on request by the committee (Portugal, Italian Senate, Lithuania...) or those open to the press (France).

C. – Consultation of archives

The methods of consulting archives are also very varied. Archives are sometimes **very widely accessible**; this is increasingly so as, in an increasing number of cases, they can be consulted on the parliamentary **Internet site** (at the Bundesrat, UK House of Commons, both Canadian chambers, Korea, Spanish Senate, Japanese Diet, National Council of Monaco, in Sweden, at the National Assembly in France, and in other countries, I believe, although they have not mentioned the fact).

Archives are also **available for all, without any justification, at the archives department**, at many Parliaments (in Thailand, Guinea, at the Canadian Senate, Estonia, Lithuania, Portugal, Slovenia, PACE...); in the United Kingdom, copies of cassettes are available for MPs and the public in the most modern formats. Archives can sometimes be consulted, not at the assembly, but at the national audiovisual centre (Luxembourg).

At other assemblies, **they are available only on request**: in Brazil, you merely have to bring along a CD and send a formal request to the department. At the Bundestag, they must be ordered. At the Romanian Chamber of Deputies, the approval of the secretary general is required. At the Canadian Senate, justification should be produced. There

exists a variation in Germany, at the Bundesrat, where apart from their consultation on the Internet, they can be made available on a recording medium supplied free of charge, for anyone proving a 'plausible interest'.

In still other cases, **they are not available to the general public**: at the Italian Senate, groups and senators as well as information bodies can ask for recordings; the archives of the Japanese Diet are reserved for parliamentarians and members of the secretariat; at the Spanish Senate, copies are made for senators, journalists and participants in committee meetings; in Greece, copies are made on request by parliamentarians, some interests groups and some sections of the public.

Most often they can be consulted **straight away**: in Poland, however, they can be consulted only 30 days after their production except for an authorisation from the head of chancery.

Television channels also use archives: images are apparently given free of charge to channels in all cases: in Japan, channels must have concluded an agreement along these lines with the Diet.

Whatever the public, archives can be consulted or are given **free of charge** in the majority of cases. However, the British House of Commons charges a fee to all commercial users - the fee is minimal for charities, MPs, and those requesting them for their personal use; in France, a fee is charged to cover the costs of copying on to a DVD; the same applies for any archives order at the Bundestag; in Poland there is a fee for any copy, whereas consultation alone is free of charge; any order is charged to Spanish senators; the Swedish Riksdag sells them at a low cost to all sections of the public.

V. – PARLIAMENTARY CHANNEL

20 assemblies out of 32 stated they have a parliamentary channel; these positive answers, in this field as in most of the others, cover very differing actual situations.

A. – Legal status

In the great majority of cases (13 cases: Thailand, Bundestag, Brazil, Canadian House of Commons, both Italian chambers, Korea, Spanish Senate, Greece, Japanese Diet, Luxembourg, Portugal, Sweden), it is a **channel** that is part of said assembly, without its own personality, whereas in other cases (3 cases: Chile, Ukraine, France), it is **an independent external operator** acting on behalf of the assembly.

Still one more category should be added - **participation in an already existing** channel, according to a variety of procedures: in India, the upper chamber has an exclusive channel on the national Indian channel to broadcast its proceedings live, only during the session; in Slovenia, assembly broadcasts also represent a national television programme; the Lithuanian Seimas has a television programme prepared by journalists working for it under contract; and a Canadian Senate department films the

debates which are then broadcast on CPAC, a public affairs channel, yet a private broadcasting service without adverts and not-for-profit, founded in 1992 by a consortium of broadcasters and supplied by service distributors by cable and satellite to 9.5 million households.

B. – Management bodies

Differences in legal status have a direct incidence on the management bodies. **A channel without its own personality** generally comes under the press service, and sometimes directly the secretary general. In Thailand, the manager of the television station reports to the parliamentarian in charge of public relations and to the secretary general. In Brazil, he works under the orders of a director. At the Italian Chamber of Deputies, the management post is held by the head of the press bureau, pursuant to the guidelines laid down by the committee for external communication and information, composed of parliamentarians and the secretary general. In Luxembourg, the channel is placed under the authority of the Bureau. In Portugal, there is a board of directors composed of one parliamentarian per group which takes the main decisions, the assembly Speaker supervising.

As for **channels with a legal personality**, the French parliamentary channel is subdivided into two channels (one for the National Assembly and the other for the Senate) which each has the status of a public company of a specific type since its only *shareholder* is the Assembly on the one hand and the Senate on the other – each chairman is appointed by the Bureau of the corresponding assembly for three years renewable and the channels have a board of directors comprising one deputy per group and the chairman of the Bureau delegation for communication. In Ukraine, the channel director is appointed by the Speaker of the chamber.

Lastly, as for **channels 'taken in' by another channel**, at the Canadian Senate, CPAC's board of directors is made up of cable industry representatives who guide the overall direction of the channel; its day-to-day management is a matter for the channel's personnel; in Slovenia, the management bodies are those of the national channel.

C. – Resources

1) Personnel
The resources of parliamentary channels also differ very greatly. **Channels which do not have their own personality** generally use the resources made available to them by the assembly which they come under. Some channels, like the Italian Senate's, do not have their own personnel. At the Italian Chamber of Deputy's channel, coordination of organisational activities is carried out by a parliamentary councillor, the structures used are those of the internal television department, while the press bureau takes care of administrative matters; however three external consultants participate in technical work. An original solution, the Spanish Senate, has signed an agreement with university which contributes to producing the channel by providing the human resources. On the other hand, in Brazil, although the channel does not have its own personality, it

employs 150 people in addition to the parliamentary personnel. It is to be observed that, among the non autonomous channels, a few have their own journalists (Thailand, Brazil).

Autonomous channels have their own personnel; in France, the situation differs slightly from one chamber to another: no official is made available to the National Assembly channel, whereas two Senate officials are available to the channel belonging to it. These channels also have their team of journalists (Chile, France, Ukraine).

2) Equipment
Another sign of the absence of autonomy, these channels also operate most often with the assembly's equipment. The latter makes available to the channel, depending on the case, editing equipment, cameras, a control room, a post production room, and a studio (Thailand, Luxembourg, Portugal). The Slovenian parliamentary channel uses the national television equipment. On the other hand, the French National Assembly parliamentary channel operates with its own technical resources, apart from the studio set up in the precincts of the Assembly, which is aimed at recording interviews of deputies on their way out of the hemicycle.

On the other hand, it is often a chamber department which records the debates (Canadian and Spanish Senate, Italian Chamber of Deputies, Slovenia, and French National Assembly, although, in the latter case, the channel has its own personality).

3) Budgets
Their financial resources are also very disparate. The budget of non autonomous channels is included in that of the assembly which they come under; they apparently cost less, since their resources are mutualised with those of the assembly, and their structures are more modest. Among the figures I have gathered, mention can be made of 1.5 M€ for that of the Italian Chamber of Deputies, 0.5 M€ for that of Luxembourg, 2.4 M€ for that of the Japanese Diet, 4.3 M€ for that of the Brazilian Chamber of Deputies (without wages), and 5.4 M€ for that of Korea; the cost of the French National Assembly's channel, which is autonomous, is on an entirely different scale, since its budget amounts to 12.7M€; that of the Senate's channel is similar.

