

Dáil Éireann

An Coiste um Chuntais Phoiblí

An Dara Tuarascáil 2005

Tograí le haghaidh athruithe ar an tslí a ndéanann Dáil Éireann Meastacháin i gcomhair caiteachais a bhreithniú

Samhain 2005

Dáil Éireann

Committee of Public Accounts

Second Report 2005

Proposals for alterations in the way that Estimates for expenditure are considered by Dáil Éireann

November, 2005

(Prn. A5/1795)

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Chairman's Preface

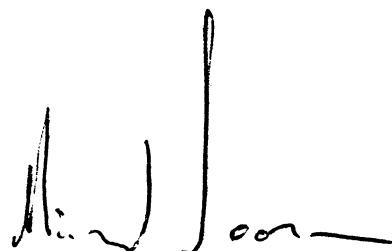
This report of the Committee of Public Accounts is firstly concerned with the whole budget or public expenditure cycle of central government – from the formation of the Estimates through to the consideration by the PAC of the Appropriation Accounts and the annual report of the Comptroller and Auditor General. The standpoint is that of the parliamentarian and parliamentary scrutiny of executive action.

Secondly, consideration is also given to scrutiny and audit of local government.

Thirdly, the Committee recognises the important role that it carries out, on behalf of Dáil Éireann, in examining the way in which money from the Exchequer is spent. However it also acknowledges the lack of proper parliamentary scrutiny of spending Estimates that are allocated to all Government Departments and Offices. In addition, it further acknowledges that the ongoing scrutiny, at a parliamentary level, of major expenditure projects is almost non-existent.

The Committee, in an attempt to bridge this deficit, appointed Deputy Pat Rabbitte to act as rapporteur on topics one and two above. His report, in full, is included in Appendix 1 of this report. Also, a delegation from the Committee travelled to the United States to study, at first hand, the methods of parliamentary scrutiny in operation both at federal and state levels. The recommendations of the delegation along with the text of their full report are in Appendix 2 of this report.

We recommend this report to the Houses of the Oireachtas.

A handwritten signature in black ink, appearing to read 'Michael Noonan', written over a horizontal line.

**Michael Noonan, T.D.,
Chairman**

November, 2005

Members of the Committee of Public Accounts

FIANNA FÁIL

Seán Ardagh T.D.	Dublin South-Central
John Curran T.D.	Dublin Mid-West
John Dennehy T.D.	Cork South-Central
Seán Fleming T.D.	Laois-Offaly
John McGuinness T.D. (<i>Vice-Chairman</i>)	Carlow-Kilkenny
Michael Smith T.D. ⁴	Tipperary North

FINE GAEL

John Deasy T.D. ²	Waterford
Tom Hayes T.D. ³	Tipperary South
Michael Noonan T.D. ¹ (<i>Chairman</i>)	Limerick East

LABOUR

Pat Rabbitte T.D.	Dublin South-West
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GREEN PARTY

Dan Boyle T.D.	Cork South-Central
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SOCIALIST PARTY

Joe Higgins T.D.	Dublin West
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¹ Deputy Michael Noonan replaced Deputy Padraic McCormack by order of the House on 18th June, 2003.

² Deputy John Deasy replaced Deputy Paul Connaughton by order of the House on 20th October, 2004.

³ Deputy Tom Hayes replaced Deputy John Perry by order of the House on 20th October, 2004

Deputy Michael Noonan elected as new Chairman on 21st October 2004

⁴ Deputy Michael Smith replaced Deputy Batt O’Keeffe by order of the House on 16th November, 2004.

Orders of Reference of the Committee of Public Accounts

156. (1) There shall stand established, following the reassembly of the Dáil subsequent to a General Election, a Standing Committee, to be known as the Committee of Public Accounts, to examine and report to the Dáil upon—
- (a) the accounts showing the appropriation of the sums granted by the Dáil to meet the public expenditure and such other accounts as they see fit (not being accounts of persons included in the Second Schedule of the Comptroller and Auditor General (Amendment) Act, 1993) which are audited by the Comptroller and Auditor General and presented to the Dáil, together with any reports by the Comptroller and Auditor General thereon:

Provided that in relation to accounts other than Appropriation Accounts, only accounts for a financial year beginning not earlier than 1 January, 1994, shall be examined by the Committee;
 - (b) the Comptroller and Auditor General's reports on his or her examinations of economy, efficiency, effectiveness evaluation systems, procedures and practices; and
 - (c) other reports carried out by the Comptroller and Auditor General under the Act.
- (2) The Committee may suggest alterations and improvements in the form of the Estimates submitted to the Dáil.
- (3) The Committee may proceed with its examination of an account or a report of the Comptroller and Auditor General at any time after that account or report is presented to Dáil Éireann.
- (4) The Committee shall have the following powers:
- (a) power to send for persons, papers and records as defined in Standing Order 83;
 - (b) power to take oral and written evidence as defined in Standing Order 81(1);
 - (c) power to appoint sub-Committees as defined in Standing Order 81(3);
 - (d) power to engage consultants as defined in Standing Order 81(8); and
 - (e) power to travel as defined in Standing Order 81(9).
- (5) Every report which the Committee proposes to make shall, on adoption by the Committee, be laid before the Dáil forthwith whereupon the Committee shall be empowered to print and publish such report together with such related documents as it thinks fit.

- (6) The Committee shall present an annual progress report to Dáil Éireann on its activities and plans.
- (7) The Committee shall refrain from—
 - (a) enquiring into in public session, or publishing, confidential information regarding the activities and plans of a Government Department or office, or of a body which is subject to audit, examination or inspection by the Comptroller and Auditor General, if so requested either by a member of the Government, or the body concerned; and
 - (b) enquiring into the merits of a policy or policies of the Government or a member of the Government or the merits of the objectives of such policies.
- (8) The Committee may, without prejudice to the independence of the Comptroller and Auditor General in determining the work to be carried out by his or her Office or the manner in which it is carried out, in private communication, make such suggestions to the Comptroller and Auditor General regarding that work as it sees fit.
- (9) The Committee shall consist of twelve members, none of whom shall be a member of the Government or a Minister of State, and four of whom shall constitute a quorum. The Committee and any sub-Committee which it may appoint shall be constituted so as to be impartially representative of the Dáil.

The Report

Central Government

1. Level of service data in the Estimates

The P.A.C. agreed that the Estimates volumes and Budget Day documentation should contain information on existing levels of service (ELS) and the full cost of ELS so as to assist Deputies in undertaking output and performance scrutiny and understanding fully what monies are being voted, to what end, to what level of service and what is 'old' and 'new' money. The Strategy Statements of Departments and State Agencies should include details of output by those organisations in order that activities and outputs can be linked directly to the costs involved.

2. Timing of the whole budget cycle and Budget Day

The major weakness from the point of view of parliamentary scrutiny identified by the PAC is one of timeliness, which is traced back to the timing of the formulation of the annual Estimates and publication of the Book of Estimates.

The Committee is of the view that the Estimates formation cycle, the 'campaign' including the bilateral negotiations between line Departments and the Department of Finance, should commence much earlier, in perhaps January, and end by the summer.

Such an approach would allow for much earlier completion (by early summer) of this phase of the whole budgetary cycle, thus providing the opportunity for bringing forward Budget Day itself and the commencement (and completion) of the *ex ante* scrutiny process. A timetable, similar to this, is adhered to in the Netherlands and Germany.

Such a change would allow for

- Abandonment of the abridged Book of Estimates;
- Earlier publication of the White Paper on Income and Expenditure (with the incorporation into the paper of an economic commentary and forecasts); and
- The publication of the Estimates and the Budget as a single event, staged in September or October, before proceeding immediately to the parliamentary scrutiny of Estimates/Votes and approval/appropriation; and
- Alterations in planned expenditure to be made, if necessary, as a result of parliamentary scrutiny.

3. Effective scrutiny of Estimates by Dáil Committees

A number of options were considered by the Committee as it was agreed that the current method of scrutiny of Estimates by the Select Committees is not effective. Firstly, the idea of allocating additional resources to existing Committees was discounted on the basis that it would be too diffuse and would lack any real impact. Also discounted was the suggestion of establishing a new Budget Committee. The PAC was of the view that such a new committee would duplicate the work of both the existing Committee on Finance and the Public Service and the other sectoral committees. Thus, the PAC propose the following:-

- (i) The role of the current Select Committee on Finance and the Public Service should be enhanced in order that it would scrutinise the Estimates of all Government Departments;
- (ii) The 11 researchers referred to in the Annual Report of the Oireachtas Commission should be appointed on the basis of having various specialist skills so that as a group, their specialist knowledge would enable them to analyse Estimates across all Government Departments but that they would be assigned to the Select Committee on Finance and the Public Service Committee in order that it could carry out proper analysis of the Estimates of all Government Departments;
- (iii) One of the 11 researchers / specialists would lead this expert team. That leader's functions would be established on a statutory or even constitutional basis in order to ensure that the analysis undertaken by the group would be independent; and
- (iv) The specialist group would also, at the direction of its leader, be available to other Oireachtas Committees and individual Members to carry out specialist analysis of proposals pertaining to any other committee. These activities would be likely to occur at a time of year when the Select Committee on Finance and the Public Service is not scrutinising Departmental Estimates.

A further development of this service might involve it having the power to request, where necessary, relevant papers and records from Departments. Such initiatives would in all likelihood require primary legislation establishing the office and granting the powers.

A consequence of this enhanced role for the Select Committee on Finance and the Public Service would be the opportunity for the other sectoral committees to analyse, in more detail, the level of service being given by the Government Department within their remit.

4. Financial Accounts

The format in which financial information is presented through the annual accounts cycle should conform to best practice and take cognizance of EU and international developments in the setting of standards for financial reporting. The information should be easily accessible and be capable of providing a meaningful basis for review by being presented in a clear and unambiguous manner. While the Committee accepts that a full commercial style accruals based approach may not be the most appropriate for Government Departments and Offices, it does regard the production of a balance sheet as an essential tool for those charged with oversight.

Central / Local Accountability

The Committee sees a serious gap in the public accountability framework for central government funded moneys administered by local authorities. Under present arrangements there is no accountability to the Committee for the spending of these moneys because the Comptroller and Auditor General is precluded by law from access to local authorities.

The Committee recommends that the governing legislation be amended to permit such access and subsequent reporting in order to facilitate scrutiny by the Committee of this important

element of Government spending. Any such amendment should provide for value for money aspects to be covered as well as compliance and regularity issues.

Apart from addressing the immediate public accountability concern in this regard, the Committee recommends that consideration be given to amalgamating the Local Government Audit Service with the Comptroller and Auditor General's Office with a view to having a unitary national audit authority examining the spending of all public moneys. Such a move would bring Ireland into line with similar developments in recent years in Scotland, Northern Ireland and Wales, and with the long-standing practice in New Zealand.

Appendix 1

PRESENTATION OF ESTIMATES TO DÁIL ÉIREANN – SUGGESTED ALTERATIONS AND IMPROVEMENTS

A Report to the Committee of Public Accounts
by
Pat Rabbitte TD

September, 2005

Volume 1 - report

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Preface

The Public Accounts Committee and individual members of the Committee have experienced in recent years a growing number of requests from members of the public that the Committee should intervene in one or other public expenditure decision or project actually under way. These requests misunderstand the traditional role of the PAC but at the same time give rise to questions about the quality of parliamentary oversight of public expenditure decision-making. Given the terms of reference of this Committee, viz. that it may “suggest alterations and improvements in the form of the Estimates submitted to the Dail” I have been asked to report back to the Committee on the issues involved and, where possible, to make recommendations or indicate options. It is a matter for the Committee to decide how the issues raised may be progressed from here.

The report comprises a paper (the submission) divided into six sections. A selection of key documents that informed the preparation of the submission is included as a second volume (the appendices).

My essential point is that there is scope for significant improvement in the Estimates procedure adopted in Dáil Éireann from the point of view of parliamentary scrutiny and accountability. This is not a radical or novel observation. As I point out in the course of this submission the present Minister for Finance is well conscious of current shortcomings and is on the record on the issue. Many Deputies on a cross-bench basis concur; indeed for many years there has been agreement on the need for change even if it has been slow and hesitant in happening. I draw attention to the establishment of the Oireachtas Commission and suggest that, as a result, we may see some acceleration of the process. In private many senior public servants also acknowledge shortcomings and the need for change.

The Dáil is not unique among parliaments in requiring reform in this respect. The issue of scrutiny of spending and budgetary proposals and decisions is a matter of debate and the subject of reform and reform proposals in many jurisdictions. This is a development of more recent decades. In some countries such as Canada, New Zealand, the United Kingdom and the Netherlands reform is advanced. International comparisons feature prominently in this submission.

Taking the long view there has been what economists refer to as a “fiscal asymmetry” in respect of parliamentary scrutiny in this area. There has been developed a pretty comprehensive and generally accepted set of “principles of taxation”, rules and norms by which tax systems and taxation proposals may be measured and examined. However it is only in recent decades that a more balanced approach has developed with an appropriate spotlight put on “principles of public expenditure”.

From one perspective the focus is on three areas, broadly:

- A) administrative reform (including the adoption of output or performance budgeting);
- B) accounting principles (the debate about cash accounting v accrual); and
- C) parliamentary reform – scrutiny, accountability and the resourcing of parliamentarians in respect of their role in scrutinising public spending and taxation and holding the executive to political account.

At another level or from another perspective, issues such as the timeliness of the publication and release of budgetary cycle information, the balance between *ex ante* and *ex post* scrutiny and the question of consolidation or as accountants and economists refer to it “whole government accounting” preoccupy.

This report ranges across most of this territory although I have tried at all times to concentrate on issues from the point of view of parliamentary scrutiny and accountability. To the extent that issues such as administrative reform, accounting principles and so on enter the frame it is from the point of view of the parliamentarian that they are examined – not the accountant, the public administrator or the economist.

A point of definition: I take the Committee’s Orders of Reference in so far as they refer to “alterations and improvements in the form of the Estimates” to refer to the Estimates cycle in its totality – to what might be termed the *whole budgetary cycle*, the *ex ante* phase of the Estimates as such followed by Budget Day and the Finance Act and concluding with the *ex post* aspect, principally the audit work of the Comptroller and Auditor General and the consideration by the Committee of the C&AG’s reports and its reports back to the Dáil.

A short comment is needed to explain the second section. It outlines the core constitutional and statutory provisions that underpin our public financial procedures – the grant and appropriation of supply. In that context, it sets out certain issues that arise as to whether current statutory and administrative practice are compatible with the constitutional requirements.

This section is lengthy, perhaps overly so. It should not distract attention from the other sections or the proposals made in them. Two points should be made. First, if the proposals as to the timeliness of the Estimates process were taken on board, then the process would commence and conclude at a far earlier stage in the year. If so, then the constitutional arguments – which largely arise in a context where the Oireachtas is each December appropriating money by statute that has, at that stage of the year, already been almost entirely spent – would be of much less relevance. In other words, the constitutional argument takes centre stage precisely because current arrangements are not timely.

Second, I have made no proposals arising from that section of my submission, because I believe a legal opinion on the issues is first required. To this end, I invite the committee to seek counsel’s opinion through the offices of the Parliamentary Legal Adviser.

A final point: the Committee thought it desirable to include local government accountability and audit within the ambit of this discussion. This submission includes a consideration of this topic as well as central government accountability and scrutiny.

Pat Rabbitte
September 2005.

1. Introduction

Quod omnes tangit ab omnibus approbetur.
(Let that which touches all be approved by all).

The summons to the gathering of the Parliament of 1295,
The Model Parliament, convened by Edward I

- 1.1 Westminster is widely recognised as the “mother of parliaments”. It historically represents an original resolution of a tension intrinsic to an aspect of what economists refer to as the problem collective action. By collective action we mean in today’s terms the provision of collective (or public) goods and services – such as the common defence, law and order, environmental control, educational, cultural and welfare provision and so on. The tension is between on the one hand the sovereign (the executive or government as we talk of it today) and on the other, the people (through their representatives, their parliamentarians or legislators in today’s language) in the budgetary cycle context. We use the term *budgetary cycle* here to encompass more than the annual financial statement or budget speech of a Minister for Finance. In the context of this submission the term captures also revenue forecasts and spending plans and proposals (in our context the White Paper on Income and Expenditure, the Book of Estimates, the Capital Programme and associated documentation as well as the formulation of these annual Estimates and related forecasts and commentaries). The budget or the budgetary cycle in this sense captures the whole of the public policy project from the financial perspective.
- 1.2 The tension between executive and parliament springs from the fact that the sovereign has in one sense absolute power but once representation is conceded, has no power in respect of budgetary agenda other than the power to tax and spend *by agreement* – to raise monies from the people by agreement through their representatives for the purposes of policy as proposed by him and approved by them. The democratic framework recognises sovereign/executive power but asserts an accountability rule, to quote the cry of the American colonists echoing the summons to the Model Parliament, “no taxation without representation”.
- 1.3 The democratic rule in this context has two aspects to it. First there is representation (parliament) and second, while the executive may propose, only parliament can dispose, which is to agree (or disagree) through some law-based system of appropriation as it is called – granting by vote to the executive on whatever terms the sums or monies requested for the purpose of policy (public provision), which parliament requires to have stated and to examine and approve and subsequently to audit and learn from. The representative or parliamentary system therefore both resolves a tension of the state and creates a new one (or perhaps casts the old one in a new framework), that of executive accountability, in the context of this paper in respect of the ‘budget’ in the sense in which we use the term.
- 1.4 Two points might be made. First the scope of collective action/provision has expanded vastly over decades. It now encompasses most of formal education, primary, secondary and third level. The sick and the aged must now be provided for to a significant extent through public health provision or public pensions. Rich nations (however defined) are expected to transfer resources to poor nations and assist development through overseas

aid. Health and safety in the workplace must be attended to and employers must be supervised and regulated from the point of view of their social responsibilities, company and competition law and so on. Directors must also be regulated from the point of view of their duties and responsibilities under the law. Public infrastructures – roads, railways, public airports, water services and so on – must be developed and maintained. Many things have changed in recent decades: for example we no longer require the phone service to be operated by civil servants; telecommunications has been transferred to the private sector; private provision is being introduced into the electricity sector, the same is happening in public transport and so on. However in the words of one public sector economist “It requires considerable abstraction even to think of a situation in which there is no government at all” (Buchanan, 1973).

- 1.5 Second, in respect of all of this expansion and vastly increased scale of provision issues arise in the parliamentary context (as well as the administrative and executive contexts) in regard to appropriateness, value for money, effectiveness, accountability and audit in respect of government spending and taxation. The focus of this submission, to re-state, is on the parliamentary scrutiny dimension.
- 1.6 There is of course a major political issue in respect of parliamentary scrutiny and audit of executive action, what one commentary describes as “the perennial rivalry pitting the Legislature against the executive organ of the state in jostling for the imprimatur as the representative or voice and custodian of the public good”. And, “the oversight mechanisms chosen must seek to address the interplay of the inalienable right of the governing party to be able and be seen to govern. At the same time the Members of opposition parties must be able to ventilate issues, criticise and put across alternative positions and policies within the *modus operandi* of the set mechanisms.” (Commonwealth Parliamentary Association, 2001)
- 1.7 In different jurisdictions the tension between parliament and executive is resolved in different ways, the outcomes of local political histories. At one extreme is the United States. There, underpinned by a distinctly precautionary attitude to the executive arm, in effect the Congress rules. “In the only example of its kind, the United States Congress has virtually unlimited powers in budgeting. Frequently, it discards entirely the draft budget submitted by the president and, taking advantage of its own extensive research resources, compiles a quite different budget” (O’Toole, 1997).
- 1.8 It may also be noted that under the US constitution, which provides (as does ours) for a bi-cameral system both the House and the Senate have a role in the budget. In Ireland it is principally the Dáil that has such a role.
- 1.9 At the other end of the spectrum to the United States is the Westminster model which is the model that prevails in Ireland. In the US model there is a clear-cut constitutional separation of the three arms of government, courts, legislature and executive. In the Westminster model the separation of powers in respect of the executive and legislative arms of government is adulterated or hybridised. The constitutional practice is one of the executive in parliament. The critical aspect of this model from the point of view of this paper is that only the government can propose a tax plan or spending item. Parliament can defeat a proposal or reduce the amount involved but it cannot increase the sums or re-allocate them to take account of different priorities. Generally speaking

the Opposition is confined to seeking to vote down the government which would of course cause a general election.