D. – Programmes

What do these channels broadcast? All broadcast sitting debates, to the exclusion of any other programme for the Italian and Spanish Senates. Others also broadcast committee meetings but never or rarely in full (Thailand, Korea, Canada, Portugal, Ukraine, France, Greece), events taking place in Parliament (Thailand, Brazil, Korea, Portugal, Ukraine, Italian Chamber of Deputies, Greece...), and educational or information programmes, documentaries (Brazil, Korea, Luxembourg, Portugal, Ukraine, France, Greece...). All in all, some channels describe themselves as a parliamentary channel (both Italian channels, the Spanish Senate, Luxembourg, Portugal, Slovenia), others as parliamentary and civic (Ukraine, Korea), others as parliamentary and political (Canadian Senate), and as an information channel (Brazil); the Thai channel is at one and the same time parliamentary, civic and political, like the French channel.

As for the number of broadcasting hours, I do not have figures for all channels. Some broadcast all round the clock (Brazil, Canadian Senate, France for both chambers); I also find it difficult to make comparisons as the figures given are sometimes daily, weekly, or annual: the majority broadcast a lot (2,500 hours per year in Japan, 1,100 at the Italian Chamber of Deputies, 112 hours per week in Korea, 105 hours per week in Greece, 14 hours per day in Ukraine); the Slovenian channel broadcasts 3 or 4 hours per working day.

I wish to add that in the event of bicameralism, there is one channel per chamber in Chile, Brazil, France (but they share the same frequency), Italy, Spain, India (the lower chamber channel belongs to it, whereas the upper chamber channel is part of the national television company).

To finish, I wish to remark that the way of viewing the topic of parliamentary channels will necessarily be profoundly changed in future years by the technical evolutions already under way: Internet and digital terrestrial television (DTT)."

Mr Anders FORSBERG, President, thanked Mr ROQUES for his presentation and invited those present to ask questions.

Mr David BEAMISH (United Kingdom) stated that this presentation had a particular currency in the United Kingdom, as the British Parliament was seeking to improve its communications with the public, a subject which had been the focus of a recent study published by the Hansard Society. He asked about the possibility of having a parliamentary spokesperson, who could, for example, react to criticism. More generally, parliamentarians wanted their work to be the object of greater publicity in the media, with balanced coverage, instead of concentrating only on difficulties that could arise. He added that the British Parliament had developed the broadcasting of its activities both on the parliamentary channel, and also increasingly on the internet, with live and archived broadcasts of debates in the Chamber and in committee.

Mr Xavier ROQUES (France) said that the media were indeed interested more in difficulties and conflict than in work that was going well. This necessarily led to a false impression of debates, and was not very healthy for parliamentarians. It was from this that the idea arose that issues of communication promoted the development of an anti-parliamentary attitude. He thought that the introduction of a spokesperson for the National Assembly did not seem a good idea to him, taking account of the differences that existed between each part of the Assembly: it was for the political groups and parties to provide communications activities. Having said that, it was often the comments of the more heterodox parliamentarians that were taken up by the media. Finally, he noted a discernible evolution in debates in committee. Whereas, previously, Members had shown the desire to work in private, they had recently been increasingly demanding that their debates should be open to the media.

Mr Anders FORSBERG, President, thanked Mr ROQUES for his presentation as well as those members present who had put questions to him.

The sitting closed at 5.25 pm.

SEVENTH SITTING
Friday 18 April 2008 (Morning)

Mr Anders FORSBERG, President, in the Chair

The sitting was opened at 10.00 am

1. Administrative questions: new member

Mr Anders FORSBERG, President, indicated that the ASGP secretariat had received a request for membership, which had been submitted to the Executive Committee and accepted, as follows:

Dr Abukar Mohamed Gure	Director General of the Transitional Federal Parliament of the Somali Republic (replacing Mr Mohamed Hassan Awale)

This candidate presenting no particular problems, Mr Anders FORSBERG proposed that he should be accepted as a member of the ASGP.

It was *agreed* to.

2. Communication from Mr Tae-Rang KIM, Secretary General of the National Assembly of the Republic of Korea: Promotion of exchanges between parliamentary secretariats in the global era

Mr Tae-Rang KIM (Republic of Korea) made the following communication:

"**I. Introduction**

It is a great privilege that I have this opportunity to give my presentation for the fourth time at ASGP. As some of you remember, I presented on the development and role of NATV in October 2006 and on art and culture events for an open National Assembly in spring last year. I still appreciate your interests and support for my previous communications.

My latest communication, which was about service programs of the Korean National Assembly Secretariat to the public, also spurred lively discussions and I was pleased to share views on the evolving role of parliament secretariats with my colleagues from ten or so countries including Australia, the Netherlands, and Maldives.

The idea was based on my philosophy and belief that the administration, legislation and justice should enhance the living standard of the people through healthy competition and cooperation, rather than rigidly sticking to the traditional concept of power separation built on the principle of check and balance.

And today, I would like to introduce our efforts to increase exchanges between parliamentary secretariats as a basis for parliamentary diplomacy in this globalized world.

National diplomacy is important, however, it often exposes its limit because of rigid formality in communication channels and procedures. In contrast, parliamentarians can build flexible personal network on various occasions and discuss issues in a more practical way.

A case in point is the ties between parliaments of Korea and South Africa. I visited South Africa in May 2007 and had a chance to exchange views on parliamentary cooperation with Hon. Butana Komphela, the Chairman of Sports Committee of the South African parliament. After I got back, I invited him and seven South African parliamentarians to Seoul in August when Korea could share its experiences of hosting the World Cup soccer games with South Africa, which will host the international event in 2010 and discuss what we can do for the future cooperation in the international community.

Exchanges between parliamentary secretariats get more significance in parliamentary diplomacy. Secretariats have expertise in supporting inter-parliamentary diplomacy and professionals working there don't change even when parliamentarians come and go after elections. Therefore, they can provide a complement for areas possibly uncovered by parliamentary diplomacy due to various reasons.

In this vein, the Korean National Assembly Secretariat considered the ASGP as one of the best chance for inter-secretariat exchanges. We took the advantage of this meeting by inviting secretary generals to Korea, discussing mutual visits and concluding protocols on cooperation. The systematic and consistent efforts played a role in increasing cooperation between countries. It is very meaningful because, if well supported, the cooperation could eventually lead to peace and reconciliation of the international community.

II. ASGP, the best opportunity for exchanges

Now we are here at the ASGP to share our experiences and knowledge about parliaments and our works as well as strengthen friendships. Looking back my previous experiences at the ASGP, where my colleagues from different cultures and histories communicated with each other with an open mind, I'm convinced that this is the best place for inter-secretariat exchanges. Yes. This gathering offers the best and largest chance to promote inter-secretariat cooperation.

I'll be honored if my communication today would, big or small, contribute to facilitating effective inter-secretariat exchanges. The Korean National Assembly Secretariat will be committed to such efforts for a long time to come. This meeting isn't just a gathering of secretary generals. Bilateral and multilateral exchanges could be discussed and arranged during this precious opportunity.

For example, I concluded the protocols on cooperation with secretary general Martinenko of the Georgian parliament and secretary general Carvalho of the Portuguese National Assembly during previous ASGP thus building personal networks and laying the foundation for further exchanges with CIS and Mediterranean countries.

III. Cooperation protocols and mutual exchanges with foreign secretariats

The Korean National Assembly Secretariat has concluded protocols on cooperation with many other countries and arranged mutual visits.

As I mentioned in my previous communication, I visited Poland in 2006, Maxico in March 2007, Kenya in May, and Chile in earlier this year to sign up Protocols on Cooperation for Information Exchanges which will let us go along with the tide of globalization.

Cooperation Protocols provide frameworks for exchanges of personnel, legislative know-how, and collaboration in international organizations such as the IPU and the ASGP. In a nutshell, Cooperation Protocols are about commitment to increase in bilateral cooperation.

To make the commitment a reality, I invited the secretary generals who concluded the protocols with us to Korea to elevate inter-parliamentary friendship and ties to another level.

For example, Ms. Fidelus Ninkiewicz, Secretary General of the Sejm of Poland visited Korea in March 2007 while Mr. Ndindiri, Secretary General of the Kenyan parliament came to Korea in September last year. The visits offered an opportunity not only to share views on mutual collaboration but also on Korea's experience in incorporating ICT in parliamentary procedures and developing parliamentary institution.

In the meantime, I visited Argentina and Uruguay in January 2008 to have meetings on cooperation protocols with Mr. Cora, Deputy Secretary General of the Chamber of Deputies of Argentina and Mr. Dalgalarrondo, Secretary General of the Chamber of Deputies of Uruguay and agreed on the need to conclude them. Also, I had a privilege to meet the Hon. Alberto Perdomo, the Speaker of the lower house of Uruguay to discuss bilateral issues which led to a new cooperation protocol with Uruguay parliamentary secretariat we have signed yesterday in here.

So far, Korea inked cooperation protocols with Poland, Mexico, Kenya, Portugal, Georgia, Chile and Cambodia. I'm also planning to fly to Peru, Venezuela, and Colombia after this meeting in search for opportunities of future cooperation. If any of

the colleagues gathered in this room is interested in cooperating with the Korean National Assembly Secretariat, I'll be very happy to discuss it anytime, anywhere and be your true partner in this globalized world.

IV. Inter-secretariat exchanges as a facilitator for inter-parliamentary diplomacy

As you might already know, inter-secretariat exchanges offer a basis for comprehensive and systematic inter-parliamentary diplomacy.

When Ms. Fidelus Ninkiewicz of Poland visited Seoul in March 2007, we worked together to arrange the visit of the Speaker of the Sejm of Poland to Korea which in turn strengthened the foundation for cooperation on national level.

Also, after signing the cooperation protocol with Portugal, I visited the country in October 2007 and met the Hon. Jose Lello, the Chairman of Portugal-Korea Parliamentary Friendship Group and the President of the NATO Parliamentary Assembly.

Back then, Chairman Lello hoped to visit Korea and I provided every possible support to let it happen. As a result, he visited Korea in February this year and suggested that the Korean National Assembly take part in the NATO Parliamentary Assembly as an observer. This is, I believe, is a good example where inter-secretariat exchanges facilitated inter-parliamentary and inter-government cooperation.

V. Build personal networks with foreign diplomatic channels

While strengthening international cooperation, the Korean National Assembly Secretariat has also been committed to reinforcing its ties with foreign ambassadors to Korea and expanding personal networks in embassies.

In an effort, I suggested the Korean Embassy in the U.S. that we invite U.S. congressional assistants to Korea. In response, the Korean Ambassador to Washington recommended eight congressional assistants who had never visited Seoul before and I supported their visit to Korea.

They saw the progress of Korea's democracy that has relatively short history but never compromised with its quality, and developed common understanding about bilateral issues such as ongoing FTA deals. It extended the basis for parliamentary cooperation as well as future diplomatic efforts toward the U.S. Congress by the Korean Ambassador to the U.S.

VI. Inter-secretariat exchanges strengthening ties between countries

As I have mentioned, inter-secretariat exchanges can contribute to diplomacy between governments.

Making the best use of the personal networks built through inter-secretariat cooperation, we could contribute to Korea's winning in the bids to host 2011 IAAF World Championships in Athletics, 2012 World Expo, and 2014 Asian Games and the election of Hon. Ban Ki Moon as the Secretary General of the United Nations. All the achievements were not possible without your interest and support, which I'm truly grateful for.

I believe that such collaboration could offer major groundwork to tackle global issues like building peace in Northeast Asia and global warming.

The ideal of inter-secretariat exchanges might be to facilitate inter-parliamentary diplomacy, strengthen cooperation between countries and be part of global efforts for peace. I think that a small step was taken to realize the ideal of a peaceful coexistence of the peoples.

VII. Future steps

As I consider that the ASGP plays a critical role in promoting cooperation between parliamentary secretariats, I would like to make two suggestions to you.

First, I would like to suggest that we get more specific by creating sub-groups to discuss regional issues or major events of international concern. Now the ASGP meetings are largely focused on sharing experiences and best practices rather than seeking resolutions to particular issues. If we could carry out in-depth discussions in sub-groups, we could enhance common ground for and work together to deal with international issues.

Second, I suggest that we hold another forum of parliamentary secretary generals of the world. It would provide a chance to discuss national and regional issues in a more detailed way thus paving the way to contribute to sustainable development of the future generation. If you support that idea, Korea is willing to host the inaugural forum in Seoul.

VIII. Closing

Mr. Chair and colleagues!

Inter-secretariat exchanges are an uncharted territory in diplomacy, which requires nothing but "doing" to make it work.

I have been committed to the works that I introduced in my previous communications such as "The role of NATV", "Toward an open National Assembly", and "Service programs for the public".

In December last year, the worst oil-spill was occurred in off the west coast of Korea, which all the Korean people felt terribly sorry for. Right after the accident, more than one thousand secretariat officials voluntarily went to there to clean up the scene and so

far, more than one million Korean people rushed to the coast to remove the oil pollutants. Like this, doing, not talking, makes real differences. It also applies to exchanges between parliamentary secretariats. I'm convinced that such efforts could assist the promotion of relations between parliaments, governments, and the peoples.

There's an old saying in Korea that goes "A clap takes two hands", which emphasizes the importance of working together. Inter-secretariat exchanges are just at the starting line. To plant seeds, watch them grow, and bear fruit, we need you to join us in watering them. We need your support and participation. I hope that my communication today could contribute to taking a step forward."

Mr Anders FORSBERG, President, thanked Mr Tae-Rang KIM for his communication. He then said that in Europe, it was not the convention to sign specific agreements or protocols, and that inter-parliamentary co-operation was carried out more informally. At the end of the day, it was the results of this co-operation which counted for most. He wanted to know what concrete results there had been from the different agreements and protocols signed by Mr KIM.

Mr Alain DELCAMP (France) said that he was impressed by the intensity of the diplomatic activities carried out by Mr KIM and wondered whether such activities would be possible in France, given that these diplomatic initiatives were rather the responsibility of the Speaker of the Assembly or Senate than of officials. No doubt the distribution of roles was different in Korea. He found the approach by regional group interesting. The President of the ASGP was moreover involved in this approach, as the morning dedicated to African themes illustrated. He asked about the nature of the themes that could be tackled in this context, given that the ASGP's subjects of choice were co-operation between Parliaments and parliamentary ways of working, rather than more general subjects such as sustainable development, which were rather the role of the IPU.

Mr Tae-Rang KIM cited a protocol signed by the Korean Supreme Court and by Parliament, intended to make the Court's decisions and the legislative proposals on which Parliament was working accessible to the public. Advisers to Korean local assemblies as well as officials of these assemblies had been invited by the Parliament to follow training courses so as to strengthen the participation of each in the democratic process. He then added that the ASGP constituted a place for debate and exchanges of view, and not an assembly responsible for resolving specific problems. Nevertheless, it was sometimes useful to move beyond discussion and, if need be, to propose resolutions to support parliamentarians. Among the concrete results achieved following the conclusion of agreements could be cited the visit of parliamentary colleagues from the US Congress or exchanges with the South African Parliament in the context of preparations for the World Cup. In a general sense, the work carried out in this way allowed the staff of the Assembly to make their contribution. Parliamentary staff were not subject to the vagaries of elections, and were sometimes in post longer than parliamentarians. As possessors of skills and genuine experts, they could contribute to the promotion of inter-parliamentary exchanges. As an example, the Secretary General of the National Assembly of Kenya, Mr Samuel Ndindiri, had worked for thirty years in

the service of his assembly, and had thus ensured great continuity in the parliamentary administration.