- 1.10 There are other models, in between as it were, such that allow for example, parliaments a greater power of amendment and change: in most EU member states parliaments are allowed to increase spending and taxes or reduce them by voting amendments, but only within strict limits, such as, for example, that the deficit may not exceed the target proposed by the government. We also find internationally (e.g. The Netherlands and Germany) some parliaments with quite powerful, well-resourced, permanent Budget committees (as well as PAC-type structures and equivalents of our C&AG).
- 1.11 Our current Constitution requires the Government to prepare Estimates of the Receipts and Expenditure of the State for each financial year and to present them to the Dáil. The Dáil is then required to “consider” those Estimates.
- 1.12 The purpose of this submission is to assist the Committee in debating what alterations and improvements it might wish to suggest in order better to enable the Dáil better to discharge this constitutional function in a meaningful way. A meaningful way being one that ensures that consideration of the Estimates by the Dáil is timely and informed and, therefore, relevant.
- 1.13 From the parliamentary perspective the key words here are *meaningful, timely, informed* and *relevant*.
- 1.14 Generally parliamentary consideration of the whole budgetary cycle comprises two phases – *ex ante* and *ex post*. Our system is no exception in this regard. Broadly Dáil consideration of the Estimates conforms to the *ex ante* phase while consideration by the Committee of Public Accounts of the annual reports of the Comptroller and Auditor General may be seen as the key element in the *ex post* (or audit) phase of the cycle.
- 1.15 But is the Dáil’s consideration of the Estimates as a practical matter meaningful and timely from the point of view of scrutiny and accountability? Does the detailed information on the Estimates arrive before the Dail in a timely manner? Are Deputies fully informed and equipped, might they be better informed – for example through better professional support and expertise? Overall, are the Estimates and budgetary cycles as dealt with by the Dail really relevant to providing the public with appropriate information necessary to making an informed judgement of the financial control and performance of government?
- 1.16 The rest of this paper is divided into five sections including an executive summary. The next section deals with issues arising in relation to the core constitutional and statutory underpinnings of our public financial system – Appropriation and Grant of Supply. Section 3 provides an outline of the Irish system from the perspective of the parliamentary cycle and scrutiny, *ex ante* and *ex post*. Section 4 contains a critical discussion of the Irish system while Section 5 has a discussion of local government. The executive summary is provided in Section 6.

2. Appropriation and Grant of Supply: legal and constitutional issues

- 2.1 A brief description of the State's financial procedures is necessary. Much of this procedure predates the State itself. Some of it is explicitly recognised, and some implicitly, in certain provisions of the Constitution. A question raised in this section is whether present day procedures adequately reflect the mandatory constitutional requirements.
- 2.2 The rules governing the State's financial procedures are not set out in any one place. They are to be found in the Constitution, the standing orders of the Dáil (together with parliamentary custom and practice) some pre-independence statutes, the most important of which dates back to reforms introduced by William Gladstone as Chancellor of the United Kingdom Exchequer in 1866¹, and Acts of the Oireachtas.
- 2.3 The starting point is that the Government, with limited exceptions that can be ignored, has no money and, of itself, has no power to raise money or even to spend public money that has already been raised. Government Ministers do, however, have charge of the State's public services and so they do have large ongoing spending commitments.
- 2.4 Historically, the finances of the state were organised on a rigorously annual basis. First, parliament – or its lower, representative house – would supply only so much money to the government as would enable it to provide public services for one year.
- 2.5 The statutory basis for annual parliamentary control of government expenditure derives from 1688, when a standing army was legalised but its expenses were only granted for a year ahead by an annual vote, the “supply”. Gradually the principle that expenses be granted for a year ahead and for clearly defined purposes was extended to other areas of government expenditure until, by 1830, the expenses of all civil expenditure were so provided.
- 2.6 Second, parliament also insisted that the “ways and means” to raise the revenue needed to meet the supply it had granted would be legislated for only on an annual basis – “ways and means” being a euphemism for taxes and duties. It was not until as recently as 1972 that the Finance Act of that year finally put the charge to income tax on a permanent statutory footing. Up to then, without annual renewal by the Oireachtas, the income tax would have lapsed, although the enabling machinery would have remained on the statute book.
- 2.7 And third, the government could use the moneys supplied to it each year only to meet charges on the revenue that fell for payment within that year. Unspent money was returned at year's end to the Exchequer. The Government could not set aside money for future needs, even if those future liabilities were measurable and certain. They could only be met in the year when the obligation to pay crystallised. This is the origin of the State's adherence to cash accounting, as opposed to resource or accruals based accounting.

¹ Exchequer and Audit Departments Act 1866.

- 2.8 It has since 1891 been a rule of law that, where an Act authorises any sum to be issued out of the Central Fund towards making good the supply granted for the service of any year, every sum issued in pursuance of that Act must be applied towards making good the supply so granted at the time of such issue.²
- 2.9 The thinking behind all of this was so as to ensure that the government would have to call a parliament each year and could not attempt to govern without it or without being accountable to it. Keeping a tight control of the purse strings secured greater accountability of government to parliament – not, perhaps, strict financial accountability but a measure of democratic accountability.
- 2.10 The extent to which the Constitution still insists upon the annual nature of the State’s financial cycle is one that arises for detailed consideration.

Revenue

- 2.11 Nowadays money is raised through permanent taxes imposed by laws passed by the Oireachtas. No further legislation or other annual action by the Dáil is required, unless there is to be a change in the rates or in some detail of the charging provisions.
- 2.12 Any Government proposal to raise money by imposing a tax or other charge must be approved by a financial resolution of the Dáil before legislation can be passed to give effect to that proposal. Amendments to the tax laws also require financial resolutions. Only the Government can introduce a financial resolution. (There are no financial resolutions in the Seanad, which has only a limited role in matters of taxation and expenditure.)
- 2.13 Article 17.1.2 of the Constitution is a reflection of the ancient rules according to which both the grant of supply, the approval of ways and means to meet the amount granted and the necessary legislation to give effect to both those votes must all be accomplished within the year to which the spending relates. The Article states that, save as may be provided by specific enactment in each case, the legislation required to give effect to the financial resolutions of each year must be enacted within that year.
- 2.14 The Budget is an outline of the Government’s proposals on expenditure and on the means of meeting that expenditure. The Financial Statement is accompanied by a set of proposals for financial resolutions authorising legislative changes to taxes and duties. The changes will, for the most part, be incorporated in the annual Finance Bill. If the Minister for Finance was satisfied that the existing tax framework would meet his needs, there would be no financial resolutions, no questions to be put to the House and so no votes on Budget Night.
- 2.15 Since the State changed its financial year to the calendar year, the Budget, which precedes the commencement of the financial year, must now take place in the previous November or early December. This means that the legislation to give effect to the financial resolutions passed in connection with the Budget is no longer enacted within the year in which those resolutions are passed, as Article 17.1.2 envisages. The

² Public Accounts and Charges Act 1891, section 2 (1).

necessary enabling provision to cover this, constitutionally unenvisaged, situation is included in the annual Appropriation Act.

- 2.16 Article 17.1.2 and its impact on the Provisional Collection of Taxes Act 1927 is discussed in Kelly, *The Irish Constitution*, where the authors query the constitutionality of that Act. The 1927 Act³ repeats the provisions of a British Act of 1913 and purports to give immediate statutory effect, pending confirmation by subsequent legislation, to Dáil resolutions that are stated to have been passed under the Act and that either introduce new taxes or increase or vary existing taxes. It also entitled the Dáil simply to maintain in being an existing tax, a consideration of some importance when income tax, for example, was due to lapse at the end of every financial year.
- 2.17 In considering the constitutionality of the legislation one should bear in mind that the reference in Article 17.2 to “Financial Resolutions” is confined to resolutions expressly passed under and for the purposes of the 1927 Act. A Dáil resolution imposing taxation (a “charge upon the people”) or increasing, reducing or otherwise varying a tax, is necessary before any Bill on taxation can be introduced.
- 2.18 The Finance Bill 2004, for example, was preceded by one Budget day financial resolution in general terms (“that it is expedient to amend the law relating to inland revenue (including value-added tax and excise) and to make further provision in connection with finance”) and, subsequently, by 23 financial resolutions setting out in some detail the substantive changes proposed to the tax code. These were not Budget day resolutions and none of them were given any immediate statutory effect.
- 2.19 What Article 17.1.2 requires is that first, implicitly, there must be prior Dáil resolutions before a Finance Bill – or any Bill dealing with taxation – can be introduced into that House and that, second, the Bill to give effect to that resolution must then be introduced and passed within the same year.
- 2.20 Viewed against that light, Article 17.1.2 does not seem to provide any cover against the attack which could be mounted on the constitutionality of the 1927 Provisional Collection of Taxes Act. The Constitution envisages subsequent legislation to “give effect” to financial resolutions and imposes a deadline for its enactment. The 1927 Act purports to give some of those resolutions immediate statutory effect, while acknowledging that legislation is necessary to confer permanent effect. The doubt as to the constitutionality of the Act arises from the fact that it seems to delegate the power to make law to just one House of the Oireachtas.
- 2.21 While this argument may not seem directly relevant to a consideration of the Estimates procedure, there is a striking similarity between the statutory provisions by which Dáil financial resolutions are given statutory effect pending taxation legislation, on the one hand, and the legislation governing authority to spend public moneys both prior to Dáil approval of the Estimates and after that approval but before enactment of the Appropriation Act, on the other hand.

³ (as amended by the Appropriation Act 1991).

2.22 It has been pointed out that a comparable challenge was made to the Imposition of Duties Act 1957⁴, which conferred power on the Executive to impose or vary taxes by Ministerial order. (By way of contrast, what is at issue here is legislation conferring statutory effect on a Dáil resolution, rather than an executive order.) While the challenge to the 1957 Act succeeded in the High Court, it was set aside on appeal, on purely technical grounds. Nonetheless, the Government has made no orders under the 1957 Act since that case.

Expenditure

2.23 The taxes and duties collected by the Revenue Commissioners are paid by them into the Central Fund, also called the Exchequer or the Exchequer Account, at the Central Bank. This does not, however, make the money accessible to the Government. Both Dáil approval and legislative sanction are required before the Minister for Finance can issue moneys from the Central Fund.

2.24 In order for the Government to gain access to money in the Exchequer, one of two things must happen. Either there is Dáil approval and subsequent legislative sanction for a recurring item of expenditure to be met by way of a permanent charge on the Central Fund (“Central Fund services”), or there is a Dáil vote and subsequent legislative sanction for money to be supplied to the Government on a once off basis, to meet its expenses for the current year (“supply services”).

2.25 Permanent charges on the Central Fund are considered appropriate on an ongoing basis for expenses such as judges’ salaries, returning officers’ expenses for general elections and contributions into the National Pensions Reserve Fund, which should not be the subject of annual Dáil debate and decision.

2.26 Annual spending, on the other hand, is approved through the Estimates procedure. The annual Estimates are broken down into 39 separate categories called Votes, each of which is considered and voted on separately.

2.27 Each Vote is the responsibility of an accounting officer, normally the secretary general of a Government Department or an officer of equivalent rank in another public body.

Grant of supply

2.28 At its simplest, then, the bulk of public expenditure requires four steps to be taken: the presentation of spending Estimates to the Dáil; Dáil approval of the Estimates – the vote of supply; legislation to authorise money to be issued from the Central Fund to “make good the supply” granted by the Dáil; and the statutory appropriation of the moneys issued to specific public services and purposes.

2.29 However, traditionally these steps had to be taken within the year to which they related and, by the time they were completed, a significant portion of the year was over. Meanwhile, the Government had bills to pay. Up until 1965, the process was completed in the following way.

⁴ *McDaid v Sheehy* [1999] I IR 1.

- 2.30 The State's financial year, like the tax year, ran from April to March. The annual parliamentary financial cycle began in February or early March with a debate on a "vote on account". In the vote on account, the Government sought a grant of supply to meet day to day expenditure for the new financial year until such time as the Estimates were approved and the Appropriation Act was passed.
- 2.31 The vote on account provided approximately one-third of the amount required to run the public services during the forthcoming financial year and so enabled these services to be maintained while the individual Estimates were being considered by the Dáil.
- 2.32 The supply granted in the vote on account was given legislative sanction by the annual Central Fund Bill, passed sometime in March. That Act authorised the Minister for Finance to issue from the Central Fund the amount granted under the vote on account. The amount authorised was a lump sum and was not at that stage "appropriated": that is, specific amounts were not specified for specific purposes within the public service as a whole.
- 2.33 Consideration of the Estimates by the Dáil could, since the amount provided in the vote on account was sufficient to cover expenditure for the first four months of the financial year, last until the end of July. At that time an Appropriation Bill, which provided statutory authority for the Estimates, was introduced and passed.
- 2.34 In fact, the Appropriation Act did two things. Technically speaking, it was both a Supply Act and an Appropriation Act. First, like the Central Fund Act passed earlier in the year, it gave statutory confirmation to a grant of supply and provided sanction to "apply a certain sum out of the Central Fund to the services of the year". This was therefore the second issue of a lump sum from the Central Fund but it was the first and only one to be calculated by reference to the Estimates that had just received Dáil approval.
- 2.35 Second, the Appropriation Act also disaggregated or "appropriated" the two figures, by breaking the total down into smaller sums issuable in respect of the various services and purposes by reference to which the Estimates had been presented and supply had been voted.
- 2.36 It was said earlier, in relation to revenue, that approval of taxes and duties needed to raise the revenue to meet supply was procured first by way of Dáil resolution and subsequently confirmed by legislation. Equally, on the expenditure side, supply was granted by Dáil vote and these votes were then confirmed in the Central Fund and Appropriation Acts. So, the Dáil grants both supply and the ways and means to meet the supply: the Seanad merely considers these matters, which are sent to it in a Money Bill, and then returns the Bill to the Dáil either with or without its recommendations.
- 2.37 The result, up until 1965, was that no money issued from the Central Fund for any year without advance statutory authorisation passed in that year. And, with the passing of the Appropriation Act, the total sum issued was broken down into the specific purposes by which authority to spend had been granted.
- 2.38 The principle of appropriation was originally considered to be one of high constitutional importance. The individual sums granted as supply had to be appropriated by legislation

to the specific services for which they were voted in the Estimates. Appropriation is referred to in Articles 11, 17.2 and 22.1 of the Constitution.

2.39 Three important rules derive from the principle of appropriation. First, a sum that has been appropriated by law to a particular service cannot be spent on another service. Second, the sum appropriated for a particular service is a maximum. Third, the money appropriated is available only to defray costs which arose in the year of appropriation and money unspent therefore had to be returned to the Exchequer. Cash based accounting derives from principles of appropriation.

Central Fund (Permanent Provisions Act)

2.40 However, radical reforms introduced in 1965 have the consequence of making the annual Appropriation Act of little or no practical significance, at least insofar as legalising current year spending is concerned.

2.41 The arrangements in place up to that year were criticised on the grounds that, in effect, somewhere between a third and a half of the parliamentary year was taken up with the vote on account, the Budget, the Estimates and the Finance Bill. All these matters were debated in the Dáil or in a committee of the whole House. Rules of relevance were relaxed and speeches expanded to fill the time available. It may be doubted whether the four months at least in each year devoted to finance resulted in any greater scrutiny of expenditure proposals or outcomes than would now be the case.

2.42 The radical changes referred to were made by the Central Fund (Permanent Provisions) Act 1965. In the first place, it became no longer necessary to introduce a vote on account for the forthcoming financial year and then give legislative effect to the vote on account by way of an annual Central Fund Act. Section 2 of the Act authorises the Minister for Finance, before seeking supply from the Dáil and by reference instead to the sums that had been appropriated in the preceding year, to draw down up to four-fifths of those amounts in order to meet expenditure in the current year. The proviso is that he must at some stage seek supply from the Dáil for those services during the current year.

2.43 But secondly, under the 1965 Act, once the Dáil has voted supply by approving the current year's Estimates, the Minister then becomes entitled to issue out of the Central Fund the amounts so granted, by reference to the amount voted for each supply service, without any need for a further annual statutory authorisation.

2.44 And, where supply is granted for a new service, the Minister becomes entitled to issue money to make good supply for that service, again without further statutory authorisation.

2.45 So, it is no longer necessary for the Appropriation Act to precede the issue of supply. In other words, the major change made in 1965 is that the annual Appropriation Act is no longer required to be in place so as to give prior legal authority for the issue of money from the Central Fund, once the Estimates have been approved. That statutory authority is given on a permanent basis by sections 2, 3 and 4 of the Permanent Provisions Act of 1965.

- 2.46 There is a vital, if somewhat obscure, difference between legislation on supply and on appropriation. This is recognised by Article 22.1.1 of the Constitution which defines Money Bills and which lists supply and appropriation separately⁵. Legislation is required to sanction a grant of supply and also to appropriate the individual sums granted as supply to the specific purposes for which they were voted. Up till 1965, the Appropriation Act did both these things. Since then, the Act only does the latter.
- 2.47 It follows that, if the Appropriation Act is not needed in order to give statutory sanction for the grant of supply, then spending, which has taken place in the interim on a lawful basis would not become unlawful or “unsanctioned” if, for some reason, there was no Appropriation Act passed in the last few days of the financial year.
- 2.48 There is still an annual Appropriation Bill. However, although this was not stated as an intended consequence of the 1965 reforms, the Appropriation Bill no longer follows immediately upon the approval of the Estimates.⁶ Instead expenditure, including increased expenditure and new expenditure, is continued on the authorisation of sections 3 and 4 of the 1965 Act and the Appropriation Act is introduced towards the very end of the financial year.
- 2.49 At that stage it can include within its ambit any Supplementary Estimates that may have been introduced and approved. Supplementary Estimates were previously rounded up and given authorisation by the annual Central Fund Act. In the UK there is a succession of Consolidated Funds Acts throughout the year, to deal with a succession of Supplementary Estimates which sanctioned both additional spending at the end of one financial year and spending on account at the start of a new one.
- 2.50 As a result, it might be wondered what precisely the Appropriation Act achieves or is intended to achieve, as a matter of law. In other words, what would be the consequence of its not being passed? The Act no longer authorises the issue of money towards supply and is not needed for that purpose. It is required for the purposes of the machinery by which sums voted by the Dáil are accounted for to the Dáil but these purposes must be considered to be ancillary or consequential rather than the primary purpose of the Act.
- 2.51 The Act is described by the Department of Finance⁷ as giving “statutory effect” to the Estimates but that does not seem to be the case – at least if statutory effect is a pre-requisite to acting on foot of the Estimates once approved, since the supply voted in the Estimates is largely and lawfully spent by the time it is enacted. The question of “statutory effect” is dealt with in more detail below.

⁵ The definition of a Money Bill is taken, almost word for word, from the Parliament Act 1911 (UK) which reflects the historical continuity of arrangements in the independent state.

⁶ SO 151 requires that: “on the completion by the Dáil of the consideration of any Resolution, or series of Resolutions, voting money for public services ... a Bill shall be prepared and initiated by the member of the Government in charge of the Department of Finance, or another member of the Government acting on his or her behalf”. The standing order envisages some degree of immediacy and is not complied with.

⁷ *Public Financial Procedures*. Department of Finance.

- 2.52 The Appropriation Act does, however, purport in some way to appropriate the money that has been issued under the permanent statutory provisions governing the Central Fund.⁸
- 2.53 There was always in practice a certain retrospective element to the Appropriation Act. The annual Central Fund Act, which authorised the issue of money to meet the vote on account, did not appropriate that money to specified purposes.
- 2.54 Because the Appropriation Act is now passed so late in the financial year (usually in the last days of December), there is little or no spending left on which the Act can have a prospective effect. And the Act is no longer drafted so as to have retrospective effect on money already issued. In other words, the appropriation section of the Act no longer has a “deeming” provision as it used to do, by which moneys issued from the Central Fund are deemed to have been appropriated to specified purposes and services as from the date they were issued.
- 2.55 If “appropriation” means the identification, or earmarking, of specific amounts of money for specific purposes, it may well be asked how the Oireachtas can in any meaningful sense be said to appropriate public moneys for specified services and purposes when those moneys have already been drawn down and have already been spent. The reality is that to some limited extent the Oireachtas had done so prior to 1965, as has its predecessor as parliament in this jurisdiction.
- 2.56 Such contemporaneous appropriation as does take place is now in fact achieved under the provisions of the Central Fund (Permanent Provisions) Act 1965, which requires that, in issuing sums for particular services, there must be reference to the services for which sums were appropriated in the previous year’s Appropriation Act. It is the previous year’s Act, together with the eventual approval of the current year’s Estimates, which set out the parameters by reference to which the Minister for Finance becomes entitled to issue money to meet the current year’s expenditure.
- 2.57 So, a failure for some reason to pass a 2005 Appropriation Act would not affect the lawfulness of spending already incurred this year – but it would create considerable difficulties in 2006.
- 2.58 As pointed out earlier, the requirement for prior statutory appropriation was previously considered a matter of constitutional principle. A 1784 resolution of the British House of Commons recites that public officials who act on a grant of supply after it has been voted but before it has been appropriated by statute are guilty of “a high crime and misdemeanour”. Whatever weight may originally have attached to that warning was significantly diluted when that House began to vote supply on account and to appropriate up to 40% of expenditure on a retrospective basis. In the modern Irish context, the warning now appears to have no significance.
- 2.59 Given, however, that “appropriation” is a term of art with a fixed meaning and that presumably the term appears in three Articles of the Constitution with the meaning it would have had in 1937, one might query whether the whole scale “after the event”

⁸ The Act also authorises the application of certain income accruing to public bodies, from charges, proceeds of sale and so on, as “appropriations-in-aid” of the sums granted by the Dáil. This “own income” must then be applied, audited and dealt with as if it had been voted by the Dáil.

appropriation by the Oireachtas of public moneys that have already been issued and spent satisfies either the spirit or the letter of the Constitution.

- 2.60 It must, on the other hand, be acknowledged that debate on the Appropriation Bill was, long before 1965, regarded as a *pro forma* matter, all stages – including first stage, that enabled the Bill to be printed and circulated – being taken in one day and without debate. The real debate was on the Estimates, which mirrors the practice in Westminster.
- 2.61 More worryingly, the fact is that the resolutions of the Dáil approving the Estimates now acquire statutory validity under the 1965 Act and so constitute immediate authority to operate the Central Fund, as if they were incorporated in an Act of the Oireachtas and as if moneys had been appropriated by statute for the purposes set out in the resolutions. This means that the Central Fund (Permanent Provisions) Act 1965 and the annual Estimates stand in much the same relation to each other, on the expenditure side, as the Provisional Collection of Taxes Act 1927 and the financial resolutions under that Act do on the revenue side. And, as has been pointed out, the constitutionality of that latter arrangement has been queried.
- 2.62 The similarity is that, in both cases, permanent legislation provides that a Dáil resolution that was once a procedural step – a necessary and important one – prior to the initiation of a Bill for an Act of the Oireachtas becomes instead a substitute for that Act, so that the necessary legislation is in fact brought in at a much later stage.
- 2.63 The analogy is not exact because the financial resolutions under the 1927 Act have only a temporary or provisional validity and must be confirmed in the Finance Act. Dáil approval of the Estimates, on the other hand, receives no subsequent statutory confirmation at all. The Appropriation Act is no longer a Supply Act. It appropriates money already supplied but no longer provides the statutory authorisation for such supply. So, approval of the Estimates by resolution of the Dáil becomes authority to issue money to make good that grant of supply, without the need for any legislation to confirm the grant.
- 2.64 There is a difference – at least on the level of principle and theory, if not so much in practice – between both Houses passing a law to give legal effect to an extant resolution of the Dáil, on the one hand, and both Houses passing a law that will give automatic legal effect to future Dáil resolutions, on the other. The difference between the two is that Article 17.1.2 envisages the first procedure, but requires it to be completed within one year, while the second procedure is arguably an unconstitutional delegation to just one House of the Oireachtas of the power to make laws, a power which belongs to the Oireachtas as a whole.
- 2.65 The argument is that, instead of the Dáil having sole power, at the request of the Government, to initiate the process for a new law, the Oireachtas has delegated to the Dáil the sole power to make new law.
- 2.66 The overall result of the 1965 Act is that, while Articles 21 and 22 of the Constitution make elaborate provision for Money Bills and define that term to include Bills dealing with both appropriation and supply, there are no longer any Supply Bills at all and

Appropriation Bills are introduced and passed long after the money they seek to appropriate has left the Central Fund.

- 2.67 Having regard to those two Articles of the Constitution, there can be no doubt but that both supply and appropriation are considered to be properly the subject matter of Acts of the Oireachtas. A permanent provision that eliminates the need for one set of such Bills and makes the other almost devoid of purpose may be of doubtful validity.

What is a “Financial Resolution”?

- 2.68 However, the situation is potentially even more serious. It might be presumed that the expression “Financial Resolution” used in Article 17.1. 2 has a fixed and easily ascertainable meaning that is derived either from statute or parliamentary usage. The Acts – all of them tax Acts – that use the term do so without defining it, as if it had a meaning in parliamentary usage. And those Acts are confined to references to resolutions passed under the Provisional Collection of Taxes Act 1927.

- 2.69 The term was not used at Westminster except, it seems, sometimes as an informal alternative to what are properly called Money Resolutions⁹. Such resolutions had nothing to do with the annual budgetary cycle.

- 2.70 Article 17.1.2 of the present Constitution replicates Article 35 of the 1922 Constitution which, as originally drafted, read –

The Chamber/Dáil Éireann shall, as soon as possible after the commencement of each financial year, consider the Budget of receipts and expenditure of the Irish Free State/Saorstát Éireann for that year, and save in so far as may be provided by specific enactment in each case, the legislation required to give effect to the Budget of each year shall be enacted within that year.

- 2.71 However, a Committee on the Executive Articles of the Constitution, which reported on the 12th October 1922, made amendments to the draft text, including the dropping of the word “Budget”. In presenting the report of the committee, it was argued that –

the word “budget” is objected to by many people on the ground that it was taken from another Parliament and we are substituting the word “Estimate” instead. It is necessary as we used the expression “Estimate” in our draft [of a new Article 54] and we think that the word “Estimate” should be substituted for the word “budget” where it occurs in Article 35 the first time, and also where it occurs the second time and, in cases where the word “Estimate” does not fit we used the words “financial resolution”.

- 2.72 However, Kevin O’Higgins, who steered the Free State Constitution through the Dáil, clarified the matter¹⁰.

⁹ These were resolutions that had to be passed before legislation could be enacted creating a new and continuing service entailing public expenditure beyond the current year. Such legislation would include, say, an Act setting up a legal aid service. There is no longer any requirement for money resolutions under Dáil standing orders but there is a need, under Article 17.2 and under standing orders, for a message from the Government recommending the purposes of such a Bill.

¹⁰ Dáil Debates, 18th October, 1922.

Amendment 36 reads: “Article 36, page 7, line 33 – To delete word ‘Budget’ and insert word ‘Estimates.’ ” It is proposed to delete there the word “Budget” and insert the word “Estimates.” The reason for that is not that the word Budget is a term in use in the British Parliament, but simply because Estimates is the more accurate word. I am informed by experts who understand the business that before the end of this financial year there will have to be some financial performances which could not strictly be called a Budget, and would more strictly be called Estimates. On line 37 it is proposed to delete the word “Budget” and insert the words “Financial resolutions.” Both of these amendments refer to Article 36 ... I might say an explanatory word. The first reference to Budget refers to estimates before the end of the previous financial year, and the second reference to Budget should be “financial resolutions,” because it refers to the proceedings after the commencement of current financial year upon which subsequent legislation is founded. This is done under existing Statute. The Budget, there in each of these references, means two separate performances; one is estimates before the end of the current financial year, and the other refers to the proceedings after the commencement of the current financial year.

- 2.73 The chairman of the committee which produced the original draft, Gerald Fitzgerald, then added further clarification.

I am afraid the unfortunate report of the unfortunate Committee over which I had the misfortune to preside, saddled the poor Ministers with this. It is not really their fault. It has been pushed upon them, but the corrections are certainly right, because the word Budget, as the Minister has stated, is used in two entirely different senses, and therefore it is obviously improper to use the same word in the same section with two different meanings. In the first place it must mean estimates of the receipts and expenditure, and why not say so, and in the second place it means the resolutions necessary to provide for expenditure and taxation necessary for the coming year. I recommend with all sincerity this amendment to the Dáil. (Emphasis added.)

As so amended, Article 36 read –

Dáil Éireann shall as soon as possible after the commencement of each financial year consider the Estimates of receipts and expenditure of the Irish Free State (Saorstát Éireann) for that year, and, save in so far as may be provided by specific enactment in each case, the legislation required to give effect to the Financial Resolutions of each year shall be enacted within that year.

The underlined portion of that text now forms Article 17.1.2 of the present Constitution.

- 2.74 The Free State Dáil had no standing orders on financial procedure until the 8th March 1923, some time after the Constitution of the Saorstát Éireann came into force. The standing orders introduced at that stage are to a large extent reflected in the 1923 text of what are now SOs 147-157. The term “Financial Resolution” is not used in the body of the text and there are no marginal notes. The second of the 1923 standing orders on financial procedure is in even terms with what is now SO 151 and reads –

On the completion by Dáil Éireann of the consideration of any Resolution or series of Resolutions voting money for Public Services, or imposing charges on the public

revenue or on the people, a Bill shall be prepared and introduced by the Minister for Finance.

- 2.75 In 1937, when the present Constitution was being debated in draft form, the relevant standing order was SO 102 and referred, as the present text does, to resolutions “voting money for public services or imposing taxation”.
- 2.76 With the explanatory gloss provided by the Dáil debate on the forerunner of Article 17.1.2 and by reference to the contemporaneous standing orders, the Article can today be understood as stating that the legislation required to give effect to the Dáil resolutions of each year that vote money for public services or impose taxation must be enacted within that year.
- 2.77 It is not apparent as to why, in subsequent editions of the standing orders when marginal notes were introduced, at some stage resolutions imposing taxation (“imposing charges on the people”) became referred to as Financial Resolutions whereas Resolutions voting money for public services (“imposing charges on the revenue”) were not. It is clear that the two sets were originally grouped together because they both required implementing legislation in order to take effect.
- 2.78 In present day Dáil usage, the term “Financial Resolution” is still not used in the body of the standing orders. It does, however, appear in the marginal notes and it refers only to resolutions that precede a Finance or other Bill imposing a tax. Votes on the Estimates are referred to separately¹¹.
- 2.79 But it seems clear from the views of those who drafted both the original Constitution and indeed the Dáil’s original standing orders that the term includes both what would once have been called ways and means resolutions and also resolutions on supply – the votes approving the Estimates. And of course, while a change in Dáil usage and terminology might be valid enough in its own context, although not to be encouraged if it led to confusion, it could not effect any change to the meaning of a term once it had been enshrined in the Constitution.
- 2.80 That the votes on the Estimates are Financial Resolutions also appears to be the Department of Finance’s understanding of the situation. The Department, in paragraph B1.1-15 of *Public Financial Procedures*, refers to Dáil resolutions approving the Estimates as “Financial Resolutions”.
- 2.81 The same publication also describes the annual Appropriation Act as “giving statutory effect” to the Estimates, a phrase that echoes Article 17.1.2. The difficulty that arises is that the Appropriation Act no longer purports to do any such thing.
- 2.82 If it is correct to say that votes on the Estimates are Financial Resolutions within the meaning of Article 17.1.2, then annual rather than permanent legislation is required to “give effect” to the annual grant of supply. The Appropriation Act is no longer a Supply Act. It merely appropriates money that has already issued to make good the grant of supply under the authority of the permanent provisions of the 1965 Act.

¹¹ See, for example, SO 147, headed: “Estimates and Financial Resolutions to be considered in committee”.

2.83 In straightforward mechanical terms, the Appropriation Act used to have two relevant sections. One of them would have been in similar terms to the Central Fund Act passed earlier in the year to cover payments to meet the vote on account and would have read as follows –

The Minister for Finance may issue out of the Central Fund and apply towards making good the supply granted for the service of the year ending on the thirty-first day of March, one thousand, nine hundred and X, the sum of Y pounds.

The second section would have read –

All sums granted by this Act and the [Central Fund Act] out of the Central Fund towards making good the supply granted, amounting, as appears by the said Schedule, in the aggregate to the sum Z pounds, are appropriated and shall be deemed to have been appropriated as from the date of the passing of the Acts ... for the services and purposes expressed in Schedule B ...

A modern day Appropriation Act has only one relevant section, reading as follows –

The sums granted by the Central Fund (Permanent Provisions) Act 1965 out of the Central Fund towards making good the supply granted, amounting in the aggregate to the sum of X euro for the service of the year ending on 31 December 200Y are appropriated for the services and purposes expressed in the Schedule to this Act.

There is an appropriation but there is no statutory grant of supply. Instead the reference is to the supply already granted by the 1965 Act.

2.84 If the Estimates are financial resolutions and if, as Article 17.1.2 seems to require, subsequent legislation is needed in order to give effect to them, then the Appropriation Act does not meet that need.

2.85 It might be argued that, if a statute making permanent provision for supply is unconstitutional, why would not a statute making permanent provision for taxation also be unconstitutional? Part of the answer would be that Article 17.1.2 allows for exceptions to be made to the general rule (“save in so far as may be provided by specific enactment in each case”). And also that, while it is possible to draft a permanent Tax Act that does not make reference to or purport to give effect to annual resolutions on ways and means, it is not possible to draft a permanent Supply Act otherwise than by reference to the annual votes on supply. And, if Article 17.1.2 requires that the annual votes be confirmed by a subsequent statutory grant, then permanent legislation cannot substitute for that requirement.

2.86 The framers of the Free State Constitution and the drafters of the standing orders of its Dáil – who were one and the same set of people – were inheriting and operating under a complex set of rules, reflected in statute and in parliamentary practice. Those rules required that there be legislation passed annually in order confirm the grant of supply given annually by the lower House. Such legislation had to be in place in order to authorise any sum to be issued out of the Consolidated (now Central) Fund towards making good the supply granted for the service of that year. Issues out of the Central Fund in the absence of such legislation were impermissible. That was the reason for the

prior Central Fund Act in each year: in order to authorise the issue of interim sums to meet the supply granted by way of vote on account.

- 2.87 The Central Fund (Permanent Provisions) Act 1965 has dispensed with the need for annual legislation to confirm the supply granted by way of Financial Resolution of the Dáil. Its constitutionality must be doubted.

Comptroller and Auditor General

- 2.88 The office of Comptroller and Auditor General combines two functions, originally held by different office holders. As Comptroller General of the Exchequer, he is a sort of co-signatory on the Exchequer Account at the Central Bank and his consent is required to the issue of moneys from that account to the Minister for Finance. The Minister sends him a requisition, specifying the purpose for which the money is required, and the Comptroller, “if he is satisfied as to the correctness thereof”, grants a credit in that amount. Money cannot issue from the Exchequer save on the authority of the credits of the Comptroller and on the orders of an officer of the Minister.
- 2.89 And, while the immediate significance of the Appropriation Act, in terms of making lawful spending that would otherwise be unlawful, may be doubted, its principal ongoing importance is that it forms part of the framework within which the Comptroller and Auditor General performs his other set of functions, as Auditor General of the Public Accounts. Section 22 of the Exchequer and Audit Departments Act 1866, as adapted, requires that accounts of the appropriation of the various supply grants comprised in the Appropriation Act of each year must be prepared by each Department and be transmitted for examination to the Comptroller and Auditor General and to the Department of Finance. When certified and reported upon, they are laid before the Dáil and are examined on its behalf by the Committee of Public Accounts.
- 2.90 So, the purpose of the Appropriation Accounts is to reflect what has happened to the moneys that were granted by way of supply in the annual Estimates and Supplementary Estimates and were, eventually, comprised in the Appropriation Act.
- 2.91 And, while it is worth repeating that the failure to pass an Appropriation Act would not affect the lawfulness of a year’s spending, since access to the Central Fund no longer requires annual legislative sanction, the absence of such an Act would make accounting for that year’s expenditure, and the auditing of those accounts by the Comptroller and Auditor General, difficult if not impossible.
- 2.92 I make no recommendation or proposal arising from the above discussion pending seeking and having a professional legal opinion on the points raised. To this end the document has been forwarded to the Parliamentary Legal Adviser.

3. The Financial/Budgetary Cycle: our system in outline

“What is the committee asked to do with the revised Estimates? Is it being asked to approve them in terms of the way in which the money is being directed and confirm it is delivering results? When it does not have the evidence, it cannot rubber-stamp them.”

Richard Bruton TD,
Select Committee on Finance and the Public Service,
30 March 2005.

“As I observed at budget time, there are many reports, strategy statements and an entire range of documents and procedures which Departments are obliged to produce. In many respects, however, the Dáil consideration of these matters is *ex post facto* rather than prior to the decision-making process. We must devise a method of presentation for these strategy statements and reports through the committee system in a manner that is more meaningful for Deputies and which will foster greater debate.

(...)

“The preparation of spending proposals by Departments must be completely overhauled. Outcome and performance indicators must become central to the approval of annual spending budgets and failure to meet targets should trigger a programme review.”

Brian Cowan TD, Minister for Finance,
Statement to the Select Committee on Finance and the Public Service,
30 March 2005.

- 3.1 From the Dáil’s point of view – as opposed to the Departments, which take part in a long and protracted estimates formulation campaign usually commencing in the summer of each year in respect of the forthcoming financial/calendar year – the financial cycle has the following features.
- 3.2 The State’s financial year is the calendar year.
- 3.3 There are broadly two aspects to the cycle: *ex ante* and *ex post* – before and after the fact.
- 3.4 In respect of the *ex ante* dimension to Dáil consideration and scrutiny the principal features are:

Summer/autumn: the Estimates campaign, traditionally kicked off by cabinet memo and which is followed by the bi-lateral negotiations between spending departments and the Department of Finance that lead to the abridged version of the Book of Estimates (AEV). Traditionally this phase of the whole budget process is confidential to the departments and is not in our system subject to parliamentary scrutiny.

October/November: an abridged version of the Estimates of Expenditure (AEV) for the forthcoming year is usually published in late Autumn. The AEV contains simply a formal description of the services to be financed from each Vote (“the ambit of the

Vote”), the name of the Department responsible for accounting for the Vote and the gross provision sought in the Estimate by “subhead”. The subheads of a Vote are the headings under which the Department is required to account for the expenditure. It is claimed for the AEV that it is broadly compiled on a “no policy change” (NPC) basis, the simple continuation in the forthcoming year of policy as it stands. I'm pretty sure that is not really the case. Indeed, one of the main problems with the AEV is that one cannot tell what is NPC money, and what is additional money. While one may get a few announcements on the day of publication, there is almost no clarity on what the extra money (if extra it is) is being allocated for. One may also have situations where the Government increases expenditure by less than would be required to maintain the existing level of service, which is in effect a real cut. Again, when this happens, we don't know what is really being cut, and by how much. There is no effective parliamentary scrutiny of the AEV.

November/December: the White Paper on Income and Expenditure is published, traditionally the weekend before the Budget. This is the document which meets the constitutional requirement (Article 28.4.3) that the Government must present to the Dáil an estimate of receipts and expenditure for each financial year. It is also claimed for this document that it is compiled broadly on a no policy change basis. The White Paper is simply laid before the Dáil: as it is published immediately prior to Budget Day it is not subject to parliamentary scrutiny.

Budget Day: On the week immediately following the publication of the White Paper the Minister for Finance presents the annual Budget statement to the Dáil. Apart from setting out overall budgetary targets for the year and outlining any changes in taxation and, by convention, social welfare payments, there will also be changes announced to the already published (abridged) Estimates. Detailed statistical tables accompany the Financial Statement setting out the impact of announced changes on tax payers and social welfare recipients as well as on the government accounts. There is included now in these tables a relatively detailed presentation on a three year rolling basis of public expenditure trends on the basis of Budget Day changes. In addition there is an economic and financial commentary in conformity with the requirements of the EU Growth and Stability Pact. Over the following week the Budget is politically debated in the House.

Budget night: The Government introduces to the extent necessary Financial Resolutions to be voted upon by the House to give immediate provisional effect to any taxation changes that are proposed to have immediate effect (usually changes to the taxation of the “old faithfuls”) using the Provisional Collection of Taxes Act, 1927.

February: the annual Finance Bill, which gives legislative effect to the tax changes proposed in the Budget and to other taxation measures such as those provisionally effected on Budget night, is published. The committee stage of the bill is considered in detail by the Finance and Public Service Committee of the Dáil. The amount of time provided for the bill is usually insufficient in the context of both the volume of amendments proposed and the timing of the publication of the Bill. The guillotining of the proceedings in committee is normal.

March: The revised and more detailed Estimates Volume, incorporating more information and any Budget Day adjustments is published.

March to July: The Dáil votes on the individual expenditure Estimates. The individual Votes are considered by the relevant line select committees and are then in accordance with Standing Order 85 a message to the effect that “The Select Committee on [x] has completed its consideration of the Estimates for the Department [y].” When the Dáil approves the Estimates, expenditure in accordance with those Dáil resolutions is possible under law.

June/December: If additional moneys are required by departments, supplementary Estimates are submitted for approval by the Dáil.

December: The Appropriation Bill is passed and comprises the Estimates and any Supplementary Estimates approved that year by the Dáil.

- 3.5 There are two features of the *ex ante* cycle which are worth noting. The first is that the White Paper on Receipts and Expenditure, for all its constitutional significance, is a document that is not considered by the Dáil in any detail, if at all.
- 3.6 And the second is that the spending Estimates are not approved by the Dáil until half way through the year they relate to.

The *ex ante* issue

- 3.7 In summary, therefore, the issue for further analysis in this submission is in respect of the Estimates what arrangements are best put in place to ensure that Dáil consideration of the annual Estimates is timely and informed having regard to the facts that –
- Government spending may be incurred on an ongoing basis prior to presentation of the Estimates and pending their approval,
 - the Dáil is in a position to reject the Estimates or any individual Estimate or to decrease a Vote but not to increase a Vote or to transfer spending as between Votes,
 - approval of the Estimates by the Dáil alone, by simple resolution, constitutes sufficient legal authority for expenditure up to the amounts voted for that year, and
 - the Estimates as presented and approved will constitute the basis for the Appropriation Act and, more importantly, the Appropriation Accounts, by reference to which public expenditure will later be audited by the Comptroller and Auditor General and scrutinised by the Committee of Public Accounts, on behalf of the Dáil (the *ex post* aspect).

- 3.8 The main features of the *ex post* cycle are

Exchequer Statements: An account of the receipts into and issues from the Exchequer Account (on a cumulative basis from 1 January) is gazetted twice monthly in “*Iris Oifigiúil*”. These statements relating to the quarterly cumulative outturns (receipts and expenditure with the latter disaggregated to the level of Ministerial Vote Group) are the subject of detailed public commentary by the Minister and Department of Finance and attract considerable media coverage. However they are not scrutinised as a matter of course by the Dáil or its committees.