Mr Anders FORSBERG, President, thanked Mr KIM for his communication as well as all those members who had put questions to him.

3. Communication from Mrs Jacqueline BIESHEUVEL-VERMEIJDEN, Secretary General of the House of Representatives of the States General of the Netherlands: Parliaments and privacy legislation

Mrs Jacqueline BIESHEUVEL-VERMEIJDEN (Netherlands) made the following communication:

"Parliaments are, in a sense, information hubs. The sheer amount of data that passes – in one way or another – through a people's representation is enormous. Parliaments are also institutions where openness and transparency are especially great goods. There is one particular area, however, in which this general tendency to transparency must be very carefully scrutinized at all times, and that is where the privacy of individual citizens is concerned. This is the subject that I would like to put to you today for a hopefully interesting subsequent discussion.

At the very core of the dilemma I have just outlined between transparency on the one hand and protection of individual privacy on the other are two general trends which have developed over the past decennia. In parallel, but in fact contradictory to each other.

On the one hand, the past decennia have seen an increase in the legal protection of individual citizen's rights by way of treaties such as the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and the International Covenant on Civil and Political Rights (ICCPR). On the other hand, international crime and terrorism have led to a number of restrictions on individual privacy and, additionally, developments in the technological field have led to an increasingly vulnerable position of individual persons where documentation in any sort or form of their private information is concerned.

Of course, we have national privacy rules and regulations which regulate flows of information about individual citizens' data. However, the information that reaches or is dealt with by parliament sometimes proves to be a special case in point. First of all, and on a daily basis, where letters from citizens to the President, committees and individual members about a great variety of issues, both personal and general, are concerned. Secondly, where information acquired by individual Members of Parliament or by parliamentary staff on a particular issue is considered. And finally, where more intensive parliamentary research is done, as is the case, for example, when a parliamentary inquiry is set out in a situation where a more complicated fact is under scrutiny.

In all these cases, there is a dilemma between, on the one hand, the right to information and immunity from prosecution for their statements enjoyed by Members of Parliament, and the obligation to respect individual privacy, on the other. Parliamentary immunity contributes to ensuring that Members of Parliament can do just that for which they were elected – control government – and individual cases can be useful to illustrate examples where policy seems to have failed. However, where privacy of individuals is concerned, the end does not always necessarily justify the means.

In the Dutch House of Representatives, the subject of privacy legislation has been discussed upon numerous occasions. Dilemma's and possible solutions have namely been discussed, if I limit myself to recent years, in the framework of a number of parliamentary inquiries but also, in a more practical light, as a part of the discussion about a new digitalised information processing system. A number of examples can illustrate my general points, though of course these cases are not exhaustive.

1. A fire in a detention complex at Schiphol airport in 2005 caused the death of 11 detainees, illegal asylum seekers, and resulted in a further 15 wounded, detainees and security officers. In one of the plenary debates held in the House of Representatives about this tragic event, an MP quoted one of the detainees' name and cited information about his case. Permission was given by the individual concerned, but a discussion ensued in the House nevertheless. Core issue of the debate was whether or not, even when permission is given by an individual, MPs should in some cases refrain from using information about that person anyway, to protect them.

2. A parliamentary inquiry from 1994-1996 resulted in a debate about the status of documents prepared by third parties employed to contribute to investigations. The incident in question concerned a scientist who published a report for the inquiry committee in which individuals were named who subsequently appealed to the courts for protection and won. This, along with a number of other experiences eventually resulted, this year, in the adoption of a revised law on parliamentary inquiry, in which individuals who are invited or obliged to participate in inquiries, in whatever form, are better protected. Better protection is also offered, under the revised law, to those who are subjects of inquiry. There is now a legal protection against self incrimination, individuals may be heard in private or at least without television camera's, and witnesses are entitled to legal counsel. In this respect, the individual's position vis à vis parliament has been strengthened.

3. As I already mentioned, we are in the process of introducing a new digitalised information processing system in the House. This system will, amongst other things, be the portal for receiving, storing and processing letters from individuals. The discussion we had in the House on the very practical question of who will be authorised to have access to these letters was a good example of the dilemma I sketched at the start of my contribution. On the one hand, one of the benefits of this new system was meant to be that all users could, for example when searching

for documents for a committee meeting, immediately access the actual documents as well. A transparent and user-friendly working method. On the other hand, the storing of letters from individuals in this system would mean that a possibly very large group of users could access what is sometimes privacy-sensitive information. For this reason, we recently decided to give only a small group of users access to the letters from individuals stored in this system. This means that they will not appear to unauthorised users when a meeting for which they may be scheduled for discussion is looked up.

The examples I just mentioned sketch the risks involved in processing and discussing, in parliaments, individual cases. In fact, there have been five cases in which the European Court of Human Rights (ECHR) has judged that individual privacy was violated by Members of Parliament or by parliament as an institution. Parliamentary immunity and transparency, in those cases, were of secondary importance to the individuals' right to protection of his or her privacy. These cases underline, on the one hand, that the problem does not often arise, and on the other hand, the special responsibility that lies with MPs in this respect.

Incidents where individuals' privacy is at stake have led, as the examples illustrate, to discussions about working methods and sometimes, changes in policy. Many possible risks and problems can be addressed with practical arrangements, or by codifying additional rights for individual citizens in particularly vulnerable situations. There will always be grey areas, however, and it is impossible to lay down formal rules for every eventuality. Again, this means that Members of Parliament will often have to judge for themselves whether or not it is necessary and justified to use private information in public discourse.

Dear colleagues, I am sure you have been confronted with the same dilemma, probably not on a daily basis but on some occasion surely. I would be interested in hearing about your experiences."

Mr Anders FORSBERG, President, thanked Mrs Jacqueline BIESHEUVEL-VERMEIJDEN for her communication and invited members present to put questions to her.

Mr Xavier ROQUES (France) raised a case similar to that mentioned by Mrs BIESHEUVEL-VERMEIJDEN which had occurred in France, on the occasion of a commission of inquiry into sects. Certain people cited in the report of the commission had judged themselves to be defamed, and had attempted to pursue the officials who had worked on the commission through the courts. Then, after the judge had refused their case, they attempted to pursue the people who had been witnesses before the commission of inquiry; the judge accepted the admissibility of this claim. So as to avoid a repeat of this case and to allow witnesses to express themselves freely, the Speaker of the National Assembly presented a bill which had been passed by the Assembly and sent to the Senate, looking to give immunity to these witnesses.

Ms Heather LANK (Canada) stressed the importance of the freedom of expression which parliamentarians and witnesses enjoyed in Canada. She then asked to be given more details of the case in which the ECHR had judged that the people's right to a private life had been infringed. What had the consequences been?

Mrs Stavroula VASSILOUNI (Greece) said that following a constitutional revision in 2001, five independent administrative authorities had been created: an Ombudsman, an authority over the media, another over the recruitment of administrative staff, another on the protection of communications, and another on the protection of personal data. The heads of these authorities were appointed by the Conference of Speakers of Parliament, by a qualified majority, requiring the support of the majority and the opposition. In fact the heads appointed were people of renown, respected and independent of the executive power. These different authorities each sent an annual report to Parliament, which gave rise to genuine debate. In this way, the work of these authorities ensured better protection of personal information.

Mr David BEAMISH (United Kingdom) emphasized that in the United Kingdom, the Act relating to the protection of personal data also applied to Parliament. Because of this, the British Parliament had to respect the data protection principles. For all that, like its Canadian counterpart, the British Parliament was very attached to the freedom of speech of its members. Some disagreeable remarks made by a Member about a constituent had been taken up before the ECHR. Nonetheless, parliamentarians exercised their rights to express themselves freely.