Finance Accounts: The Department of Finance is required by law each year to prepare and present to both Houses detailed audited accounts of the Central Fund for the previous year. Known as the Finance Accounts these are audited by the C&AG. The accounts detail receipts and issues from the Central Fund and details relating to the National Debt, provided by the National Treasury Management Agency. Prior year information is presented on a pro forma basis. The accounts are published using cash accounting principles. Historically the Finance Accounts have tended to be published quite late in the year (late December) although this year the Department of Finance has stated that the accounts for 2004 will be published not later than 30 September 2005. Traditionally the Finance Accounts are not scrutinised by the Oireachtas.

Appropriation Accounts: Each year the Comptroller and Auditor General publishes an Annual Report on the results of his audit of the Appropriation Accounts of all monies Voted by the Oireachtas in respect of the previous year. The report also contains the details of the accounts of all Central Government Departments. Again the accounting principles are cash based although a considerable amount of balance sheet-type information is also now included. It is intended that the Appropriation Accounts for 2004 will be published not later than 30 September 2005.

Proceedings of the Committee of Public Accounts (PAC): As soon as possible after the annual report of the C&AG is published the report and the accounts of the bodies audited are scrutinised by the PAC on behalf of the Dail, with the C&AG in attendance. Scrutiny is by way of examination of the Accounting Officers of the audited bodies (Government Departments and their related agencies where relevant). The scrutiny process is time consuming – usually being carried out over the 12 months following publication of the C&AG’s annual report. The PAC reports back to the Dáil on its conclusions. The practice recently adopted by the Committee is to publish its conclusions on a periodic basis through the publication of interim reports rather than at the end of its consideration.

- 3.9 Two features of the normal *ex post* cycle are worth noting. The first obviously is that the audit phase of the cycle (including in particular in the context of this submission, scrutiny by the PAC of the Appropriation Accounts) by definition cannot commence until after the end of the financial year. This gives rise to the issue of audit lag as it is referred to by accountants and economists. The audited government accounts currently are not published until almost a year after the end of the year in question although there does appear now to be a move to bringing publication dates forward.
- 3.10 Second, scrutiny by the PAC in turn is a long drawn out process, taking up most of a year. The result of this is that parliamentary scrutiny typically is very long lagged, focused in any year on accounts that are perhaps two years old. The process at present is more of historical than current relevance.
- 3.11 A key question in my mind is: “what do we want first, of the Government accounting and budgetary process and second, the Committee system in the context of parliamentary scrutiny of the whole budget cycle?” Essentially, the whole cycle of Government accounting should, if nothing else, be two things – a reliable and easily understood budgeting process and a reliable and easily understood reporting (or management accounting) process. The first should summarise the financial consequences of policy decisions to be implemented and the second should (against the

benchmark of the budgets or spending plans set) summarise the financial consequences of the actual implementation of those policies. The issue of timeliness is absolutely critical to both exercises. The other factor that is essential to a properly functioning system is appropriate detail – that is,

- sufficient evidence for a select committee to critically appraise a departmental budget or Estimate and the factors taken into account when drawing it up, and
- sufficiently detailed information and analysis for this Committee to critically appraise accounts after the event.

Together these might fall under the heading of “accessibility and interpretability”.

- 3.12 The view of this submission is that the Estimates – in both their abridged and revised forms – suffer from problems of accessibility and interpretability. Mention has been made of the difficulty in reality of interpreting the term “no policy change”. Another way of looking at this problem is from the standpoint of “existing level of service” (ELS) which is in turn connected with the concept of output (and performance) budgeting and public administration reform. How much really does it cost (current and capital, pay and non-pay) to operate the Met Office? What is the level of service (e.g. broadcast weather reports and sea area reports and so on) inherent in the operation of the Office? What is statutory and what is discretionary? Parliamentarians simply cannot at present with any clarity establish what level of service lies behind any policy or public service provision – e.g. the operation of the old age pension or another example, the vehicle and driver licensing system – and what the full delivery cost of a service is and what the underlying level of service is (e.g. a probationary driver will be provided with a test within x weeks of applying for a test).
- 3.13 Not only does the parliamentarian whether from the opposition or government backbencher, have problems I would suggest that the executive arm of government (whether in its political or its administrative manifestation) in large measure is equally in the dark. The dearth of detailed information on service levels and commitments and service level agreements (where they exist) makes it impossible for the parliamentarian to properly assess and scrutinise, certainly the *ex ante* cycle, the Estimates and Budget Day changes and announcements.
- 3.14 Section 5 of the Public Service Management Act 1997 provides that a strategy statement must be prepared in the form and manner directed by the Government and must comprise the key objectives, outputs and related strategies (including use of resources) of the Department of State or Scheduled Office concerned.
- 3.15 By section 1 of the Act, “outputs” is defined as meaning the goods and services (including standards of service) that are a consequence of the activities of the Department or Scheduled Office.
- 3.16 Which seems to be tied in with the concept of ELS.
- 3.17 Strategy statements – and the annual reports on the delivery of those statements – are defective as an aid is assessing what outputs a Department is committed to producing and are not designed so as to be of any assistance is assessing departmental

performance. Nor do they bear any relationship to the documents produced at any stage of the Estimates campaign.

- 3.18 The remedy is in the Government's own hands, since it is for the Government to prescribe the form and manner in which strategy statements are produced. Reform of the strategy statement process should be tied into any reform of the detail or nature of information set out in the Estimates volumes.
- 3.19 Under the heading "Funding of Entitlements", in Chapter 8 of his 1990 report on the payment of nursing home subventions by health boards, the Ombudsman wrote as follows.

Funding of Entitlements

Dáil Éireann might also wish to give consideration to the way in which, at present, it deals with the Annual Estimates. It might be useful if expenditures which are effectively non-discretionary (i.e. which arise from entitlements which must be met, for example, public service pensions) were identified. The Departments responsible for these expenditures would be asked to confirm that these were the best estimates of what was required to meet these entitlements; if this proved not to be the case, they would face questioning by the Public Accounts Committee in due course. If, because of a general need to reduce public expenditure, it became necessary to reduce the estimate for a non-discretionary service below the realistic amount, then the Department concerned would have to indicate the actions required to "square the circle". It would then be a matter for Dáil Éireann to decide how this might be achieved.

- 3.20 If ELS were adopted, then taking on board the Ombudsman's recommendation would be a relatively simple matter. In relation to each spending programme, as well as an assessment of the outputs to be produced for the figure sought, there would be an indication as to whether the service in question was one the Department was statutorily obliged to provide and recipients were statutorily entitled to receive.
- 3.21 The Centenarians' Bounty is, for example, a gratuity but the old age pension is not. If there is to be an across the board cut back in spending by a department – or a recruitment freeze impacting on the numbers employed to deliver the service – then the department must be in a position to explain how this can be achieved while retaining services at a level compatible with the performance of legal obligations.

Proposal

The Estimates volumes and Budget Day documentation should contain detailed information on ELS, including in respect of what is statutory provision and what is discretionary, and the cost of ELS so as to assist Deputies in undertaking output and performance scrutiny and understanding fully what monies are being voted and to what end.

3.23 In the course of the last decade or so significant reform exercises have been embarked on through the public service in Ireland. There has centrally been the strategic management initiative (SMI) or as it seems to have become, the “modernisation programme.” The broad framework, the general approach and international comparisons from the management perspective (i.e. the effectiveness of public administration) have been studied by the NESC (NESC, 2002). Detailed recommendations were made. The overall conclusion was that over the past decade there had been “strong growth in public expenditure but there are still considerable deficits in the quality and provision of social services as well as infrastructural deficits.” My point here is not a partisan political one in respect of the above quote. It is a general point made in the next sentence: “Addressing these social and infrastructural deficits is critically dependent on the effective management of public expenditure.” The view of this submission is that effective parliamentary scrutiny of the whole budgetary cycle can contribute to the achievement of such an objective or goal.

4. The issue of timeliness

“While little remarked by the public, it is a practical fact that all daily operations of any government are inextricably bound up with budgeting. Arguably, what is good for the health of the budgeting system is good for the health of the overall system of governance.”

Larry O’Toole (O’Toole, 1997)

- 4.1 In evaluating accounting and financial information systems and procedures there are for professionals, perhaps six major issues or themes: relevance, accessibility, timeliness, accuracy, interpretability, and coherence.
- 4.2 From the point of view of parliamentary scrutiny and accountability, the principle focus of this submission, a critical issue is that of timeliness of information release, particularly in respect of the Estimates as such and the related *ex ante* scrutiny phase of the budgetary cycle.
- 4.3 The view of this submission on this issue is simply put. It is that the present position in Ireland is highly unsatisfactory: the *ex ante* phase of scrutiny is little more than nominal. The material information for this phase, the revised Book of Estimates, is not published in a timely fashion; the scrutiny of the Estimates in committee is equally untimely and is also in reality no more than cursory. Finally, the view of this submission is that much of the problem can be traced back to the timing of the Estimates formation process, the Estimates ‘campaign’, although there are other issues such as the form and detail in which the Estimates information is presented and also, particularly, the resourcing of the committees when scrutinising their Estimates.
- 4.4 The parliamentary scrutiny of the Book of Estimates is undertaken by the select committees that ‘shadow’ the various departments of government. There are a total of 14 committees (excluding the PAC which has a different standing) of which 12 are committees that scrutinise and approve Estimates.
- 4.5 This year the Book of Estimates (Revised) was circulated towards the end of the first quarter – March 2005 – three months into the year to which the Estimates as a proposal relate. This is not untypical. Is it timely though? Is it timely that the House typically gets the detailed government proposals for spending in any year three months into the financial year to which they relate?
- 4.6 The first select committee to deal with its Estimates this year (2005) was Finance and Public Service (which essentially deals with the Estimates of the Departments of Finance and the Taoiseach). The Committee examined its Estimates over two days (unusual in that regard): first in March 2005 (when the Finance group Votes were considered) and then again at a second session in April (when the Taoiseach’s Votes were considered).
- 4.7 No other Committee got to deal with its Estimate before May and quite a few did not deal with their Estimates until June. In other words parliament was dealing with spending “proposals” half way through the year to which they related! Detailed information on the work of the Select Committees on the Estimates for 2005 is tabulated at the end of this submission.

- 4.8 The view of this submission is that at the heart of the issue of timeliness is the timing of the commencement of the formation of the Estimates cycle, the Estimates ‘campaign’. This typically occurs during the summer of the year preceding the year to which the Estimates relate. So, at present Departments are engaged in making their ‘bids’ for fiscal year 2006 and in the course of the winter, during November/December, at the end of bilateral negotiations between the Department of Finance and the spending departments, the government will publish an abridged volume of Estimates stated to have been compiled generally on a no policy change basis.
- 4.9 What happens in other countries? In the following paragraphs this submission outlines practice in respect of timing in the Netherlands and Germany. There then follows a discussion of the comprehensive reforms including in respect of accounting principles undertaken in the United Kingdom and New Zealand with also some further discussion of the Netherlands and Germany.

The Netherlands

- 4.10 The Dutch parliamentary budget process can be divided into two stages. The first coincides with the opening of each annual session of Parliament and consists of general policy deliberation in plenary session. The second stage consists of specific deliberation of each ministry’s budget proposal. Much of this work takes place in committees before being brought to plenary session for final approval. The budget consists of a budget memorandum presented by the Minister for Finance which gives a general budget overview and major policy initiatives together with approximately 23 separate Bills.

1. Budget approval process

3rd Tuesday in September	Opening of annual session of Parliament Minister of Finance introduces the budget.
End September	General Policy Debate – Plenary Session.
Early October	General Budget Policy Debate – Plenary Session.
Mid-October	Committees begin scrutinising each budget bill.
Late October- End-December	Individual budget bills approved one by one in two-round plenary session.
1 January	Start of fiscal year.

Source: OECD, (OECD, 2002)

- 4.11 As in Ireland at present there is no specific budget committee in the Dutch Parliament that has overall responsibility for scrutinising the budget in aggregate terms and allocations between different sectors. In practical terms, this means that the aggregate allocation to each sector is taken as a given. While the Parliament does have a special Committee on State Expenditure, it does not discuss the budget. Its responsibility is reserved for general oversight of expenditure management systems, such as the basis of

accounting to be applied and the presentation format of the budget documentation. The Committee on State Expenditure has three secretariat staff members – all of whom are specialists in budget related issues. These staff members provide technical advice to the other committees during their examination of each individual budget bill.

- 4.12 There are 14 sectoral committees in the Dutch Parliament, so most committees will receive one or two budget bills as they are known for scrutiny and will scrutinise the budgets under its mandate. Each committee consists of 25 members with an equal number of alternates. Each committee is assisted by a clerk (most often with a legal background), and by a secretariat staff member specialised in the relevant policy field.
- 4.13 The examination of the budget normally includes a session at which the minister responds to the committees' questions. This session is prepared extensively by the staff member serving the sectoral committee and the staff of the Committee on State Expenditure and a report highlighting main points of inquiry will be prepared. Issues for committee members to discuss will often have emerged from the general deliberations and written questions asked of ministers. The minister formally receives notification of the main issues that the committee would like to discuss. Following this session, a report is issued of their discussions with the minister. This is a much more elaborate and considered treatment than one generally finds in Ireland.
- 4.14 Following the report of the committees, each budget bill is discussed separately in plenary session in two rounds before being approved as law. During the first reading of each budget bill in plenary session, the spokesmen for the different political parties on the committee make detailed comments concerning the contents of the budget and propose amendments, if deemed necessary. Following the contribution of each spokesman, the minister responds.
- 4.15 The second plenary session follows a few days later. It follows a similar format, although it is more interactive with wider contributions from parliamentarians.
- 4.16 All of the bills will be passed into law at different times during the session. The first ones will be approved in late October and the last ones in December.

The German budget cycle

- 4.17 Traditional governmental budgeting and accounting in Germany is, like our own, input-oriented, cash-based and with an emphasis on legal compliance. Through its Budget Committee, parliament is involved at an early stage (after adoption by the cabinet) in the detailed planning of departmental budgets and grants discharge to the federal government after the end of the fiscal year on submission of the annual statements of account and the audit reports of the federal auditor (the Supreme Audit Institution or SAI, roughly – but not quite – the equivalent of our Comptroller and Auditor General). Parliament is thus involved in the budget cycle from start to finish. As the authority exercising external financial control, the SAI occupies a prominent position and is also involved in all phases of the budget cycle or is informed directly by the Federal Finance Ministry (FMF), unlike the C&AG in Ireland.
- 4.18 The main features of the German system are that spending is very precisely planned and tight restrictions are imposed on the redirection of expenditure, again somewhat similar

to practice in Ireland. Increases in spending are invariably subject to the consent of the FMF. Auditing is conducted by the SAI and is concluded by the granting of discharge by parliament. It is also possible for the German Constitutional Court to enter the frame to adjudicate on issues. The system has shown itself to be effective and no immediate reforms are planned.

4.19 The German budget cycle can be summarized as follows:

December/June: Budget preparation and negotiations commence very early in the year preceding the budget/financial year (the German budget period operates on a calendar year basis). Negotiations at Ministerial level and the cabinet resolution on the draft budget and financial plan will be completed by the end of June.

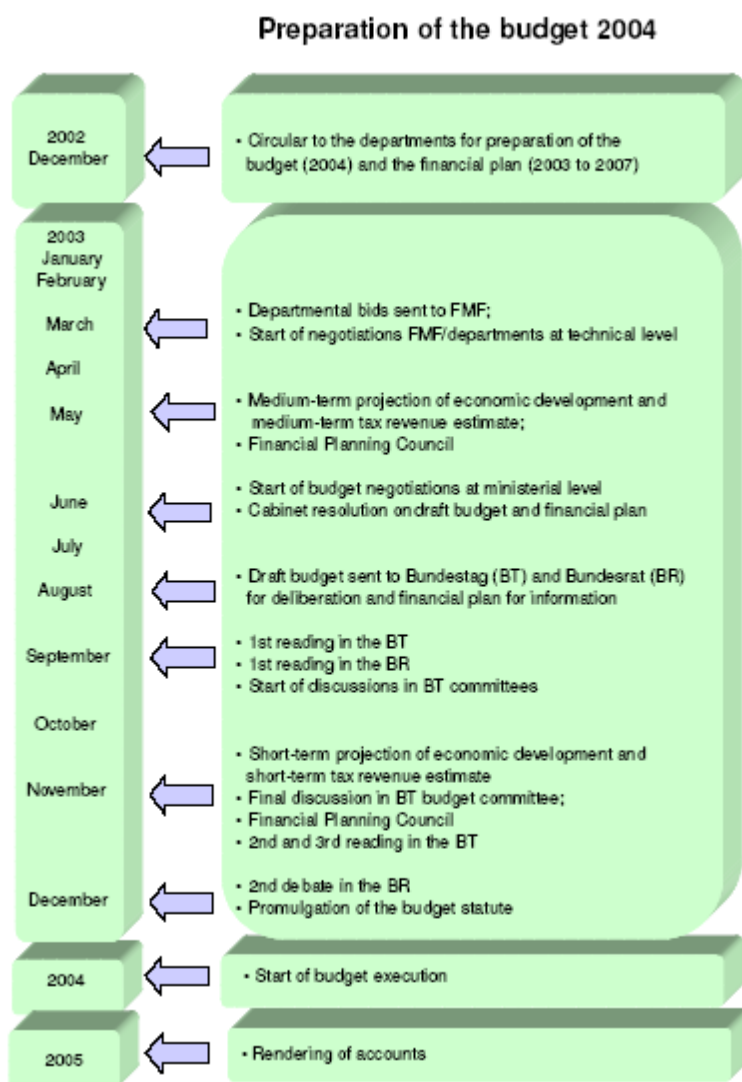
August: the draft budget which consists of the federal government's financial plan (scope and nature of expected revenue and expenditure over a five-year period), the finance report (state of public finances and their probable development) and every two years the subsidies report (financial aid survey) together with the budget bill is presented to parliament.

September: after the first parliamentary reading, the draft budget is referred to the Budget Committee, which takes charge of the subsequent deliberations. The Committee scrutinises all the estimates and, where necessary, submits proposals for amendment. The work of the Budget Committee is divided between specialized committees dealing with each departmental budget. Discussions are held with representatives of the supreme federal authorities concerned, the FMF and the SAI.

November: Issues that cannot be finally disposed of when the departmental budgets are considered by the Budget Committee are deferred until final sessions (of which there are generally two). The FMF submits documentation for decisions to be taken in the final sessions combining all the deferred issues and other matters on which it considers a decision necessary. This is followed by the second and third readings of the draft budget in parliament, during which minor amendments are made.

December: the final debate is held in the parliament and the budget statute is promulgated.

The following diagram, taken from a Federal Finance Ministry paper, shows the process for the formation of the 2004 budget.



Source: Federal Ministry of Finance (FMF, 2004)

4.20 The Dutch and German systems are characterised by a much earlier start to their equivalent of our Estimates formation phase with the phase of parliamentary scrutiny also commencing earlier. Parliamentary scrutiny also appears much more detailed than in Ireland with parliamentarians having extensive technical and professional support. Why can't we do it? Or maybe why don't we do it?

4.21 We have in Ireland recently implemented finally the 3-year rolling envelope approach to public finance planning, capital and current (if not grant of supply and appropriation): on Budget Day the Department does publish not simply the Budget Day changes but also in effect preliminary Estimates for the following two years – again subject to the usual Finance caveat on NPC although the contention of this submission, already made, is that this caveat is itself pretty murky territory.

4.22 However the point of this submission is not so much murkiness of the concept of NPC as the existence now of a rolling three-year multi annual framework for the whole budget cycle – with the publication of data on receipts (tax and non-tax) and expenditure (current and capital) and gross spending projections by Ministerial Vote

Group. There is in all of this a real basis for bringing forward the timing of the whole budgetary process and making more timely the process of parliamentary scrutiny.

Proposal

One option, which I would support, would be to recommend that the Estimates formation cycle, the ‘campaign’, commence much earlier, in January (as in the Netherlands and Germany).

Such an approach would allow for much earlier completion (by early summer) of this phase of the whole budgetary cycle, thus providing the opportunity for bringing forward Budget Day itself and the commencement (and completion) of the *ex ante* scrutiny process – again as in the Netherlands and Germany.

Such a change would allow for:

- Abandonment of the abridged Book of Estimates;
- Earlier publication of the White Paper (with the incorporation into the paper of an economic commentary and forecasts); and
- Collapsing Estimates and Budget into a single event, staged it in September or October, then proceeding immediately to the parliamentary scrutiny of Estimates/Votes and approval/appropriation, to be completed by December.

4.23 Should there be a single, ‘super’ Budget Committee as in Germany and also New Zealand (see below)? I have no definitive viewpoint on this question at this stage, although some consideration might be given to enhancing or enlarging the role of the Finance Committee. What is more important in my view in the first instance is the professional and expert resourcing of the present system from the point of view of the task of parliamentary scrutiny. One model here is obviously that of the United States with its powerful Congressional Budget Office (CBO) servicing the Budget Committees of the House and the Senate. The view of this submission is that the resourcing of committees (a research service) is now a critical issue but that the elaborate CBO model is perhaps not in our case the way forward: the CBO is after all foremost a counterweight to the (President’s) Office of Management and Budget (OMB) and is something that is critically related to the unique constitutional arrangements adopted by the US, the pure separation of powers combined with a distinctly precautionary attitude in the constitution and by the legislative arm to the executive power of the state.

Research services and support for Members

4.24 It is generally recognised that professional support for parliamentarians is weak in Ireland compared to other parliamentary systems. The annual report for 2004 of the Houses of the Oireachtas Commission contains the following passage under the heading “Research services for Members” –

The [International Benchmarking Review] IBR report found that there was a clear case for the improvement of the library and research service available to the Houses of the Oireachtas and its committees.

A key recommendation of the IBR study was the establishment of a dedicated research service within the Office for use by all Members of the Houses of the Oireachtas on an equal basis. Research services available to Members of the Houses have been extremely limited over the years and the report confirmed the long-standing view that the Irish Parliament did not at all measure up internationally in terms of resources dedicated to this area.

The Commission considers that access to a professional research service is a basic necessity for any member of a modern parliament. The consultants recommended the establishment of a service comprising up to 22 researchers headed by a Head of Library and Research at senior management level and grouped according to subject specialisms.

The Commission established a subcommittee to consider the consultants' recommendations, together with the Office Management's policy proposal on the matter. The sub-committee held a number of meetings, including a very useful presentation by two senior officials from the Australian Parliament's Library Research Service who were in Ireland on a private visit. The Commission decided in December 2004 to proceed as follows:

- To proceed with the appointment of the Head of Research Service, who will prepare a strategic plan and operating principles for delivery of the service as a matter of priority. The post will be filled in the second half of 2005;
- To sanction 11 permanent researcher posts; and
- To provide a budget for engagement of further researchers as required on a contract, flexible basis.

The Commission considers that an Oireachtas Research Service will greatly improve Members' ability to hold Government to account, by providing much needed information resources to counter the vast civil service resources, which are at the disposal of Members of Government and Ministers of State.

4.25 This submission endorses the Commission's plans for the development of a parliamentary research service within the Library of the Oireachtas but would also go further, as outlined below.

Proposal

This submission is strongly of the view that the Committee should communicate to the Oireachtas Commission its opinion that some number of the 11 specialist research staff proposed to be recruited should be dedicated exclusively to providing high level support and research to the select committee system in respect of the consideration of the Estimates – initial and supplementary. Recruitment should also be in place in time for the next Estimates cycle.

Consideration should also be given to this support service having a professional head of service, separate from the envisioned head of research, something akin in status and authority to the Comptroller and Auditor General and his role in respect of *ex post* scrutiny carried out by this Committee. The service might also have power to request where necessary, relevant papers and records from departments. A period of time operating on a non-statutory basis might assist in assessing whether the system required primary legislation establishing the office and granting the powers.

It might also be appropriate for the Finance and Public Service Committee or the PAC to scrutinise the quarterly Exchequer Statement.

Accounting Principles, Cash v accrual accounting and GAAP

- 4.26 One issue that has generated intense debate in Ireland and elsewhere in recent years as regards the public financial accounts whether in respect of spending or income is that of appropriate accounting principles. Generally public financial accounts are in most countries prepared on a cash basis while those of private commercial undertakings and many public undertakings that stand at arms length from government departments are prepared on an accruals and consolidated basis and in conformity with Generally Accepted Accounting Principles (GAAP) set out by the various national professional accounting institutes and the international accounting standards bodies. Our local authorities are also currently moving to accrual accounting including drawing up balance sheets.
- 4.27 Accrual accounting, proper consolidation and the preparation of accounts according to (national) GAAP principles is widely seen as superior to the cash-based approach traditionally used in government. Mention is made of the insistence by capital markets, stock markets and indeed regulatory public authorities that publicly quoted companies prepare their financial statements and accounts on this basis. Cash based accounting it is argued allows for opportunities for “cooking the books” (McCarthy, 2002) although the Enron story and similar financial scandals of recent years shows that cash-based accounting is not alone in this regard and there are different versions of GAAP in different jurisdictions.

Accrual accounting and financial reporting

- 4.28 Accrual accounting is distinguished from cash accounting by reporting revenues and expenditure as they arise (occur) and not when the cash receipt/payment is made. There are two main advantages cited for adopting accrual accounting in the public sector. The first is that it discloses the true cost of government, for example employee pensions are accounted for in a cash system when the payment is made to the pensioner rather than when the individual earned that pension over the course of his or her service. The second benefit is to improve decision-making in government by using this enhanced information. In such an environment it is expected that managers should be responsible for all costs associated with the outcomes and/or outputs produced, not just the immediate cash outlays. Only accruals allows for the capture of these full costs, thereby supporting effective and efficient decision-making by managers. In short, where managers are given flexibility to manage their own resources (inputs), they need to have the necessary information to do this.
- 4.29 As a consequence, the adoption of accrual accounting by governments can increase transparency and accountability by making the stewardship role more robust, for example financial reporting for assets may highlight failures to properly manage resources such as the collection of debts: again the issue of levels of service. It must be borne in mind that financial reporting in the Irish public sector is based on distinct legal entities which are individually accountable to Dáil Éireann and therefore accountability and issues of consolidation would require to be aligned to this framework were it to be adopted.

Accrual Reporting and Budgeting

- 4.30 A distinction must be made between accrual budgeting and accrual financial reporting although the tendency is for accrual budgeting to follow accrual accounting where it has been adopted by government (e.g. the UK and New Zealand). The OECD in a 2003 (OECD, 2003) commentary on this issue in the public sector stated that
- “there is much greater acceptance of accruals for financial reporting than for budgeting purposes. This does not appear to be a temporary snapshot as countries migrate to accrual budgeting but rather a firm view among a number of member countries. Two reasons are most often cited for this. First, an accrual budget is believed to risk budget discipline. The political decision to spend money should be matched with when it is reported in the budget. Only cash provides for that. If major capital projects, for example, could be voted on with only the commensurate depreciation expense being reported, there is a fear that this would increase expenditures for such projects. Second, and somewhat contradictory to the first reason, legislatures have often shown resistance to the adoption of accrual budgeting. This resistance is often due to the sheer complexity of accruals. In this context, it is noteworthy that the legislatures in those countries that have adopted accrual budgeting generally have a relatively weak role in the budget process.”
- 4.31 The difficulty with applying accruals to financial reporting only and not to the budget is that it could lead to a mismatch in the decision process between the allocation of resources and accounting for their use. The budget is the key management document in the public sector and accountability is based on implementing the budget as approved by the legislature. If the budget is on a cash basis that is going to be the dominant basis

on which the legislature and heads of departments work. Financial reporting on a different basis risks becoming a purely technical accounting exercise in these cases.

- 4.32 Notwithstanding these and other concerns, for example in respect of resource implications, the need to train civil servants to operate accrual accounting and so on, more and more countries are adopting accruals for their financial reporting (Hepworth, 2003, 2004a). This typically proceeds with individual ministries and agencies first adopting accruals for their own reporting. Over time, more and more ministries and agencies adopt accruals, and then the financial statements for the whole-of-government are presented on an accrued basis. In this context it is worth repeating that the majority of the Irish State expenditure is reported on an accruals basis (non-commercial State bodies, health sector, third level, etc) whereas the annual budgetary process is performed on a cash basis. The accounts of government departments are prepared on a cash basis with, increasingly, additional accrual-type information reported. The consolidated accounts of the Exchequer (the Finance Accounts) are prepared on a cash basis together with certain accrual-type information for example the National Debt Statement. Under the Strategic Management Initiative and the Management Information Framework both accrual budgeting and accounting for central government are being reviewed with a view to ensuring that appropriate information is available for decision makers and parliamentary scrutiny.
- 4.33 The accounting standards issue is clearly connected with the theme of administrative reform – how the public service and the public sector are managed and go about their business. In essence as the argument goes, if there is to be a primary emphasis on output or performance budgeting that will only be achieved by a switch to accrual accounting – or in the alternative, the adoption of accrual will facilitate the adoption of a performance or output approach to public spending, including in respect of parliamentary scrutiny of performance.

Accrual accounting by central government in the UK

- 4.34 Public sector reforms and initiatives in the UK, which have also been mirrored to some extent in Ireland, have arisen due to pressures such as increased demands on public services and the need to ensure value for money (Hepworth 2004b). The UK has moved at a somewhat greater speed in reforming its financial framework in that it has developed at the central government level an accrual model for accounting and budgeting (referred to as resource accounting).
- 4.35 The UK move to accrual accounting for central government has only occurred towards the end of the very long process of public sector reform and was an essential feature to ensure that comprehensive and reliable information was available to decision-makers.
- 4.36 Resource Accounting and Budgeting (RAB) is a system of planning, controlling and reporting on public spending for the UK government. It is the application of accruals accounting for reporting on the expenditure of central government and a framework for analysing expenditure by departmental aim and objectives, relating these to outputs (deliverables) where possible. Resource budgeting covers planning and controlling public expenditure on a resource accounting basis. RAB was launched in 1993 and the first resource accounts were published for the UK financial year 2001- 02.

- 4.37 The UK government recommended that the framework of accounting principles and conventions for resource accounting in departments should be based on UK GAAP, in particular the accounting and disclosure requirements of company law and accounting standards, adapted to meet the particular requirements of central government and parliamentary control. The aim was to ensure broad consistency with accounting practice in the rest of the public sector and the private sector. It was further proposed that one consolidated set of resource accounts should be prepared by each department. This would include the assets and liabilities of its executive agencies including Trading Funds.
- 4.38 While accounts are prepared in accordance with UK GAAP, a Financial Reporting Advisory Board was established to help to ensure that any adaptations of, or departures from, UK GAAP for the public sector are justified and properly explained. The Board acts as an independent review in the process of setting accounting standards for government during the development of resource accounting and the UK Treasury must consult with it on financial reporting principles and standards.

Benefits of RAB

- 4.39 The UK Treasury states (www.hm-treasury.gov.uk) that resource budgeting supports the Government's agenda for high quality public services by delivering:
- new incentives for the management of assets and investment
 - a long-term planning framework removing distortions and perverse incentives intrinsic in the old budgeting system, and building in new incentives to reward good management;
 - better information for managers on the costs of providing public services on which to base decisions, and better information for Parliament and the public; and
 - higher quality financial management throughout Government.

Wholesale change: New Zealand

- 4.40 New Zealand is among a small number of countries (e.g. also United States, Canada, United Kingdom) that have been to the forefront in changing the budgetary information and structure for State expenditure, and have shifted their estimates and appropriations process away from a focus solely on inputs (costs) to encompass outputs (deliverables). This entailed a move from cash-based accounts and budgeting to an accruals basis for both government accounting and the budget cycle). The most recent enactment in the reform programme is the Public Finance (State Sector Management) Bill 2004.
- 4.41 The Bill gives statutory effect to recent improvements in the budget documents and, in particular, the Statements of Intent (that document the result of “Managing for Outcomes” planning) now prepared by departments and Crown entities (the New Zealand equivalent to non-civil service public entities).
- 4.42 Earlier legislative reforms simply required forecast financial statements, which were initially delivered in a single bound book, and then, from the early nineties, through departmental forecast reports.

- 4.43 The Bill effectively acknowledges the improvement of standards in this area, and moves the minimum standard marker. It requires the Statement of Intent to include information on the nature and scope of a department's functions and operations; the specific impacts, outcomes, or objectives that the department seeks to achieve; how the department intends to perform to achieve those impacts, outcomes, or objectives within a changeable operating environment; and the main measures and standards that the department intends to use to assess itself: echoes here again of the concept of transparent service levels.
- 4.44 In the words of John Whitehead, current Secretary of the Treasury in New Zealand, "This is quite a move from those early financial statements and it formally reflects the public service's "reason for being", if you like. It highlights the reasons for believing that the operations of departments will make a difference for New Zealanders. These formal reports are the external expression of the outcomes-focused management processes that departments undertake. Again, the extent they are successful rests largely in the hands of departments, Crown entities and the management processes in these organisations. However, the new reporting means that departmental performance – or the lack of it – will become more transparent."
- 4.45 In New Zealand the Budget provides the overall mechanism through which the Government reallocates existing resources and provides a limited amount of new resources, in order to achieve its desired outcomes within its fiscal policy objectives. The Budget represents a culmination of Government decisions about:
- **Fiscal policy** – what the Government wants to achieve at a high level to meet its fiscal objectives and maintain fiscal control (e.g. in respect of revenue, expenditure, debt repayment and investment).
 - **Fiscal objectives** – ensuring the Government is working towards its fiscal aims (e.g. debt at a certain level).
 - **Budget strategy and management** – developing overall capital and operating spending allowances to achieve Government priorities in the most effective way, reflecting the latest economic and fiscal information.
 - **Policy initiatives and cost pressures** - allocating available resources to manage progress towards the Government's overall policy objectives, and meet any non-discretionary cost pressures.
- 4.46 The Government's Budget in any one year is the key outcome of a cycle of activity that occurs throughout the year (in fact, each year deals with 3 Budgets – current, future and past). This cycle comprises a range of products and processes which feed into and flow from the Budget. The Budget Package, once agreed by Government, needs to be approved by Parliament.
- 4.47 The legislative framework is generally comparable to Ireland in that public money cannot be spent without the prior approval of Parliament and the formal authority for most expenditure is provided via an 'appropriation act' which authorises departments to incur expenses up to a certain limit for a specified purpose. The Minister will table the 'Estimates' on Budget Day in parliament. The Estimates contain the Government's request for appropriations, and supporting information (Fiscal Strategy Report, departmental Statements of Intent and the Budget Economic and Fiscal Update).

4.48 The Estimates contain a number of principal parts for each Vote among which are:

- *Statement of Objectives and Trends* - includes information about the outcomes that Vote Ministers intend to contribute to with the appropriations sought from Parliament, together with information about significant changes in the Vote over the past five years and the coming year.
- *Statement of Appropriations* - sets out the amounts required for each appropriation type, and provides a brief description of the scope of the appropriation.
- *Explanation of Appropriations by Output Classes* - descriptions of the purposes of appropriations and specifies output performance dimensions (quality, quantity, cost and time).
- *Explanation of Appropriations for other Operating Flows* - provides supporting detail about appropriations for benefits or other unrequited expenses, borrowing expenses, and other expenses.

4.49 Following the Budget speech in late May (New Zealand operates on a July to June financial year) the Appropriation Bill is referred to the Finance and Expenditure select committee, which, under Parliament's Standing Orders has two months to conduct its examination and report back to the House (the New Zealand parliament is unicameral). The Finance and Expenditure committee may examine a Vote itself or refer it to any other committee for examination. Under Standing Orders, Parliament has three months from its introduction to pass the Appropriation Bill (this includes the Finance and Expenditure select committee phase).

4.50 Because expenses and capital expenditure cannot be incurred without parliamentary authorisation, and because there is often a time lag between new spending happening and the passing of an Appropriation Act, parliamentary authority to incur expenses or capital expenditure in advance of an appropriation is often needed. Imprest Supply Acts fulfil this requirement and are normally passed twice a year, the first one at the start of the financial year.

4.51 New Zealand has introduced recent legislative changes in order to enhance the overall fiscal management of State's financial performance and position. These enhancements will provide better information to Parliament though Ministers will have more flexibility in managing the monies voted to their portfolios. Reporting by departments will also be amended to show a broader range of information about intended and actual performance (financial and non-financial). These enhancements build upon the existing process which ensures accountability and transparency for the budget preparation cycle though a number of required annual financial reports, the key ones being:

- The Budget Policy Statement which provides an early warning of the Budget policy framework and is required to be published before the end of March each year.
- Economic and Fiscal Updates which are published regularly (in December and at the time of the budget) and provide current and medium-term (three yearly) Budget information.
- The Financial Strategy Report which provides long-range forecasts (at least ten years) and includes comparisons of consistency between the Budget Policy Statement and the Economic and Fiscal Updates.

The Netherlands and Germany

- 4.52 Some commentators refer to the Netherlands and Germany as part of the Continental European model of budgeting and accounting for government expenditure. They have broadly similar public administration structures in that government operates at three levels, the national or federal government, provincial/state governments and local level. Their approach to reform of the whole budgetary cycle though is rather different.
- 4.53 At central government level both countries apply what is called modified cash accounting¹² which generally combines cash and commitment accounting (e.g. authorisation to incur expenditure that lead to payments in future years). Accrual accounting becomes more evident at the more localised or peripheral levels of government for example
- Dutch provincial and local governments for a very long time have differentiated between current expenses and capital expenses. They have applied full accrual accounting since the 1980s and prepare balance sheets.
 - In Germany most “peripheral” entities (universities, government companies, etc) use commercial style accrual accounting, and the financial statements consist of a complete balance sheet and a profit-and-loss statement and consequently, the budgeting is on an accruals basis.
- 4.54 Reform projects and initiatives have commenced in both countries but at a different pace. As in other jurisdictions the focus has been to give a wider consideration in the budget process to outputs (deliverables), producing a more result-directed approach of business management within government. In 2000, the Dutch Minister of Finance announced that steps towards accrual accounting for central government would be taken gradually. It was decided to start a program directed at the improvement of financial management before the general transfer to accrual accounting. Accrual accounting would be initially introduced for parts of departments but not agencies, which do not execute core government tasks. Introduction for central government as a whole would be the next step. It is expected that this transitional process will last until 2006.
- 4.55 In Germany however, governmental budgeting and accounting continues to be input-oriented, cash-based, compliance-oriented and exclusively aimed to meet the budgetary control needs of the legislature. The OECD commented in 2004 (OECD, 2004) that

¹² Professional accountants would point out that the term modified cash accounting is generally open to interpretation. Some interpret it as a cash based system which includes cash transactions from a subsequent period (normally one month). However the profession usually takes it to refer to a combination of recognising cash and commitments which may go in a different direction than the accruals principle as practiced by the UK, New Zealand and elsewhere. That is not to say that commitments are ignored in the preparation and monitoring of budgets (the notes to the Appropriation Account give some information on the level of commitments). One might also expect organisations in properly managing their finances to monitor their level of commitments (e.g. how much have we left to do xxx?), actual services and goods consumed (i.e. accrued expenditure) and cash flows. Irrespective of these two versions of modified cash accounting one of the key issues is the need for consistency with the recognition of assets and liabilities in a Balance Sheet, i.e. on an accruals basis (as outlined in GAAP principles).

Recognising consequences of decisions can take various forms for example the current rules governing notes to the Appropriation Accounts differentiate between a commitment, such as the decision to approve in principle of a grant, and a liability (accrued), such as when the grant terms have been met but payment has still to be made.

“The present German budgeting system places little emphasis on policy outcomes. Legislation focuses on parliamentary control of inputs as opposed to budgetary appropriations on a programme or activity basis. German legislation requires that budgeting is based on the cash rather than the accruals principle. While some moves were made by states and communities to introduce elements of accruals accounting, against the standard required by legislation these efforts are supplementary accounting practices and therefore unlikely to be adopted on a general scale within the present legal system.”

Observation

The question of cash v accruals accounting is perhaps something of a side issue in the context of parliamentary scrutiny. Personally, I agree with those who favour some sort of modified cash accounting. In fact it is argued by professional accountants that the provision of cashflow information and the limitations imposed on “speculative” accruals in GAAP actually means that the corporate world is really using something similar. I do, however, strongly believe that where appropriate, the balance sheet is an essential tool for those charged with oversight including parliamentary oversight and scrutiny – a good accounting system must recognise the financial consequences of events that have already taken place as a closing liability (even if the bill hasn’t yet been received). I would say that three things are important when considering the issue;

- Recognition – when is it appropriate to recognise income and expenditure?
The standard answer is whenever the income or expenditure is committed (i.e. cannot be reversed), although a somewhat more conservative approach is taken in the case of income.
- Measurement – what is the best measurement of an asset or liability?
- Presentation – how is the information best presented to ensure that the ordinary reader understands the content?

5. Local Government Audit

“Every local authority is accountable for its stewardship of the public funds committed to its charge. Stewardship of public funds is a function of management. It is discharged by the establishment of sound financial control systems and the publication of audited financial statements.”

Local Government Audit Service
Report 2001/2002

- 5.1 The local government system is the forum for the democratic representation of local communities and for associated decision-making at local level and provides an opportunity for people, through their representatives, to influence the economic, social and cultural policies affecting their areas. Its importance is underlined by the recent constitutional amendment. Local government delivers a range of essential public services to communities throughout the country. The Department of the Environment and Local Government has a role in supporting and strengthening local government's capacity to provide these services to the highest possible standards.
- 5.2 The funding to local authorities for these services is provided mainly by the Exchequer through general taxation and EU structural funds for major capital infrastructure projects, motor vehicle taxation and local charges such as rates and service charges. Local authority expenditure including the capital programme amounted to over €6,000 million in 2002.
- 5.3 Exchequer and EU financing provided over half of this expenditure in 2002 and these funds are normally channelled through various accounting frameworks: Appropriations by Dáil Éireann, the most significant of which is to the Vote for Environment and Local Government the Local Government Fund which is administered by the Department of the Environment and Local Government; and in some instances State agencies further coordinate the planning and financing of services for example the National Roads Authority which oversees major national road projects.
- 5.4 Each level of financing from EU, to central government (including State agency) and through to the local authorities who will ultimately deliver the services or directly incur the expenditures, brings with it the responsibility for the proper control and management of resources and ultimately public accountability. This accountability is discharged in a number of ways for example the accountability for voted monies and other funds by department Accounting Officers to the Public Accounts Committee.
- 5.5 Recent legislation and other reforms have attempted to strengthen this framework at the local and departmental level. A new Code of Accounting Practice together with the introduction of new financial management systems are apposite in this respect. In addition the Department of Local Government and the Environment is carrying out an independent review of the local government funding system, including efficiency and accountability issues.
- 5.6 Among the key principles for ensuring that public accountability is properly discharged is the timeliness of the assurance provided and the nature of that assurance relative to the respective accountability of the bodies concerned.