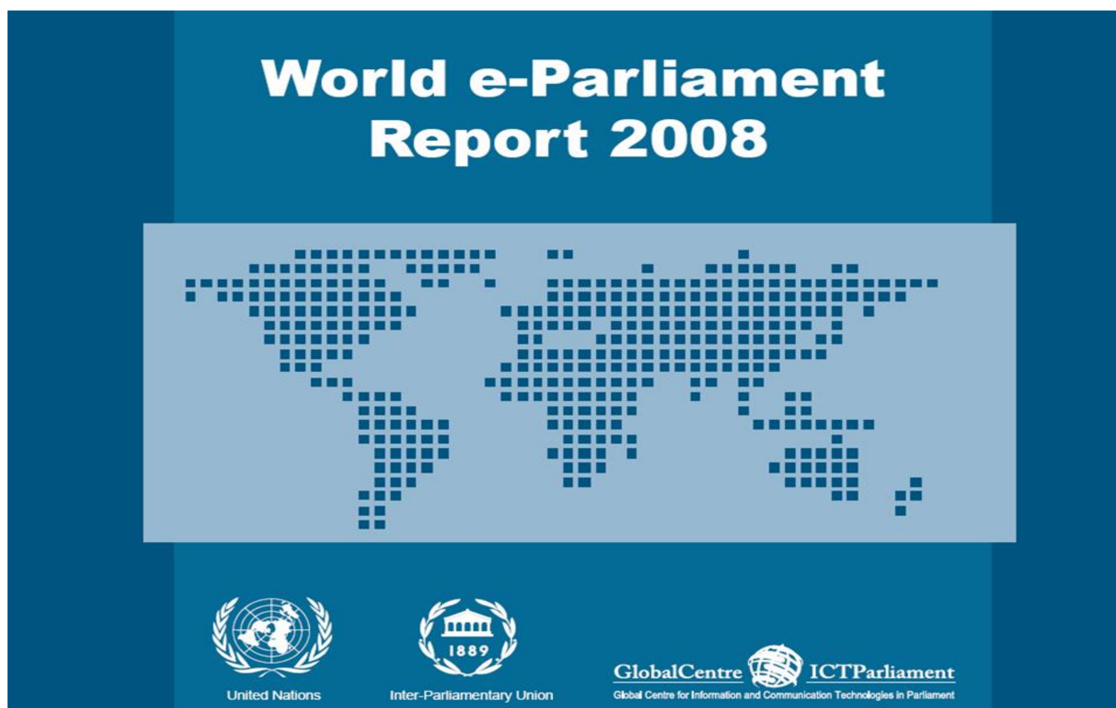
Mrs Jacqueline BIESHEUVEL-VERMEIJDEN (Netherlands) replied that the case mentioned by Mr ROQUES was indeed very similar to the one that had been brought in the Netherlands. In consequence, as in France, a law giving greater protection to witnesses and officials had been passed in the Netherlands and would enter into force before the summer. She said that the Netherlands shared the view of Canada and the United Kingdom, and gave priority to freedom of expression. It seemed that the five cases in which the ECHR had judged that the right to a private life had been infringed by Members of Parliament concerned the United Kingdom and Ireland, but it would be necessary to check. In any case, there was only a single case in which the ECHR had judged that the violation had been severe. Finally, she spoke of the interest aroused by the independent administrative authorities created in Greece, emphasizing that, at the end of the day, it was for each parliamentarian to take care in the exercise of their freedom of expression.

Mr Anders FORSBERG, President, thanked Mrs Jacqueline BIESHEUVEL-VERMEIJDEN for her communication as well as all those members who had put questions to her.

4. Presentation by Mr Gherardo CASINI, Director of the Global Centre for ICT in Parliament, on the World e-Parliament Report 2008

Mr Anders FORSBERG, President, recalled that in the context of the seminar on Parliaments and information and communication technologies (ICT) which had taken place in Geneva the previous autumn, a questionnaire on this theme had been sent to all Parliaments, and some of them had replied. On the basis of these replies, an important work of synthesis had been carried out in order to produce a final report, which had been presented in New York that February. Mr Casini was going to sketch out the main results of this work.

Mr Gherardo CASINI gave the following PowerPoint presentation:



World e-Parliament Report 2008

Critical Role of ICT in Parliament

ICT is a vital tool for enabling parliaments to

- Fulfill legislative, oversight, and representative responsibilities
- Achieve the goals of transparency, accessibility, accountability, and effectiveness
- Be active participants in the global information society

World e-Parliament Report 2008

Objectives of the Report

- Establish authoritative baseline of use of ICT in parliaments
- Provide opportunity for sharing lessons learned and good practices among parliaments
- Serve as reference source for parliaments, multilateral organizations, development agencies, donors and experts engaged in inter-parliamentary cooperation and in assisting legislatures to fulfill their constitutional duties

World e-Parliament Report 2008

e-Parliament: evolving concept

- A legislature that is empowered to be more transparent, accessible and accountable through ICT
- Empowers people, in all their diversity, to be more engaged in public life by providing greater access to parliament
- Connects stakeholders through ICT to support law-making, representation, and oversight more effectively
- Fosters the development of an equitable and inclusive information society through the adoption of standards and supportive policies

World e-Parliament Report 2008

Topics covered in the report

1. Parliament, ICT and the information society
2. Vision, innovation, and leadership
3. Management, planning, and resources
4. Infrastructure and services
5. Documenting the legislative process
6. Parliamentary websites
7. Building a knowledge base for parliament
8. Parliaments and citizens: enhancing the dialogue
9. Cooperation and coordination

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Sources

- Survey results from 105 assemblies
- Results of the World e-Parliament Conference 2007 and related meetings
- Publicly available documents
- Contributions of experts

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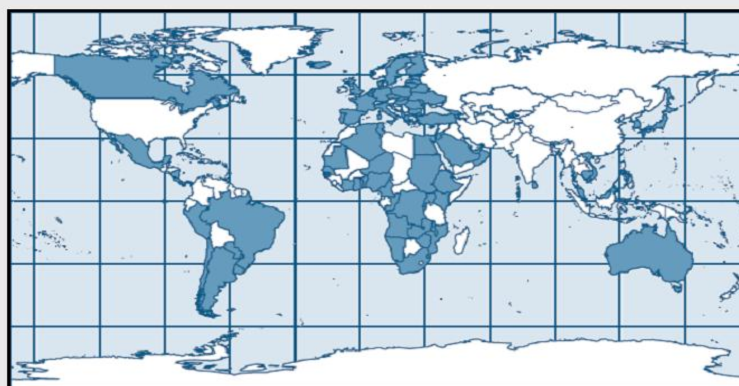
Participation by region



Geographical groupings:

- European Union area (28 respondents from the European Union, including the European Parliament)
- Sub-Saharan Africa area (29 respondents)
- Latin America area (14 respondents)

World e-Parliament Report 2008

Primary conclusions

- Some parliaments have been very successful in their use of ICT to support and even enhance their most important activities
- However, there is a substantial gap in most parliaments between what is possible with ICT to support the values and goals of parliaments and what has been accomplished
- This gap is especially pronounced among legislatures from countries with lower income levels. The digital divide that exists between high income and low income countries is reflected in parliaments

World e-Parliament Report 2008

Primary conclusions (continued)

- Although many parliaments may not yet be employing ICT to its fullest, most have plans to improve their use of technology to support their stated values and goals
- With sufficient political will, availability of resources, and increased collaboration there can be a far more effective deployment of ICT in parliaments in the future