- 5.7 The financial and audit procedures of local authorities are at present governed by Part 12 of the Local Government Act 2001. LGAs are independent in the performance of their professional functions. They currently audit a total of 207 bodies including city, town and county councils, regional authorities and motor taxation offices. The service at present has a staff complement of twenty-five LGAs and ten assistant auditors. Specific audits are assigned to LGAs, under warrant, issued by the head of the service, the Director of Audit. The total staff compliment at present is thirty-five people with a number of vacancies also in the service. This is a relatively small staff compliment undertaking external audit of the financial statements of 207 local government bodies.
- 5.8 Two difficulties have arisen in these areas.
- 5.9 The first issue relates to the timing of the provision of audit assurance by the Local Government Audit Service, LGAS, on the financial statements of local authorities and referred to as audit lag. Audit lag can arise for a variety of reasons including staff shortages, the legal formalities involved in the commencement of the audits and the time lag between the end of the financial year and the finalisation of the draft accounts of local authorities. The latest report of the LGAS (for the year 2001/2002) outlines the significant progress made in reducing the number of audits in arrears at 31 March 2002.
- 5.10 Local authorities are required to prepare their financial statements in accordance with this Code. The code and Article 9 of the Public Bodies Order, 1946 require that the annual financial statement of a local authority should be prepared and considered by it within the following 12 weeks. Councils may also form audit committees to consider the accounts. The financial statements of local authorities are audited by the Local Government Auditors (LGAs) of the LGAS who are appointed by the Minister for the Environment, Heritage and Local Government. They provide independent professional scrutiny and audit of the financial and regularity stewardship of local authorities and inform the public of the results of such review.
- 5.11 However the view of this submission is that the time taken to finalise and have audited the annual accounts of local authorities and related bodies is by any standard unacceptably protracted, making a mockery of any concept of timeliness as a standard for audit practice. For example at 31 March 2002 due to delays in finalising accounts and objections to matters contained in accounts the 1998, 1999 and 2000 audits for Wicklow County Council and New Ross UDC were not completed. Further, 23 audits in the 2001/2002 audit cycle (audits of accounts for 2000) were still in progress and 14 had not yet commenced (LGAS, 2002). I am inclined to put the extended audit cycle down to short staffing at the LGAS.
- 5.12 At the level of the local authorities clearly the financial function has had low priority and status although this is changing: for example there has been a drive to recruit 40 professionally qualified financial/management accountants and a new computerised, integrated financial management system (Agresso) funded by the Department is being deployed through the local government system. Full accrual accounting is also being adopted, supposedly by December 2003.
- 5.13 At central government level (the Department) the local government audit function is clearly something of a poor relation – even with some increase in the staff compliment in recent years.

Proposal

Having regard to the figures involved, the lack of timely information and audit lag issues there is a strong case for the Committee either

- at an early opportunity conducting a stand alone examination of the LGAS and the Local Government Division of the Department focusing on issues of local authority financial reporting, timeliness of accounts, conformity with the Accounting Code of Practice, progress and costs in respect of computerised financial system (Agresso) and the change over to accrual accounting

or

- making the conduct such examination the focus of its examination of the 2004 Appropriation Accounts in the 2004 Annual Report of the C&AG, such examination being carried out at the earliest opportunity after the publication of the Comptroller's annual report.

5.14 The second issue in respect of local authority expenditure and audit refers to a gap in the accountability arrangements to Dáil Éireann for expenditure administered by local authorities but funded by Oireachtas grants – in particular, the capital programme for local government which is mainly financed through the Exchequer. The audit undertaken by LGAS does not feed into the Dáil accountability process (as embodied by the Public Accounts Committee). It is therefore difficult for the funding approval organ viz. Dáil Éireann to satisfy itself that the money provided is being properly used and is achieving value for money. The formula implicit in the Comptroller and Auditor General (Amendment) Act 1993 whereby improved liaison between the C&AG and the LGAS could address the problems has proven to be a totally inadequate substitute.

5.15 By section 8 of the Act, the Comptroller may “inspect” the accounts, books and other records of any person in receipt of public moneys if the amount received constitutes not less than 50 per cent of the gross receipts of the person in that year. An inspection is not a full audit and is done for the purpose of determining whether and to what extent –

- moneys received directly from a Minister or a Department or directly from the Central Fund have been expended for a purpose authorised by the Oireachtas and in accordance with any conditions specified by the Minister or Department concerned, or
- moneys received from a person or fund whose accounts are audited by the Comptroller have been expended for the purposes for which they were authorised and in accordance with any conditions specified in relation to such expenditure by the person from whom the moneys were received or the person who owned, operated or controlled or held in trust the fund from which they were received.

5.16 However, local authorities are listed in the Second Schedule to the 1993 Act as bodies that are specifically excluded from the ambit of section 8 of that Act, which governs the Comptroller's power to inspect. The result is that, not only are local authorities not

audit clients, neither are they within the ambit of the power of inspection. Having regard to the fact that well over €4.45bn (estimate for 2000) is spent by local authorities on the current and capital sides each year, of which a very significant percentage comes from persons whose accounts are audited by the Comptroller (for example the Department and the National Roads Authority), this represents a significant restriction in the Comptroller's capacity to account for a significant portion of national public expenditure.

- 5.17 The restriction on the Comptroller's capacity to account for the expenditure of these sums might not be of concern if local audit was an adequate substitute. However it is not. This is not a criticism of the professional adequacy and competence of the Local Government Audit Service. What is of concern is the lack of any coherent, systematic or sustained response by local authority members to the statements and reports of that service. Put simply and starkly, I am not convinced that local authority audit committees function in any meaningful sense, as a means of ensuring accountability for the stewardship of public funds.

Proposal

The Committee might consider in that context section 21 of the Comptroller and Auditor General (Amendment) Act 1993. That section permits the Minister for Finance by order to amend the Second Schedule, which lists the bodies, including local authorities, excluded from the application of section 8 and so exempt from inspection by the Comptroller in respect of moneys received from central government.

Two caveats should be entered, however. The first is that an amendment to the Second Schedule would permit an inspection by the Comptroller of the accounts of a particular local authority only if the aggregate of the amounts received by that authority, directly or indirectly, from a Minister or from the Central Fund constitutes not less than 50 per cent of the gross receipts of that authority. In other words, even if local authorities were "inspectable" as a class, a particular authority whose own income was not less than 50 per cent of its total would not be liable to inspection.

This would exempt certain local bodies which generate more than 50 per cent of their income from commercial rates and service charges.

The Committee might therefore wish to propose an amendment to the 1993 Act so as to include all local authorities within the category of bodies whose accounts are capable of being inspected by the Comptroller and Auditor General, regardless of the proportion of their income coming from central resources.

Second, a right of inspection would enable the Comptroller to inspect whether moneys received from central government was spent "in accordance with any conditions specified in relation to such expenditure". He could therefore inspect compliance with criteria relating to economy and efficiency only to the extent that such conditions were in fact specified by the body from which the moneys were issued.

The Committee might wish to consider whether this creates a potential loophole in the inspection regime and, if so, whether it should be plugged by legislative amendment.

6. Executive Summary

This is a submission to the Committee of Public Accounts (PAC)

This submission is concerned with the whole budget or public expenditure cycle of central government – from the formation of the Estimates through to the consideration by the PAC of the Appropriation Accounts and the annual report of the Comptroller and Auditor General. The standpoint is that of the parliamentarian and parliamentary scrutiny of executive action.

Some consideration is also given to scrutiny and audit of local government.

A number of proposals are advanced for consideration by the Committee.

Central government

1. Level of service data in the Estimates

It is my submission that the Estimates volumes and Budget Day documentation should contain information on existing levels of service (ELS) and the full cost of ELS so as to assist Deputies in undertaking output and performance scrutiny and understanding fully what monies are being voted, to what end, to what level of service and what is ‘old’ and ‘new’ money.

2. Timing of the whole budget cycle and Budget Day

The major weakness from the point of view of parliamentary scrutiny identified in this submission is one of timeliness, which is traced back to the timing of the formulation of the annual Estimates and publication of the Book of Estimates.

This submission recommends that the Estimates formation cycle, the ‘campaign’ including the bilateral negotiations between line departments and the department of finance, commence much earlier, in perhaps January, and end by the summer (as in the Netherlands and Germany).

Such an approach would allow for much earlier completion (by early summer) of this phase of the whole budgetary cycle, thus providing the opportunity for bringing forward Budget Day itself and the commencement (and completion) of the *ex ante* scrutiny process – again as in the Netherlands and Germany.

Such a change would allow for

- Abandonment of the abridged Book of Estimates;
- Earlier publication of the White Paper on Income and Expenditure (with the incorporation into the paper of an economic commentary and forecasts); and
- Collapsing Estimates and Budget into a single event, staged in September or October, then proceeding immediately to the parliamentary scrutiny of Estimates/Votes and approval/appropriation.

3. A new committee system to consider the Estimates?

I have at present no fixed view as to whether the present committee system should be replaced for the purposes of the consideration of the Estimates by a single Budget Committee as is the case in some other countries although some consideration might be given to an

expanded role for the Finance and Public Services Committee, for example in relation to scrutiny of the quarterly Exchequer returns.

4. A parliamentary research service

This submission is strongly of the view that the Committee should communicate to the Oireachtas Commission its opinion that some number of the 11 specialist research staff proposed to be recruited should be dedicated exclusively to providing high level support and research to the select committee system in respect of the consideration of the Estimates – initial and supplementary. The service should be established and recruitment of expert staff completed in time for the next Estimates.

Consideration should also be given to this support service having a professional head of service, separate from the envisioned head of research, something akin in status and authority to the Comptroller and Auditor General and his role in respect of *ex post* scrutiny carried out by this Committee. The service might also have power to request where necessary, relevant papers and records from departments. Such initiatives would in all likelihood require primary legislation establishing the office and granting the powers.

5. Accounting principles

Issues of accounting principles – cash *v* accruals, the use of balance sheets and consolidation – have been much debated in Ireland and internationally. The question of cash *v* accruals accounting is perhaps something of a side issue in this context. Personally, I agree with those who favour some sort of modified cash accounting – in fact it is argued by professional accountants that the provision of cash flow information and the limitations imposed on “speculative” accruals in GAAP actually means that the corporate world is really using something similar. I do, however, strongly believe that the balance sheet is an essential tool for those charged with oversight – a good accounting system must recognise the financial consequences of events that have already taken place as a closing liability (even if the bill hasn’t yet been received – again, the Nursing Homes issue is a good example). I would say that three things are important when considering the issue;

- Recognition – when is it appropriate to recognise income and expenditure? The standard answer is whenever the income or expenditure is committed (i.e. cannot be reversed), although a somewhat more conservative approach is taken in the case of income.
- Measurement – what is the best measurement of an asset or liability?
- Presentation – how is the information best presented to ensure that the ordinary reader understands the content?

Local Government

Having regard to the figures involved, the lack of timely information and audit lag issues there is a strong case for the Committee either

- at an early opportunity conducting a stand alone examination of the LGAS and the Local Government Division of the Department focusing on issues of local authority financial reporting, timeliness of accounts, conformity with the Accounting Code of Practice, progress and costs in respect of computerised financial system (Agresso) and the change over to accrual accounting

or

- making the conduct such examination the focus of its examination of the 2004 Appropriation Accounts in the 2004 Annual Report of the C&AG, such examination being carried out at the earliest opportunity after the publication of the Comptroller's annual report.

The Committee might consider in that context section 21 of the Comptroller and Auditor General (Amendment) Act 1993. That section permits the Minister for Finance by order to amend the Second Schedule, which lists the bodies, including local authorities, excluded from the application of section 8 and so exempt from inspection by the Comptroller in respect of moneys received from central government.

Two caveats should be entered, however. The first is that an amendment to the Second Schedule would permit an inspection by the Comptroller of the accounts of a particular local authority only if the aggregate of the amounts received by that authority, directly or indirectly, from a Minister or from the Central Fund constitutes not less than 50 per cent of the gross receipts of that authority. In other words, even if local authorities were "inspectable" as a class, a particular authority whose own income was more than 50 per cent of its total would not be liable for inspection.

This would exempt some local authorities which generates more than 50 per cent of their income from commercial rates and service charges.

The Committee might therefore wish to propose an amendment to the 1993 Act so as to include all local authorities within the category of bodies whose accounts are capable of being inspected by the Comptroller and Auditor General, regardless of the proportion of their income coming from central resources.

Second, a right of inspection would enable the Comptroller to inspect whether moneys received from central government was spent "in accordance with any conditions specified in relation to such expenditure". He could therefore inspect compliance with criteria relating to economy and efficiency only to the extent that such conditions were in fact specified by the body from which the monies issued.

The Committee might wish to consider whether this creates a potential loophole in the inspection regime and if so, whether it should be plugged by legislative amendment.

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Table

Select Committee consideration of the revised 2005 Estimates

Select Committee	Vote(s)	Amount	Date(s)	Days	Time	Remarks
Finance and Public Service	Finance Group Votes 1, 5, 7, 8, 9, 11, 12, 15, 16, 17, 18	€1.34bn	30 March 2005	1	3h45min	Finance Group Votes cover a range of entities and offices apart from the Department proper. They include the President's Establishment, the C&AG, Revenue, OPW etc.
Finance and Public Service	Taoiseach's Group Votes 2, 3, 4, 13, 14	€180.2m	20 April 2005	1	1h40min	Taoiseach Group Votes include the Department and a number of offices such as the CSO, the Chief State Solicitor's Office and the office of the DPP.
Health and Children	Votes 39, 40	€11.9bn (Gross)	5 May 2005	1	2h10min	The second biggest spending department. The allocation is divided between two Votes – the Department proper and second, the new Health Services Executive (HSE) (Vote 40).
Foreign Affairs	28, 29	€699m	14 June 2005	1	3h10min	
Arts, Sport, Tourism, Rural and Gaeltacht Affairs	33, 35, 24	€849.6	25 May	1	3h55min	
Social and Family Affairs	Vote 38	€12.2bn	14 June 2005	1	2h25min	Biggest spending department in the state.
Transport	Vote 32	€2.1bn	15 June 2005	1	1h48min	
Education	Vote 26		25 May 2005	1	1h45min	
Justice, Equality, Defence and Women's Rights	36, 37 (Defence Votes)	€934m	24 May 2005	1	1h	
Justice, Equality, Defence and Women's Rights	19, 20, 21, 22, 23 Justice Group	€2bn	18 May 2005	1	2h05min	Note: The Estimate was one item on the agenda of the Select Committee on this day – main business was the Garda bill. The time spent column represents time spent on the Votes. The group includes the Department, the Prison and Courts Services and the Garda.
Environment and Local Government	Vote 25	€3.4bn	1 June 2005	1	2h55min	The third biggest spending Department
Agriculture and Food	Vote 31	€1.4bn	24 May 2005	1	2h35min	
Enterprise and Small Business		€1.2bn	18 May 2005	1	1h45min	
Communications, the Marine and Natural Resources	Vote 30	€507	7 June 2005	1		

**PRESENTATION OF ESTIMATES TO DÁIL ÉIREANN –
SUGGESTED ALTERATIONS AND IMPROVEMENTS**

A Submission to the Committee of Public Accounts
by
Pat Rabbitte TD

September, 2005

VOLUME 2 - APPENDICES

Note

This companion volume to the submission reproduces a number of the papers consulted in researching the submission. A range of papers, reports and web sites for many countries were consulted and the materials studied are not all reproduced here. The materials reproduced are intended to provide a flavour of what is available on the subject from multilateral institutions, professional bodies, parliamentary bodies, finance ministries and the like.

Appendix i

Ensuring Accountability in Public Expenditure

Report of a Commonwealth Parliamentary Association Workshop,

Downloaded from the website of the Scottish Parliament:

www.scottish.parliament.uk/msp/cpa/docs/EnsureAccleaflet.pdf

It has been argued that the principle behind legislative oversight of executive activity is to ensure that public policy is administered in accordance with the legislative intent. According to this principle, the legislative function does not cease with the passage of a Bill. It is, therefore, only by monitoring the implementation process that Members of the Legislature uncover any defects and act to correct misinterpretation or maladministration. In this sense the concept of oversight exists as an essential corollary to the law-making process.

Legislative oversight of the executive has been a contentious matter since the earliest days of the United Kingdom House of Commons in the late 14th century. In the case of the oversight of finance and the budgetary process, the crucial question is: In which organ of the state should the oversight role be vested?

Taking into consideration the well documented development of the U.K. Parliament, the one aspect of governing that tilted the balance of power with respect to the question posed above was the financial needs of the Sovereign. As the Head of State's financial needs increased, so was the need to raise levels of taxation which eventually led to Parliament demanding the right to oversee the activities on which the taxpayer's money was spent.

The importance of legislative oversight as a tool in monitoring government activities was underscored when Woodrow Wilson, later President of the United States of America, wrote in 1885:

“There is some scandal and discomfort, but infinite advantage, in having every affair of administration subjected to the test of constant examination on the part of the assembly which represents the nation. Quite as important as legislation is the vigilance of administration.”

While the principle of legislative oversight largely remains as it was espoused by the 14th century House of Commons and reinforced by the Wilsonian political philosophy, its application in modern days demands that there must be a set of objectives or standards against which it can be assessed and measured. If this is not done, then Parliament's oversight role is unclear because there are no identifiable criteria by which to judge the reporting bodies —given the new politicoeconomic order where many governmental functions are being hived off to agencies outside ministerial control.

In this regard, the future of parliamentary oversight must be guaranteed by the functions that national constitutions assign to each organ of government to perform, with Parliaments ensuring then that the provisions governing Appropriation Bills are properly enforced and that preventive policies are put in place to mitigate against fraud, waste and abuse of public funds.

This report is intended to highlight some of the pertinent issues discussed and recommendations made by Parliamentarians, Auditors-General and representatives of international organizations and civil society at a three-day Workshop on Parliamentary Oversight of Finance and the Budgetary Process, organized by the CPA and the World Bank Institute.

The Concept of Oversight by the Legislature

The Workshop traced the origin of the concept of oversight by the Legislature as arising from the remarkable transformation of the U.K. Parliament from being a mere consultative forum,

summoned for business and under procedures regulated by the Sovereign, to a level where it could ask the Crown to account for the monies collected from the people in the form of taxes. It was noted that this arose from the financial needs of the monarch. As the stature and authority of Parliament grew, it devised processes by which to transact the business before it as a way of ensuring effective oversight. The processes devised have over the years undergone modification aimed at equipping Parliaments sufficiently to exercise effective oversight of the executive. The modifications have produced processes varying in degrees of application and effectiveness. Yet those processes remain a means by which legislative oversight can be attained and ensured.

It was noted therefore that no taxes can be passed without the enacting of tax laws and Appropriation Bills by Parliaments. The passing of such Bills is also dependent on the Legislature having satisfied itself of the appropriate use of funds through the Auditor-General's Report to the Public Accounts Committee (PAC) of the House. That is, the use of public funds must be explained and those who hold power are accountable to Parliament, the people's representatives, for the use of those funds.

The concept of oversight, notwithstanding the problems in its implementation, was considered by the Workshop to be an essential function of the Legislature. However, to ensure maximum compliance to legislative authorization of changes in the levels of public taxation, constitution of the consolidated fund, sanction of allocations and withdrawals from the fund to meet demands for public services and purposes and to ensure adherence to authority in expenditure, the Workshop recognized the need to use extraparliamentary bodies such as the media in highlighting non-compliance as might be shown in the Auditor-General's reports.

Framework, Capacity and Mechanisms

It was acknowledged that the framework for effective parliamentary scrutiny must take into account two important issues: first, the establishment of specific oversight mechanisms to effectively hold the executive to account for their activities, and secondly the need for a bipartisan approach in Parliament when overseeing executive activities. It was felt that this would raise the capacity of the Legislature to fulfil its oversight function.

There was consensus that the oversight mechanisms chosen must seek to address the interplay of the inalienable right of the governing party to be able and be seen to govern. At the same time the Members of opposition parties must be able to ventilate issues, criticize and put across alternative positions and policies within the *modus operandi* of the set mechanisms.

In addition, the Workshop recognized the problems faced in making oversight mechanisms fully operational, such as the perennial rivalry pitting the Legislature against the executive organ of the state in jostling for the imprimatur as the representative or voice and custodian of the public good. The Workshop explored ways to overcome obstacles in the quest for a truly participatory Parliament, especially for Members of the opposition parties in the House, which in effect aimed at having a minimum commonly accepted standard for specific oversight mechanisms that would pass the public's approbation test.

There was overwhelming support for the view that much of the public criticism of Parliament's weaknesses in the oversight of the executive could be ameliorated by oversight

mechanisms such as the Public Accounts Committee, Budget Committees and the scrutiny of the whole House of Budget Acts. The repeal of hitherto constitutional constraints forbidding Parliaments from either increasing or reducing allocations contained in a budget before Parliament was also recommended.

On the subject of the budgetary cycle and the budgetary process and their implications for oversight, a constant point of reference was the recognition that budgets detail government's policy priorities within the context of fiscal pressures and economic forecasts. It was also noted that in the Commonwealth, budget scrutiny underscores the rivalry between the executive and the Legislature in providing the public with:

- (a) information on the Appropriation Bills,
- (b) reports on accounting, financial control and government performance,
- (c) coherent laws and regulations that govern financial transactions, and
- (d) comprehensive reports on public audit and legislative scrutiny.

Since budgets are accompanied by different or standard statements that highlight the executive policy focus, the Workshop felt that there was a need to improve the capacity of Parliament, its committees and public auditors to carry out their respective functions by providing them with sufficient resources, training and access to expertise that they may require in the budgetary cycle and budgetary process.

Participants agreed with the Kenyan Vice-President, HE. Prof. George Saitoti, MP, who, when officially opening the Workshop, stressed the importance of capacity building as Parliaments are the only institutions that are constitutionally mandated to debate budgets taking into account the interests of all national groups and strata in a country.

Budgets taking into account the interests of national groups were underscored in the discussions on genderresponsive budget initiatives from New South Wales and Queensland. Gender budget statements in New South Wales and Queensland rose from the realization that there was severe under-representation of women in decision-making positions and consequently in the budgetary process, which culminated in the allocation of fewer resources for women. In Jamaica, it was noted that the government had taken steps to improve its delivery of development programmes by the implementation of a financial management improvement project under programme budgeting. An important component of these kind of budgets is that they provide advance information as to expected revenue and expenditure policies, which is meant to assist in forward planning by the government, business groups and the community.

The Workshop considered such budget statements as useful in highlighting how a budget can affect the economic and social opportunities of a particular group in society such as women. Although they are not impartial documents, they were considered necessary for any government wishing to take a country forward by addressing the concerns and needs of any specific interest group.

It was felt that to ensure effectiveness of innovations in the budgetary cycle and the budgetary process, obstacles which impeded the Legislature in fulfilling its oversight role ought to be removed. Such barriers and limitations were stated as being commonly found in:

Finance Committees — The partisan attitudes of some government Members of these committees can hinder impartial scrutiny. Members of the committee invariably approve each line of the item proposed by the executive in the draft budget, while debate in committee is often limited as government Members are unwilling to discuss issues and are short on points of clarification.

Performance Budgeting — Currently, performance budgeting does not involve the submission of specific and measurable performance indicators, subject to quarterly and half-yearly reviews, which are presented by the Minister for Finance.

Parliamentary Review of the Budget — Members are not given long enough periods to review the estimates of expenditure as the budget unfolds.

Audit Reports — While constitutions often give the Auditors-General powers to review expenditure in all government ministries and organizations receiving public funds, resources to allow for the review of government expenditure in many areas are not made available to Auditors-General. Some organizations such as public or parastatal bodies continue receiving government funding long after their economic life span has expired. In the end they become mere conduits of corruption to bypass established procedures laid down by government.

The Workshop noted that the Jamaican government had agreed to establish an Appropriation Committee whose work was to examine issues related to the budget. Consequently, two new laws were passed aimed at tightening public utilities. These are the Public Bodies Act, which makes all agencies subject to the Ministry of Finance guidelines, and the Anti-Corruption Act, which widens the number of civil servants required to declare their assets and be subject to monitoring by the Anti-Corruption Commission.

There was consensus that the preparation of budgets should entail advance consultation with Parliamentarians who represent the people for whom budgetary plans and expenses incurred by the government after the passing of the Appropriation Bills are made and spent, respectively.

The Relationship between Parliament and the Auditor-General

The accountability for funds is headed usually by a constitutionally created office of the Auditor-General. From the outset, the Workshop acknowledged that usually the relationship between the Auditor-General and Parliament emanates from the constitution. It was agreed that the relationship between the two should be balanced so that their roles and independence remain clearly defined and separate. In pursuance of their independent roles, it was agreed that the role of the Auditor-General is to assist Parliament to ensure that there is proper use of public resources by auditing government and those quasi-government institutions that receive public funding. The provision of fair and impartial audit reports and information to Parliament through the Public Accounts Committee and the presence of the Auditor-General during its deliberations on the audited accounts of the government and any other bodies receiving public funding are important measures necessary to assure the taxpayer that there exists a body to investigate accountability on behalf of Parliament. In turn, a close working relationship between the Auditor-General and Parliament enhances public confidence that resources are used with due regard to the efficient and effective running of the government.

The Workshop held the view that, in order to sustain this confidence and uphold the highest audit standards possible, there must be sound constitutional arrangements based on the principles of accountability, good governance and independent public auditing. The requirements for proper accountability should be based on:

- (a) a sound system of reporting information to Parliament where the report must be timely, otherwise it undermines the principles of accounting;
- (b) the effectiveness of the institutions under audit;
- (c) the effective coverage of audit matters before the House; and
- (d) an effective Parliament with sound moral conduct, ethics and commitment to accountability.

Although audit offices provide assurance to Parliament and the public through their audit reports, the execution and implementation of any recommendations from Parliament is a common problem. Matters which should have been long dealt with often reappear in future audit reports. To maintain the competence of audits and the reputation of the Audit Office, the Workshop was of the view that audit offices should be separated from the general civil service through enabling legislation passed by Parliament. Such legislation or a specific Auditor-General's Act should provide the audit office with a range of powers to obtain information so it can properly discharge its duties. It was further seen as proper that audit offices themselves must be subject to auditing by the highest professional audit body available in order to be accountable for their use of public funds.

In reaffirming the point that the audit office should specially be created and the Auditor-General appointed by an Act of Parliament, the Workshop also considered the value and necessity of an independent audit office as being a building block to ensure trust and confidence among the concerned parties. For this reason, there must be a constant flow of information between the Auditor-General and Parliament in order to emphasize the two entities' functions as complimentary and not competitive. The Workshop, therefore, concluded that these offices must be independent and not part of the Public Service; and nothing should be done to dilute their authority. Their tenure of office must be made secure through appropriate parliamentary legislation.

Committees as Oversight Mechanisms

In the Commonwealth, committees are used to refer to the formation or constitution of a group of Members of Parliament who are specially named to address a specified mandate whose terms of reference and remit are spelt out.

A committee is expected to operate according to the procedure of a particular Parliament; such a committee is distinct from the Committee of the Whole House and any extra-parliamentary bodies including party caucuses or inter and intra party formations. It was noted that successive Parliaments have found committees a flexible means of accomplishing a wide variety of different purposes.

Committees may be given different powers to meet different circumstances. They may be created *ad hoc* to meet a particular requirement or be reappointed from session to session or from Parliament to Parliament to carry out a more continuous function.

The idea that it should be in part through committees that the House should play an active part in informed criticism and scrutiny of the aims and actions of the executive is one which

is central to any parliamentary committee system. The related problem of adapting that system to meet this need is one which each Parliament has always to solve afresh as the nature and scope of the executive's activity vary. What is common, however, is that committees are part and parcel of the operational mechanisms devised by Parliaments over the years to enable them to discharge their expanding role and increasing functions of oversight with efficiency and effectiveness.

It was acknowledged that each of the operational mechanisms devised by Parliament has specific suitability and advantages in the handling of the specific function and must be perceived to satisfactorily discharge the stated function. Such perceived satisfactory ability should not be an end in itself. It has often transpired that Parliament may never quite realize its intentions without matching reciprocity from the executive. For instance, a mechanism such as question time, which would facilitate the exposure of certain flaws in the operations of governing, would not achieve the expected goal where Ministers are not forthcoming and decide to withhold vital information. Further still, where Ministers avoid giving answers adequately, question time could turn into a merry-go-round or a circus. Yet the filed question could in the end assist Ministers to improve the performance of the department(s) under their control.

The reluctance of the executive to co-operate and open up even in areas that would not cause political damage is why Parliaments should be equipped with committees as oversight mechanisms. Committees are relatively easier and cheaper than the House to keep working during recess and/or prorogation. Committees that have particularly proven useful are those that are small, can continue working during recess and prorogation and are comprised of Members with the relevant specialist knowledge and training. Further, there was consensus that committees are an important oversight mechanism in providing timely deterrence to lapses in the governing process — for example, the activities of civil servants are kept under constant critical and public scrutiny.

The Workshop recommended that notwithstanding the attributes, advantages and suitability of committees in assisting Parliaments to enforce accountability, they should not be made to operate in isolation from other mechanisms. For example, the Auditor-General, though independent and outside the control and direction of any entity, is an important stakeholder to interact with.

But Parliament as a whole should remain focused on the need to demand that government's respond to the issues they raise on behalf of the people. It is therefore important to ensure that Parliament's oversight mechanisms, such as the PAC, are not subordinated to government or to interest groups and other advocacy groups in civil society.

The Workshop agreed that corruption was international in scope and did not respect national boundaries. The establishment of inter-parliamentary organizations and networks, such as the African Parliamentary Network Against Corruption (APNAC), was felt necessary to strengthen oversight and tackle international corruption.

It was agreed that oversight mechanisms should examine the prevailing government programmes to ensure that they provide economic and social value to the people and that Parliaments should demand value for money audits to keep the executive focused on developmental policies and programmes. Care should be taken when defining what constitutes corruption and good governance, taking account of the cultural diversities prevalent in different countries.

Experiences in tackling corruption varied greatly among the participants. The Ugandan experience of ensuring accountability and the prevention of corruption through the use of parliamentary committees such as the Public Investment Committee, PAC and a Ministry of Ethics and Integrity, and an enabling environment for a vibrant media ready to pick up issues of accountability, corruption and highlight them for public information and education were considered good practice.

It was concluded that parliamentary committees are essential tools to enforce accountability, and Members of Parliament as representatives of the people must fight without fear or favour in their committee meetings for a strong public financial accountability culture necessary to develop capabilities for legislative oversight.

There was also general agreement that the executive organ of government, having accepted the establishment of committees, should show respect to the work of parliamentary committees by implementing their recommendations. Where they fail to do so they should give genuine reasons for their failure.

The Future: Recommendations for Strengthening Parliamentary Oversight

The Workshop, realizing the need for the proper functioning of a democratic system of government and against the backdrop of poverty and lack of accountability, proper resource creation, mobilization, distribution and prudent management of these, acknowledged that effective and efficient parliamentary oversight of the finance and budgetary process can ensure accountability. In this regard, there was support for the view that the watchdog role constitutions assign to Parliaments cannot be surrendered to any other organ of government.

The Workshop recalled that the CPA's Strategic Plan for the period 1999-2002 included, as a core objective, the need to further the ability of Members to move towards strengthening parliamentary oversight by using locally devised mechanisms such as those used in the budgetary processes. Since Parliamentarians have different backgrounds, the Workshop recommended training and supporting Members to ensure that they acquire knowledge on budgets and budgetary processes.

It was agreed that such training should be undertaken by Parliaments themselves. However, given the intricacies involved in formulating and debating the budget, it was considered vital for such training to be mounted in collaboration with specialized international organizations such as the World Bank Institute and the International Monetary Fund.

It was noted once again that New South Wales and Queensland had established budgetary systems to highlight the gender effects of government spending and the need for even economic growth. As women usually constitute over 50 per cent of the population, the workshop considered that a women's budget statement deserved the support of Legislatures across the Commonwealth.

Other suggested efforts geared to ensuring the future of parliamentary oversight included support for the view that the relationship between Parliaments and Auditors-General should be maintained pursuant to Acts of Parliament under which they are created and appointed. In South Africa, the relationship is considered to be a partnership based on mutual and

reciprocal functions notwithstanding the fact that the Legislature is first among equals in this arrangement. In Canada and the United Kingdom, the independence of the Auditor-General's Office is secured by it being statutorily independent — it cannot be subject to direction by the government or the organizations it audits. In Uganda, the constitutional provisions for the separation of powers has brought about forensic audits giving the audit office a range of powers to obtain information that allows it to properly discharge its duties including the power of attorney. In Kenya and Tanzania the audit office is free to report what they see the need for, and when and how to do this.

Taking into account the different mechanisms available for ensuring accountability, the Workshop highly recommended the system of committees. The question whether the Chair of the Public Accounts Committee should be held by a Member from the ruling or opposition parties was resolved largely in favour of the opposition. In the Seychelles, one major concern is that unless the opposition in committees is supported by outside stakeholders, including, for example, international financial institutions, as they pry into government activities, an impression might be given of the government being overboard just because its Members hardly raise issues of accountability in committee meetings. In Uganda, for example, the World Bank has held discussions with parliamentary committees as well as with officials in government. The discussions are intended to give the World Bank first hand information on the views and concerns of Parliamentarians, particularly those from the opposition, on parliamentary oversight of finance and the budgetary process.

There was full support for Parliaments to be open to the media and the civil society as a fundamental way of ensuring effective parliamentary oversight. It was noted that parliamentary reports in New Zealand are open to the media and that recommendations of the Public Accounts Committee in Jamaica have been widely circulated leading to the successful prosecution of individuals. In Canada, the media has been instrumental in bringing to the attention of the public allegations of corruption that the government was obliged to investigate; the public exposure of corruption and waste allowed stakeholders to demand action and explanations on the part of the government or executing authority.

With this in mind, the Workshop noted that the World Bank and other bilateral and multilateral lending institutions looked to political will to curb corruption as a condition for aid. This notwithstanding, it was agreed that there was some merit in the concern by a participant from Thailand that the creation of new conditionalities for aid could be used to force all types of economic reforms that could have negative socio-political impacts, to the chagrin of civil society and human rights groups.

While Legislatures differ in terms of size, facilities and in their procedures and practice in the oversight of finance and the budgetary process, they are driven by common principles. The underlying principle is that Parliaments have a constitutional mandate to scrutinize government spending and it is in the realization of this constitutional mandate that the future of effective parliamentary oversight lies.

Conclusion

To answer the question of what follow-up action should be taken to ensure accountability, the Workshop made the following suggestions as to the way forward:

- Legislation should be the basis of accountability through the Appropriation Bill enacted by Parliament.
The formulation and presentation of the budget is essentially the function of the executive. But the Legislature is the public forum in which the government seeks approval for its expenditure through the budget debate. The Legislature is an institution of accountability, not of financial management, which is the function of the executive.
- The response and attitude of the government to accountability and oversight will largely determine whether transparency is to be achieved. It is a question of political will in both Parliament and government, and of the recognition of the principle of separation of powers. For oversight to be effective, Budget Committees must be involved at various stages of the budget process and should regularly report to the House. In some Parliaments, this function is undertaken by the Appropriation Committee which, like the Budget Committee, keeps track of the entire government spending as it progresses during the year. A comparative study of those Budget and Appropriation Committees in existence should be undertaken to evaluate their effectiveness.
- The government should provide readable and understandable financial documents to Parliament, and to parliamentary committees in particular so that Members are able to scrutinize the executive. Sufficient time should be made available in Parliament for oversight functions and departmental officials must be made available to explain their estimates to Members.
- The reports of the Auditor-General are essential to achieve effective oversight of the budgetary process. The role of an Auditor-General should be enshrined in a country's constitution or in specific legislation. It should be that of an independent external auditor of the activities of the executive. The Auditor-General must work on behalf of Parliament as the representative body of the people.
- The independence of the Auditor-General was considered as the most important attribute, which must be reflected in his or her appointment, tenure and removal from office, and in the office's mandate being constitutionalized.
- Specific legislation should also be put in place to provide for amongst others the establishment of an independent office to assist the Auditor-General to execute his or her mandate.
- Furthermore, the Auditor-General should be mandated to apply recognized professional standards and practices.
- It is important that Auditors-General should submit audit reports in a timely fashion but without compromising either the content or quality of these whether they relate to annual or special reports.
- The right of citizens to participate in the functioning of government is a fundamental principle of democracy. Civil society and the media should therefore be encouraged to become actively involved in ensuring the accountability of government. Their roles should be recognized and further enhanced through appropriate modalities and mechanisms.

- Tackling abuse and lack of accountability extends beyond the role of the media and other civil society components. It requires consideration of broader economic, social, cultural and historical dimensions for which different strategies may have to be devised as appropriate to a particular situation. It was felt that strengthening the roles of Public Account Committees and the Auditor-General would be better achieved where they co-exist with civil society. For this to be accomplished, adequate public access to information must be ensured through effective freedom of information, legislation, and the appointment of Information Commissioners need to be taken into consideration in all democratic societies.
- The principle of oversight is not exclusive to certain Parliaments but must be exercised by all the Legislatures regardless of their geographical or demographical size.

The Workshop recommended the following areas for action in taking legislative oversight forward:

(a) The oversight functions are vested in the Legislature as a fundamental principle of the separation of powers and on account of Parliament being an institution of the people's representatives. It was, however, noted that in many cases Parliaments face the burden of expectations from the people since as supreme bodies they are assumed to possess all the powers necessary to meet their needs. Parliaments should therefore, be urged to ensure oversight of government activity in accordance with their mandate.

(b) Although concerns were raised about the framework, capacity and mechanisms of oversight in Legislatures, **it** was clear that in many Parliaments, despite often wide ranging reforms in strengthening legislative oversight of the executive, **it** is still considered that Parliament's role is essentially one of passing legislation. Therefore, lack of executive support for materials, funds needed in Parliament's functional oversight restricts full legislative scrutiny of government's activities. Stakeholders must be sensitized to know that oversight goes beyond legislation and includes checking government activity.

(c) As part of their accountability requirements, Parliaments should seek independent assurance that government ministries and all public sector organizations are operating and accounting for their performance in accordance with legislation passed by Parliament or policy statements made in Parliament.

(d) The committee system assumes great importance since Parliament cannot have complete oversight over government and all its activities. In their oversight of finance, the committees rely on the Auditor-General's output. To make both the Auditor-General and committees effective, Parliaments should ensure that committee reforms, such as giving committees more powers to recommend punitive actions against offenders, are simultaneously pursued with stronger legislation for independent Auditor-General's Offices.

Strengthening measures include removing the requirement found in some places that Auditors-General must first send reports to Heads of State before submitting them to Parliament.

(e) In order to remove the barriers which work against ensuring accountability, the CPA Secretariat should enhance the interface between Parliaments by distributing literature across

Commonwealth Parliaments on various procedures and mechanisms of strengthening oversight.

* * * * *

Appendix ii

Anatomy of the Expenditure Budget

SIGMA Policy Brief No 1

SIGMA is a joint initiative of the European Union and the OECD, principally financed by the EU, concerned with government and public service management issues.

Home:

http://www.sigmaweb.org/pages/0,2966,en_33638100_33638151_1_1_1_1_1,00.html

This document can be accessed at:

<http://www.sigmaweb.org/dataoecd/61/22/1821052.htm>

2. Introduction

Creating effective, modern budgetary processes and institutions is of great importance to the countries of Central and Eastern Europe. Key “building blocks” include organic budget laws; accounting systems and classifications; cash management and treasury systems; and financial information networks. Such laws, institutions and systems are essential to:

- facilitate the setting and implementation of **fiscal policy goals** (eg on budget deficits and debt) that are an important component of a country's macro-economic policy;
- create a **crucial bridge with the policy-making process** so that the financial impact of alternative policy options (eg major capital investment projects) on the budget and the economy can be measured and compared;
- enable **in-year monitoring and control of the budget** so that, for example, if public expenditure is higher than forecast, corrective action can be taken;
- support government efforts to build effective **defence mechanisms against fraud and corruption**, by creating a more transparent, open system that can easily be controlled and audited;
- assist the government in **managing the borrowing and debt of local authorities**; and
- help countries achieve standards of budgeting and financial control that are necessary in order to gain **accession to the European Union (EU)**.

This SIGMA Policy Brief describes the characteristics of modern budgeting systems that satisfy the requirements set out above.

A Cornerstone of Good Governance

While little remarked by the public, it is a practical fact that all daily operations of any government are inextricably bound up with budgeting. Arguably, what is good for the health of the budgeting system, is good for the health of the overall system of governance.

In EU Member States, the struggle to meet the Maastricht criteria focuses on budget discussion. Similarly, there are strong pressures on the central and eastern European countries to strengthen budget discipline in preparing for EU accession. As one example, the classical principle of budget comprehensiveness states that all public money should be accounted for in the budget. What then should be done about social security funds or government guarantees which some countries keep “off-budget” when calculating the debt or deficit? As another example, the question of whether the criteria for monetary union are sustainable in future years raises the issue of permanently appropriated entitlement programmes. These offend the principle of annual voting and, as a practical matter, greatly reduce the discretion of both parliament and executive to deal with future problems.

OECD Member countries in and outside Europe share similar concerns. The budget has become the vehicle for debates on the changing role of the state and on new relationships among social partners. New types of institutions are being created to deliver public services, and debates rage about how much decentralisation can be tolerated while maintaining control and accountability. Facing the imperative to do more with less, the function of public administration is being redefined to emphasise creative results-oriented behaviour in place of the traditional mandate to do little more than follow the letter of the rules and regulations.