World e-Parliament Report 2008

Requirements for successful implementation

- A clear vision
- Committed leadership
- Strong management
- Effective planning and oversight
- Informed and engaged members
- Collaboration among key stakeholders
- Highly trained and knowledgeable staff
- Cooperation with other legislative bodies

World e-Parliament Report 2008

Recommendations: managerial

- Engage all major **stakeholders**, including members of parliament, in establishing a **vision** for ICT in parliament based on the values and goals of the institution, providing a shared view of priorities and leading to **consensus** on what needs to be achieved

- Develop a **strategic planning** process that creates project plans, assigns management authority and responsibility, allocates resources, establishes deadlines, and ensures that implementation is managed effectively

Recommendations: managerial

World e-Parliament Report 2008

- Promote strong **management** by Secretaries General and other senior officers of the **innovation** process to ensure that resources are allocated appropriately, and that ICT projects are sustained over time and meet their objectives
- Invest in **human resources**, including by providing training for ICT specialists, other legislative and research staff, and members
- Advocate **collaboration at all levels**, internally among IT specialists and major operating units, between chambers, at regional levels, and on a global basis to enable sharing of resources, good practices, and expertise

Recommendations: technical

World e-Parliament Report 2008

- Implement a **parliamentary information system** that encompasses all bills and amendments, plenary debates and votes, and committee documents and actions
- Create an authoritative, accessible, timely, and engaging **website** that provides a complete and understandable view of parliamentary activities and documents and offers multiple formats and channels of access

World e-Parliament Report 2008

Recommendations: technical

- Adopt **open standards** for all legislative documents to facilitate wider citizens' access and the creation of a comprehensive legislative information resource that can be shared and integrated with other material both internally and externally
- Build a coherent **knowledge base** for parliaments that links all relevant internal and external information resources into an organized system that facilitates search and retrieval of needed information for members, staff, and the public
- Continue to explore ICT tools to engage **citizens** and **civil society**, perform assessments of their utility, and adopt those that support fruitful **interaction** between parliament and the public

World e-Parliament Report 2008

Recommendations: cooperation and coordination

- Establish a **global dialogue** on **open document standards** among legislatures to learn from others and to expand **interoperability** among different legislative systems and build a global legislative knowledge base
- Develop **common guidelines** for parliamentary, committee, and member **websites** based on an update of the **IPU Guidelines** to serve the goals of greater and improved transparency, as well as providing more effective tools for access to parliamentary information

World e-Parliament Report 2008

Recommendations: cooperation and coordination

- Share **experiences** in the development of the most widely used **legislative systems** that would be particularly helpful to those who currently lack the resources and expertise. In certain situations this could open the possibility of **collaborative** applications development

- Design common interactive capabilities for **communicating** with **citizens** and training programmes, including using **e-learning** tools, for a wide range of parliamentary staff and members

World e-Parliament Report 2008

Final thoughts

- Sometimes there is a lack of understanding of what can be achieved with ICT

- Innovation is a continuous challenge for all parliaments regardless of economic level

- Cooperation and coordination among legislative bodies can help greatly to level the playing field

- In the information age, parliaments have a unique opportunity to use ICT to engage citizens---in all their diversity--in creating an equitable, inclusive, and open society

ICTParliament

The Global Centre for Information and Communication Technologies in Parliament

Meeting of the Association of Secretaries General of Parliament
Cape Town, 18 April 2007

ICTParliament

Global Centre for Information and Communication Technology in Parliament

Mission

- To strengthen the role of parliaments in the promotion of the information society, including through fostering related information and legislative actions
- To reinforce parliaments' capacity to harness ICT tools to better fulfill their democratic functions and to place them at the service of the institutional process and of inter-parliamentary cooperation

www.ictparliaments.org

Upcoming activities

14-15 May 2008 – Parliamentary Forum "Shaping the Information Society: the Role of Parliaments and Legislators" (Palais des Nations, Geneva)

The Forum intends to provide an opportunity for parliamentarians to share experiences and legislative practices on Information Society-related issues, hold discussions with peers, experts and representatives of the United Nations in an international setting, and identify effective modalities for future cooperation.

Upcoming activities

4-5 June 2008 – International Conference - The Africa Knowledge Parliamentary Network: Building together Open and Learning Parliaments in Africa (Cairo)

The Conference, hosted by the People's Assembly of Egypt, under the auspices of the Pan-African Parliament, aims at providing a platform for the establishment of an Africa Parliamentary Knowledge Network and for strengthening the information and knowledge management capacity of parliamentary administrations to better serve their institutions and members in the area of legislation; information, research, and documentation; and information and communication technologies.

Mr Anders FORSBERG, President, thanked Mr CASINI for his presentation and invited members present to put questions to him.

Mr David BEAMISH (United Kingdom) said that in the United Kingdom, at the beginning of April, a common ICT service had been created for the House of Commons

and House of Lords. He wondered if management of the parliamentary internet should be carried out by a specialist technical department or rather by the parliamentary office responsible for information to the public. He then tackled the question of document standards: did PDF format, in which the British Parliament published documents, constitute an open standard? What was to be made of the XML data format? A common project across several parliaments in this area could be useful.

Mr Xavier ROQUES (France) indicated that the National Assembly was looking to have its information systems audited. Could the Global Centre for ICT play a role in this process?

Mr Alain DELCAMP (France) thanked Mr Casini for an interesting report and emphasized two points: first, the lack of knowledge about the potential of ICT, which was generally looked at from a technical point of view, while it was an important political tool, important in particular for relations between Parliament and the public. He added that within the French Senate, the office responsible for information systems managed the internet site and technical facilities. He said that he had always refused as Secretary General to give in to requests by the communications office to manage the internet site directly, as this office was already responsible for sufficiently heavy duties, and was not the only office to provide information for the website. He thought it better to put into place a good system of communication between the technical office responsible for ICT and the other offices of the Senate called on to provide information for the website, in particular by ensuring that the technical office was well integrated within the Senate.

Mr João Rui AMARAL (Timor Leste) said that the Parliament of Timor Leste was currently developing a strategic plan for ICT and asked if providing technical assistance to Parliaments was among the goals of the Global Centre.

Mr Gherardo CASINI replied to Mr BEAMISH that PDF format was not the best standard, and that during the Global Conference on the e-Parliament, a project had been launched which was intended to spread awareness of the XML standard, an open standard offering in particular interesting opportunities for co-operation. He indicated to Mr ROQUES that he would be delighted to discuss with him the audit currently being conducted at the French National Assembly. He then emphasized, as mentioned by Mr DELCAMP, the importance of bringing about genuine co-operation on ICT between different offices. Finally, in reply to Mr AMARAL, he explained that the Global Centre for ICT in Parliaments did not have substantial resources or staff, and was not intended to provide technical assistance to different countries. However, he was of course ready to help Timor Leste, but rather through recourse to skills and talents already there, through an action plan that he could help to provide.

Mr Anders FORSBERG, President, concluded by saying that the work of the Global Centre was a good example of concrete inter-parliamentary co-operation.

Dr Hafnaoui AMRANI (Algeria), a Vice-President, took the Chair.

5. Communication from Mr Xavier ROQUES, Secretary General of the Questure of the French National Assembly: The revision of the institutions of the Fifth Republic

Mr Xavier ROQUES (France) made the following communication:

"Following the commitment given by the President of the Republic during his election campaign, the French Government has just elaborated a draft constitutional revision known as the 'modernisation of the institutions of the Vth Republic' which, by modifying more than a third of the articles of the 1958 Constitution, forms the biggest revision it has undergone since its beginning.

This draft was elaborated following the proceedings by a committee chaired by a former Prime Minister and composed of eminent jurists and politicians belonging to the majority and also to the opposition.

The text has been sent by the Government to the *Conseil d'Etat* (State Council), then, after the opinion of the latter has been examined by the Government, it will be submitted to Parliament. As the Government does not have the necessary number of votes to get this reform adopted by its majority alone, it will therefore be obliged to confer with the opposition to obtain the necessary number. The text I am going to describe to you therefore does not necessarily form the definitive future revision.

I will group the proposed provisions under two headings: that on the powers of the President of the Republic and that on the legislative procedure. I will therefore leave aside a certain number of provisions which do not enter this framework, without their necessarily being minor: this is the case for instance with the possibility of obtaining representation in the National Assembly for French people not living in France, or the creation of a committee tasked with giving an opinion on the projects to cut up electoral constituencies, or the modification of the composition of the *Conseil supérieur de la Magistrature* (Judicial Service Commission), or the membership conditions of the European Union, or the creation of a defender of citizens' rights, or the introduction into French law of the plea of unconstitutionality brought before a court with referral, in this event, to the Constitutional Council. This latter provision, which brings France closer to the so-called European constitutional justice system, breaks with the French tradition of the impossibility of calling an Act into question once it has been promulgated, which has been one of the foundations of French law since 1789. This reform will therefore undoubtedly have considerable impact on the life of citizens but the matter is hard to appreciate today.

I). To return to the above-mentioned two main topics, I will address firstly the provisions affecting the powers or status of the President of the Republic.

First, it is a matter of the ban on the holding of more than two mandates. Until 1981, no President of the Republic had managed to complete two mandates, which lasted

seven years each at the time. Since then, François MITTERRAND, then Jacques CHIRAC, have each held two mandates. The new constitutional provision is therefore aimed at avoiding the temptation of a third or possibly a fourth mandate.

The number of ministers which the President of the Republic can appoint, and this is an innovation in French law, will see its maximum number set by an institutional Act, so as no doubt to avoid an evolution towards plethoric governments.

The power of the President of the Republic to appoint high officials or members of the judiciary will be framed by the creation of a committee made up of members of both parliamentary assemblies, which will have to give its opinion on all these appointments. Similarly, the Head of State's right to grant pardon will not apply until after the opinion of an ad hoc committee specially created for this purpose.

The French Constitution comprises a special provision, Article 16, resulting from the experience lived by General de GAULLE in 1940, which, in specific conditions, allows the Head of State to assume the totality of State powers. This provision has fortunately had to be applied only once, on the occasion of a military coup d'état in Algeria aimed at overthrowing the government in France. At the time, the implementation of Article 16 did not raise any difficulty, the republican defence reflex having led all the political forces to support General de GAULLE. But, while the attempted coup d'état collapsed in three days, Article 16 remained in force for nearly six months and the length of this application was highly disputed. Undoubtedly because of this memory, the draft constitutional revision provides that, after thirty days of application of this provision, the Presidents of the assemblies, 60 deputies or 60 senators can refer the matter to the Constitutional Council so that it can appreciate whether the conditions for the implementation of Article 16 are still valid and, in any case, after 60 days, even without being referred to, the Constitutional Council must state its position on the maintenance of these exceptional provisions.

Also, the possibility for the Government to pass a bill by raising a motion of confidence is a quite unpopular provision among parliamentarians: it indeed obliges them to vote a motion of censure and therefore overthrow the Government if they do not want the bill to be adopted for which the Government has sought confidence votes. In order to meet the concerns of parliamentarians, the constitutional revision sets forth that this procedure can concern only finance bills, social security finance bills and only one Government bill per year.

Also heading in the direction of a limitation of the powers of the executive, the draft revision sets forth that any intervention of the armed forces outside the territory of the Republic must be brought to the knowledge of Parliament in the shortest period and, in the event of a duration exceeding 6 months, the prolongation must be authorised by both assemblies or, in the event of a divergence between them, by the National Assembly.

Breaking with the strict separation between the duties of minister and deputy which the Constituent of 1958 wanted to impose and which, in actual fact, did not operate very

well, the draft revision allows a deputy who has become a minister to return as of right to his seat as a deputy at the end of his ministerial duties without therefore being forced to rely on a by-election, as was the case, to circumvent the consequences of the constitutional rule.

Lastly, but this is one of the most controversial points of the revision, the President of the French Republic could come personally to read a message before the two assemblies together. It is necessary to refer to the history of France to understand the reasons for this controversy. During the period preceding the establishment of the IIIrd Republic, the contemporary parliamentarians had forbidden the President of the Republic of the time, who moreover was also Head of Government, to come before the Assembly, so as to avoid, by his presence and eloquence, his influencing the Assembly proceedings. Ever since that time, the messages of the Head of State have been read by the Prime Minister. The rule was constitutionalised in the Constitution of 1875 and has been maintained ever since. With modern means of information, it may appear paradoxical that the President of the Republic can address all the French on the 8 o'clock television news, but that he is forbidden from addressing the national parliament whereas foreign Heads of State can do so, as evidenced by many examples since President WILSON in 1919 and more recently the King of Spain, King of Morocco, German Chancellor, British Prime Minister, etc. It is this historic heritage – or archaism depending on the viewpoint adopted – that the constitutional revision intends to terminate. But it is no certainty that a consensus can be reached on this point.

II). Regarding legislative procedure, which interests more directly the operation of Parliament, there are major innovations. The first, which has not been underscored by the media but which I feel is capital, concerns the creation of a one month period between the tabling of a bill and its consideration by the first assembly before which it is brought, and of a 15 day period from its transmission to the assembly before which it is brought in the second instance. Even if this period does not apply to finance bills, social security finance bills or if a matter is declared urgent, the creation of such a period will necessarily lead to better planning of parliamentary proceedings and aims at giving parliamentarians a minimum reflection period, even if this goes against pressure from the media which consider that as soon a bill is adopted at the Council of Ministers it must be implemented.

Recourse to the declaration of urgency I have just mentioned is itself moreover framed since the Conference of Presidents, in each of the assemblies, can oppose said declaration whereas previously it was a discretionary governmental power.

Members' bills will be able to be submitted by the President of the assembly concerned to the State Council, to which only Government bills were previously referred.

The discussion of bills in the public sitting will henceforth concern, as was the case before 1958, the bill adopted by the committee and not the initial Government or member's bill, which means that the Government would be obliged to table amendments if it wants to return to its initial bill if it has been amended by the committee. Of course, regarding finance Acts, social security finance Acts or a draft constitutional

revision, the rule does not apply and discussion begins in the sitting, as previously, on the Government bill.

French parliamentary law draws a distinction between matters for statute and matters for regulation, but previously only the Government could oppose parliamentary amendments encroaching on the regulatory field. Henceforth, by symmetry, the President of an assembly can also raise, against any amendment and therefore governmental amendments, this same opposition. In all cases, the Constitutional Council settles the matter.

Breaking here again with the initial text of 1958, the revision authorises the assemblies to vote resolutions 'as provided in their rules of procedure'. It will therefore be a matter for the rules of procedure to define the scope of this power.

The number of committees, limited to 6 in the initial text of 1958, is now brought to 8, which was also an old demand on the part of the parliamentarians. Similarly, to satisfy the latter, the manner of fixing the agenda is changed. Instead of being wholly fixed by the Government, two weeks out of four are reserved for the Government and two weeks for the decision of parliamentarians. Nevertheless, finance bills and social security finance bills are placed by priority on the agenda. Lastly, one sitting day per month is reserved by priority for the agenda set by the opposition.

The rule according to which committee debates are public unless committees decide otherwise is ditched; disclosure becomes the general rule and closure to the public an exception which must be decided on a case per case basis.

The reform also makes it possible to deal differently with parliamentary groups depending on whether they belong to the majority or the opposition, by constitutionalising the notion of majority and opposition. Until now, for want of such a constitutionalisation, it was forbidden to differentiate between each other's prerogatives. But this of course goes against the desire of some politicians not to have to choose between two blocs.

Lastly, even if it is paradoxical that it is no doubt in response to the desires of parliamentarians, Article 44 of the Constitution, which lays down exercise of the right of amendment, will state that the latter will be exercised 'according to the conditions and limits laid down by the rules of procedure of each assembly'. There is a response here to the request by the parliamentary authorities which wish to limit the number of amendments which paralyse the conduct of normal legislative proceedings, lead to filibustering and which, pursuant to the saying that 'bad money drives out good', means that the discussion of poor quality amendments ends up by stifling the consideration of authentic amendments.

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As has been seen, this is an ambitious revision of the Constitution that aims to be balanced with a strengthening of the prerogatives of Parliament, rationalisation of its

action and better framing of the prerogatives of the executive, without however weakening the latter's capacity to act. It now remains to be seen what will come of this ambitious reasoning and whether it will lead to a consensus allowing its adoption by Parliament."

Dr Hafnaoui AMRANI, Vice-President, thanked Mr ROQUES for his communication. He then invited members present to put questions to him.

Mr Douglas MILLAR (United Kingdom) said that at essence, this constitutional revision aimed to limit the powers of the President and to increase those of Parliament. He emphasized that the definition of a minimum period between the laying of a text and its examination in public session was of great importance: in fact, the rules in this area were more rigorous in the House of Lords than in the House of Commons. Because of this, the former was often in a better position to examine texts than the latter, something that some Members regretted. He asked about the changes made necessary by membership of the European Union, a subject which was causing much controversy in the United Kingdom. For example, every bill presented by the British Government had to be accompanied by a certificate of conformity with the provisions of the European Convention on Human Rights. Finally, even with a limitation of two consecutive mandates, Presidents could serve in office for fourteen years, a very long period in the United Kingdom context.

Mr Sitor NDOUR (Senegal) stressed the revolutionary character of this constitutional revision, which included some very important developments. He raised the question of ministers wishing to regain their parliamentary seat when they left the government, and he was pleased with the limitation of the presidential mandate to two consecutive terms. The use of a presidential mandate for life presented many disadvantages, which Africa was well-placed to appreciate. In fact, in many African countries, when a constitutional provision provided for a limit to the number of presidential mandates, once his last mandate was coming to a close, the President put pressure on his majority in Parliament to change the Constitution: this had been the case in Cameroon, for example. Finally, the limit on the number of Government ministers was a very positive reform, not only from a financial point of view but also to avoid overlapping ministerial responsibilities. He finished his remarks by welcoming the constitutional revision, which could be an inspiration for African countries.

Mrs Claressa SURTEES (Australia) said that she was surprised to hear that until now it had been impossible to reconsider a bill that had passed into law, something that was counter to the ideas of the Enlightenment. It also seemed surprising that the President could speak to French citizens by means of a televised interview, for example, but could not express himself before Parliament, while foreign heads of state could. This very much deserved to be changed. In any case, society underwent constant changes, and it was appropriate to alter the constitutional system accordingly.

Mr Xavier ROQUES recalled that the 1958 Constitution had been conceived at a time when French political life had fragmented into many political groups, which led to wide-spread instability in government. To cope with this, the functioning of Parliament had

been subject to great constraints. Nonetheless, the French political system had progressively evolved in the direction of bipolarization, and the constraints provided for no longer had any reason to exist. This was why the Government wanted to strengthen the powers of Parliament, within which it held a stable majority, and which therefore presented no danger. The introduction of a minimum period between the presentation of a text and its consideration in plenary was the result of a strong request from the parliamentarians, who were often infuriated by the shortness of the periods which they were expected to accept – the Senate generally enjoying, like the House of Lords, a more favourable position than the National Assembly. As for the influence of European law, the Members were sometimes surprised to hear that they could no longer decide certain matters. Faced with the growing space filled by European law, working methods had had to be altered. This had been the motivation behind the creation of a European Union delegation in the French chambers.

Thanks to the reduction in the presidential mandate to five years, decided in 2000, the limit of two consecutive mandates led to a total length of ten years, which seemed amply sufficient. The limit in the number of ministers put an end to a certain growth in this area, as well as to a labyrinth of responsibilities.

Members of Parliament who became ministers generally kept their links with their constituency. In general, when they lost their portfolio, they made their alternate resign. In fact, instead of organizing quasi-systematically a by-election, it seemed better to offer ministers the possibility of resuming their seat. This reform, previously envisaged, had not been brought about. As for the content of this constitutional revision, the media tended to emphasise certain elements, not necessarily the most important ones, what was more. The reform to allow the President to speak to Parliament had been particularly heavily covered. This was currently impossible, for historical reasons, dating back to the 1870s.

Review of the constitutionality of laws had been introduced by the Constitution of 1958, and developed by a constitutional revision of 1974, which had allowed sixty deputies or sixty senators to refer the matter to the Constitutional Council. This change had seemed revolutionary, in particular with regard to the principles of French constitutional law.

Mr Anders FORSBERG, President, thanked Mr ROQUES for his communication as well as all those members who had put questions to him.

6. Administrative questions

Mr Anders FORSBERG, President, proposed that Roger Phillips and Frédéric Slama should be made honorary secretaries of the Association.

It was *agreed* to.

7. Examination of the draft agenda for the next meeting (Geneva, October 2008)

Mr Anders FORSBERG, President, read the draft orders of the day for the next session in Geneva (October 2008) which had been approved by the Executive Committee. He said that, in order to ensure greater continuity of work, some of the work begun during the meeting at Cape Town could be pursued at Geneva.

1. Possible subjects for general debate:

   – "Observing parliamentary traditions while meeting expectations of members and electors"
   (Mrs Jacqueline BIESHEUVEL-VERMEIJDEN, Netherlands and Mrs Claressa SURTEES, Australia)

   – "Staff activities during general election periods" (Mrs Claressa SURTEES, Australia)

   – "Question Time" (Mrs Adelina SÁ CARVALHO, Portugal)

2. Communication by Mr Edwin BELLEN and Mrs Emma Lirio REYES (Philippines): "Executive privilege — a tool of executive non-cooperation in congressional inquiries and exercise of oversight functions: the recent experience of the Philippines"

3. Communication by Mr Marc BOSC (Canada): "Youth programmes"

4. Communication by Mr Carlos HOFFMANN CONTRERAS (Chile): "Enhancing transparency and accountability in Parliaments"

5. Communication by Mrs Doris MWINGA (Zambia): "The role of Parliament in the process of Constitutional Review in Zambia 2003 – to date"

6. Communication by Dr Georg POSCH (Austria): "The Demokratiewerkstatt in the Austrian Parliament - Take Part, Influence, Play your Part"

7. Communication by Mr Xavier ROQUES (France): "Does the parliamentary system allow parliamentary control?"

8. Discussion of supplementary items (to be selected by the Executive Committee at the Autumn meeting)

9. Administrative and financial questions

10. New subjects for discussion and draft agenda for the next meeting in Spring 2009

The draft orders of the day were *agreed* to.

8. Closure of the Session

Mr Anders FORSBERG, President, thanked the hosts of the session in Cape Town, Mr DINGANI and Mr MANSURA, for their excellent hospitality, the high quality of the facilities available as well as the faultless attentiveness of the staff to the organization of the session. He then thanked the interpreters and the staff of the Inter-Parliamentary Union in charge of organizing the conference, as well as the members of the Executive Committee.

The meeting rose at 12.30 pm.