Does the extra discretion given to administrators undermine the authority of parliament as some critics charge? Systems and safeguards built up over the years to combat corrupt administration are being dismantled in the search for efficiency. Are their replacements dependable?

The Balance of Powers

Effective budget management begins with a carefully balanced division of responsibilities between the parliament and the executive government (referred to in some countries, and in this paper, as “the council of ministers”). Competition for budgetary power is common but the tension between these two institutions is accepted as one of the vital checks and balances of democracy.

What is not often appreciated is the full extent of the complementarity of their roles. With a well-designed constitution and organic budget law, the powers of each are made to reinforce the other.

Parliament

It is an accepted criterion of democracy that the elected parliament holds “the power of the purse”; ie it must authorise all expenditures, all borrowings, and any revenues to be collected through the power of the state.

In an apparent paradox, parliament's power is reinforced by granting strong authority to the executive government and ministry of finance. Parliament acts by holding the executive accountable. But if the council of ministers does not itself possess the tools or the powers of command over public money, parliament's control of the executive is left with little meaning. Hence the paradox.

The most fundamental issue is the extent of parliament's power to amend the budget. In the only example of its kind, the United States Congress has virtually unlimited powers in budgeting. Frequently, it discards entirely the draft budget submitted by the president and, taking advantage of its own extensive research resources, compiles a quite different budget. At the opposite extreme, in some countries within the Westminster tradition, the parliament is forced to approve the budget without amendment or else defeat the government and cause an election.

A more equitable balance is found in most EU Member States, where parliaments are allowed to reduce or increase spending and taxes by voting amendments, but only within strict limits, such as, for example, that the deficit may not exceed the target proposed by the government.

Two other legislative practices are being reconsidered in European and other OECD Member countries -- namely, permanent appropriations and very detailed programme laws. The first of these procedures, sometimes called “entitlement spending”, has helped produce major deficit problems and creates a strong case for restoring annual voting for certain expenditure programmes. The second procedure, reflecting parliaments effort to extend its reach into day-to-day administration of programmes, has been found to create the very rigidities and inefficiencies which all governments are trying to eliminate.

In keeping with the paradox noted earlier, a parliament which makes many amendments to the budget or imposes micro-management details in law undercuts its own ability to criticise the council of ministers later if those arrangements turn out badly. Central and eastern European parliaments, therefore, are well-advised to design the constitution and the organic budget law to ensure a sound balance between the legislative and executive powers. They should limit their own intrusions in the executive role, for which they are ill-equipped, and instead emphasise strong and effective review procedures (eg audit) and other measures for holding the government to public account.

Council of Ministers

The council of ministers constitutes the key decision-making body at the centre of government. It approves the main budget parameters and targets on the recommendation of the finance minister; sets priorities for spending; decides major policy issues; resolves budget disputes between the finance minister and his ministerial colleagues; and approves the draft budget for submission to parliament.

It must be noted that much of the council of ministers' power stems from the fact that it has an exclusive right to present the budget to parliament. This is where parliament's authority reinforces that of the council of ministers. Since no minister can go to parliament independently to seek funds, all are bound to submit their spending plans to the collective judgement of their colleagues.

The dynamics of the council of ministers role in budgeting may be usefully seen as the conflict between the interests of the ministers as a collective body and the interests of ministers as individuals. The most basic interest of the council as a collective body is to retain the confidence of parliament and stay in power. How it taxes and spends are dominant factors in its success or failure. In the nature of things, the individual minister favours ever-increased spending within his sector, a view which conflicts directly with the council's collective interest in holding down taxes and borrowing while directing spending to the politically most important priorities.

Thus, in successful governance systems, the council of ministers has assigned to the ministry of finance very special powers and prerogatives to enable it to act as defender of the collective governmental interest. In a very real way, this ministry works to protect ministers from themselves. This also explains the natural close alliance which exists in most countries between the prime minister and the finance minister.

The discipline of the budgeting system relies on the effectiveness of this key axis between the only two members of the council of ministers whose full-time job is guarding the collective interest. In some countries, an explicit budgeting role for the prime minister is defined in the organic law, but in most cases the special relationship takes the form of continuous consultation and development of firm bilateral agreements on major issues.

A recurring temptation for ministers in all countries is to ease the pain of budget-making by replacing professional forecasts with politically more acceptable numbers. In many countries today, councils of ministers are sadder but wiser after inheriting the budget problems caused in part by past political tampering.

For example, if the revenue forecast is inflated it permits spending targets to be raised; and higher spending is regarded everywhere as good short-term politics. Or, if economic growth forecasts are inflated, projected unemployment figures will fall, another piece of the good news which all politicians prefer. But such practices are always self-defeating in the long run. A number of governments now remove themselves from temptation with rules requiring the budget to be built on “consensus” forecasts using those from authoritative non-government sources alongside finance ministry figures. Its value proven by these experiences, these rules would be a healthy addition to reforms planned in Central and Eastern Europe.

Ministry of Finance

Ministries of finance are nowhere loved but almost everywhere respected. To be effective as the guardian of the collective fiscal integrity of government, the ministry of finance must have powers and tools much stronger than other ministries. At the same time it bears the special burdens of being the collective conscience, not only by saying “No” frequently to maintain budget policy positions, but also by actively helping to design and evaluate key national programmes, and by demonstrating ethical and transparent behaviour in its relations with spending ministries, parliament and the public. Such endeavours are in keeping with the finance ministry's privileged position as steward of the taxpayers money.

What are the key powers in expenditure budgeting which the long-established democracies have accorded to the ministry of finance? A fundamental power is the custody and management of all public money (treasury function) which enables the ministry of finance to monitor and control the implementation of the budget. A second is the authority to regulate accounting standards, financial management procedures and closely related personnel and administrative activities. A third is to have right of access to any information from other ministries and agencies which the ministry of finance deems necessary for analysis and control. A later section describes essential tools for the exercise of some of these powers .

The most important power, however, is to prepare the draft budget and thereby to maintain a near-monopoly over financial requests going to the council of ministers. This bears comment because it is found in all countries but not always with the same effects. For example, under a central planning system, the budget prepared by the ministry of finance may be nothing more than a mechanical assembling of numbers resulting from decisions already made in planning offices, line ministries and public enterprises. In typical EU Member State governments, however, the ministry of finance is given strong authority to act as “gatekeeper” to the council of ministers on all financial proposals and thus to discipline the whole budget process

Note that this rule parallels the earlier one which gave the council a monopoly in presenting budget requests to parliament. It also completes the three-level hierarchy of mutually supportive powers which was described earlier as a paradox, as follows: parliamentary accountability is enhanced when the executive government has strong authority over public money; council of ministers authority comes in large part from its monopoly of requests to parliament; the councils collective strength is ensured by a strong ministry of finance; and the ministry of finance derives institutional strength from being an exclusive channel for funding requests to the council.

No government of an OECD Member country keeps absolute this particular prerogative of the ministry of finance, although all of them honour the principle in some fashion. In some countries, the originating ministry must obtain prior approval of the ministry of finance to

submit a proposal with budgetary implications to the council of ministers. In others, every submission to the council must contain a complete financial analysis which the ministry of finance has endorsed as accurate. A widely accepted minimum rule is that the ministry of finance must have sufficient advance notice to complete its analysis of the proposal and that the item cannot be considered at a meeting of the council of ministers if the finance minister is not present or represented.

Budget management and control is, of course, not the exclusive responsibility of the ministry of finance. Preparing the annual budget, under strictly defined “rules of the budget game”, requires a continuing dialogue between the ministry of finance and line ministries. And line ministries are responsible for managing and controlling their own budgets -- with greater or lesser degrees of autonomy, depending on the extent to which the budgetary system is decentralised -- subject to oversight by the ministry of finance.

Basic Tools for Expenditure Budgeting

The expenditure management responsibilities of the above institutions serve the three main aims of the budget: to maintain control of total spending; to ensure resources are allocated in accordance with government priorities; and to improve the efficiency with which programmes are designed and delivered. In the common experience of European and other OECD Member countries, a number of systems and institutions have been found indispensable, though they be found in a variety of forms and under different names in individual countries.

Public Money - Cash Management - The Treasury

If the executive government, through the ministry of finance, is to have full command and control of the budget during planning and execution, it must have control of the actual cash. If powers to collect, store, and spend money are spread among many ministries and agencies rather than concentrated in the ministry of finance, then the council of ministers, as a collective body, cannot claim to have real control. Most governments solve this problem by means of a law which defines “public money” and establishes that all such money must be deposited in a single account.

Public money means all money belonging to the state including duties and tax revenues, borrowings, and fees or charges arising under a government programme. Custody of the single account and the operation of all transactions affecting it is assigned to the treasury or equivalent institution coming under the authority of the finance minister. The treasury is usually given responsibility as well for the management of government debt, and often for certain government assets.

Accurate and Timely Information - the Accounting Systems

Day-to-day decisions about borrowing and spending can be no better than the information upon which they are based. The analyses necessary to carry out forecasts, to allocate resources for specified purposes, to promote efficiency and control implementation depend on accurate, informative, timely data in standardised accounting categories. The procedures for collecting information on receipts and disbursements may be centralised or decentralised depending on a country's size and its legal and administrative system.

For cash and debt management purposes, the accounting system must capture a limited set of key data very precisely and report to decision-makers within delays as short as 24 hours. To meet broader needs in budget planning and implementation, government accounting classifications must be established which render the data meaningful for economic and financial analysis, analysis by purpose (function/activity), by responsibility centre, by project, etc. While serving the budget, this is the accounting base also for good reports to programme managers. And the accounts take on international significance when the numbers support treaty obligations with the EU, World Trade Organisation and other inter-governmental organisations.

Accounting systems adequate to these purposes can only be created under the guidance and control of a central government body which has power to set accounting principles and standards, and to monitor and enforce their use throughout government. In most countries, this is the ministry of finance or a separate financial control body reporting to the finance minister. Whatever the body with central authority, it is bound, in defining the governments accounting standards and practices, to take account of the needs of the other central organisations which are major customers of the accounting system: the finance ministry, national statistics office, supreme audit institution, national bank, etc.

Sub-Systems for Dominant Expenditure Classes

While their details are beyond the scope of this paper, it must be emphasised that the budget depends on a variety of supporting systems, including: the civil service law; institutions and regulations which determine the number, rank and salaries of public sector employees; the system for selecting, prioritising and controlling public investment projects; the laws and processes governing the procurement of goods and services; statistics of adequate scope and integrity; and economic and financial modelling.

Control During Budget Implementation

The quality of administrative performance during the execution of the budget determines whether the goals and expectations embodied in the budget plan are achieved or whether taxpayers money is wasted, stolen or spent for unintended purposes. The requirement is for skilful and responsible management in all public spending organisations. All democracies with advanced market economies, however, will possess two central mechanisms which have been found essential to support effective budget implementation -- *management control* and *external audit*.

Management Control (or Internal Control)

Management control can be briefly defined as the organisation, policies and procedures used to help ensure that government programmes achieve their intended results; that the use of resources to deliver those programmes is consistent with the stated aims and objectives of the organisations concerned; that programmes are protected from waste, fraud and mismanagement; and that reliable and timely information is obtained, maintained, reported and used for decision-making.

Also called “internal control”, it is only during the past 25 years that these principles have been conceptualised and codified as a function integral to administrative management. The remarkable value of these techniques is that they prevent errors, detect errors which have

occurred, and correct errors which have been detected. This contrasts with traditional auditing techniques which concentrate on detecting and assigning blame for errors rather than on prevention and correction.

Essential ingredients of this approach are underlined in its two names. The term “management control” emphasises that designing and implementing these practices is the job of the management of an organisation; it is not the job of auditors or outside inspectors. And the term “internal control” emphasises that control takes place inside, not outside, the organisation. Internal control is part of the work rather than a separate after-the-fact check of the work. Each level in the hierarchy of administration -- parliament, council of ministers, ministry of finance, government control office and top management of spending organisations -- must contribute, in a manner appropriate to its responsibilities, to the establishment and operation of the management control system.

External Audit by the Supreme Audit Institution

In every democratic country, the circle of parliament's budgetary authority is closed with the approval of the final account and the report of the supreme audit institution (SAI), be it called auditor general, national audit office or *cour des comptes*. The important factors are that the SAI is responsible only to parliament, that it is independent of government or other political factions and that it possesses high professional skills. In EU Member States, the SAI carries important additional responsibilities to report on the use of EU funds and to co-operate in the work of the European Court of Audit, further underlining the importance that it be seen to be independent and meet international standards of professionalism.

Traditionally reliant on detailed reviews of transactions to establish the accuracy and regularity of financial behaviour, the spread of the internal control philosophy in EU Member States and other countries has been spearheaded by SAIs and has led to vast changes in their own auditing techniques.

In keeping with the principles of management control, modern SAIs spend little time reviewing the huge volume of data on individual transactions. Instead they review the systems, procedures, organisation structures and work practices to diagnose whether or not they are effective in preventing errors and achieving value for money. The SAI publishes reports which include recommendations on measures that should be taken to strengthen control systems, thus preventing errors and irregularities from occurring. In this way, SAIs better serve parliaments than by using up their scarce resources chasing faulty transactions which have already occurred and gathering evidence to apportion individual blame.

Organic Budget Law

An effective organic budget law (OBL) provides the indispensable legal base for all key roles and relationships described above, as well as creating the competence and conditions necessary to establish key tools of the expenditure management system. An OBL necessarily contains many elements, balances many interests and priorities and yet harmonises with the constitution and other organic legislation.

The most frequently controversial feature of an effective OBL is the array of special powers and prerogatives conferred on the ministry of finance. This feature is often resisted strenuously by line ministries and by the sectoral interest groups behind them. It may be

resisted also by parliamentarians anxious to preserve their own power although, as noted earlier, this is sometimes a misguided argument.

The objective should be an OBL which strikes a balance capable of sustaining effective management of state expenditures in the longer term. Parliaments and governments are well-advised to give the ministry of finance all the authority and prerogatives necessary to do the difficult but vital job of managing public money.

This power should be balanced with clear accountability for the ministry of finance. In particular, there must be complete transparency in the reporting of budgetary matters to the council of ministers; presentations to parliament must be fully informative and also comprehensible to the lay reader; rules preventing transfers between chapters approved by parliament must be rigidly observed; and decisions on the allocation of budgetary reserves and the spending of emergency funds must be promptly reported to parliament. Moreover, parliament must have effective means for ensuring that the government is held to account by means of debates on the annual budget; year-round surveillance activities by parliamentary committees; the review of the final account; and procedures for reviewing reports on government activities by the supreme audit institution.

Starting from an effective and durable division of roles, the organic budget law can become the basis for sound management of the nations finances and, as such, a strong buttress for ethics in administration, efficiency in management, and responsiveness in services to the public -- in short for many important qualities of good governance.

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About this Publication

The SIGMA Programme launched the Policy Briefs series in August 1997 to make public policy subjects accessible to a wide audience interested in governance in Central and Eastern Europe. The Programme draws upon its extensive international network of experts to write these concise documents, which provide non-specialists and specialists alike with comparative information on important matters affecting citizens in all democracies.

SIGMA is a joint initiative of the OECD Centre for Co-operation with the Economies in Transition and the European Union Phare Programme, mostly financed by Phare. SIGMA supports public administration reform efforts in thirteen countries in transition. The Programme offers beneficiary countries access to network of experienced public administrators, comparative information, and technical knowledge connected with the OECD's Public Management Service (PUMA). Views expressed herein do not represent the official views of the European Commission, OECD Member countries, nor the central and eastern European countries participating in the SIGMA Programme.

As part of SIGMA's ongoing activity providing advice and comparative information on public administration, Larry O'Toole wrote SIGMA Policy Brief No. 1: *Anatomy of the Expenditure Budget*. Mr. O'Toole, a former deputy minister in the Canadian Government, served as Senior Counsellor for Expenditure Management at the SIGMA Secretariat from 1993 to 1996. He now works as a consultant in Ottawa, Ontario, Canada.

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Appendix iii

The Dutch System

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The Netherlands

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THE NETHERLANDS

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I Introduction

The Kingdom of the Netherlands is a constitutional monarchy with a so-called parliamentary system. This principle is laid down in several provisions in the Constitution. A feature of the parliamentary system is the central role of Parliament. The specific question in this paper is concerned with the way in which Parliament evaluates government policy and legislation. More specifically, the role of Parliament regarding financial legislation and the budgetary process will be described in this paper. The structure of this article is as follows: first, some definitions will be given. Second, the constitutional framework is essential for describing and understanding the Dutch system of evaluation, so next, attention will be given to the Dutch parliamentary evaluation mechanisms. Finally, the possibility of feed-back and sanctions will be discussed.

II Definitions

From a constitutional and political point of view, Parliament in the Netherlands ought to play an important role in the process of evaluation. The Constitution and several Acts of Parliament are not very explicit on the question of evaluation. Evaluation of government policy and legislation is embedded in the general rules and procedures of both Chambers of Parliament. Only one single committee in the Lower House is concerned with the review of all financial legislation. Evaluation of government policy coincides with the treatment by parliament of reports and Acts concerning the final supervision phase (audit) of the (yearly) budget cycle. Supervising the financial management of all ministries is ultimately the responsibility of the General Chamber of Audit, whose tasks and responsibilities are provided in the Constitution and in Acts of Parliament. This Chamber of Audit is supported by several ministerial audit departments (agencies). However, not all organisations concerned with the supervision of financial management fall under the ambit of public law. It has become the practice in the last twenty years to involve private organisations in supervising the financial management of each Ministry and private institutions like universities and quangos. These private audit organisations provide support for the work of the audit department within each Ministry. Ultimately, the so-called Central Audit Office of the Ministry of Finance bears responsibility for the audit reports which are submitted to the General Chamber of Audit. Parliament, especially the Lower House, bears the ultimate responsibility for the acceptance (or, in theory, rejection) of these reports. This whole process is closely connected with ministerial responsibility. The final but of parliamentary power over the purse is the formal acceptance of the several ministerial audit reports and the Account Act.

III Constitutional framework

Representation

The Kingdom of the Netherlands has a written Constitution. The central feature of Dutch constitutional law is that it is not strongly tinted by ideology compared with the constitutional law of a number of other Western European countries. Neither does it contain an unequivocal concept on the foundation of government power (see for example the British concept of the sovereignty of parliament). Dutch constitutional law is an amalgam of diverse unexpressed

values and principles, none of which has been designated as the leading principle. In this sense it may be asserted that the Dutch Constitution is not very doctrinaire.

In Article 50, on the organisation and composition of the States-General (Dutch: *Staten-Generaal*), the Constitution states first and foremost that the States-General represents all the Dutch people. The States-General consists of the Lower House (Dutch: *Tweede kamer*) and the Upper House (Dutch: *Eerste Kamer* or *Senaat*). This bicameral system dates from 1815. Members of the Lower House are elected directly by the people every four years, members of the Upper House are elected indirectly by the members of the Provincial Councils (Dutch: *Provinciale Staten*). The Dutch bicameral system cannot be properly compared with the British, German or French systems, so the Dutch system of bicameralism may be considered as a system *sui generis*.

In essence, both Houses fulfil the same functions: they are part of the national legislator and are charged with reviewing government policy. This last-mentioned task is closely related to the unwritten but most important rule in the Dutch system, the responsibility of ministers towards Parliament (ministerial responsibility). The consequence of this important rule is that Parliament can call every member of government to account for his or her policy-decision or (Private Member's) bill. The also unwritten basic principle of the Dutch parliamentary system, the rule of confidence, is based on this constitutional principle. This rule states that every member of the government can hold his seal of office until a majority of one of both houses of parliament (for example by motion) decides otherwise, which means that he or she no longer has the confidence of the House. This means that parliament has an important role in evaluating government policy and can discharge members and even the whole Cabinet if the majority of the House so decides.

Position of the two Houses

The question can be asked to what extent the constitutional position of both Houses in the Netherlands differs from other bicameral systems. In the first place, both Houses fulfil a complete and equally valuable role in Parliament.

This can be deduced from several constitutional provisions. Both form part of the legislator (see article 50 cited above) and both have been given important parliamentary rights such as the power of the purse, the right of inquiry and the right to ask the government for information. Ministerial responsibility and the confidence rule of the parliamentary system apply to both Houses of Parliament. Draft legislation (bills) is always first debated in the Lower House. Only this Chamber has the right to introduce legislation and the right of amendment. In the legislative process, the Upper House therefore only has the opportunity to accept or reject a bill. Besides this constitutional framework however, parliamentary practice has changed the position of both Chambers over the years. In general, it can be stated that the Lower House has gained political supremacy in Parliament, especially in the sphere of the operation of ministerial responsibility and the confidence rule.

So, in the relation between the Government and Parliament, the Lower House dominates. The Upper House takes a backstage position. Nowadays its work is of great value in the legislative process. It is generally assumed that it will guard against unconstitutional acts and precipitate legislation.

Both the composition and the working methods of the two Chambers are linked to the development of political practice. As a result of this (slow) process of development as regards constitutional institutions, the Lower House now mainly consists of professional politicians. The frequency of the sittings is high and takes virtually a whole working week. The interconnecting meetings with members of the government are frequent. The Upper House is made up of members whose main occupation remains outside Parliament. They usually meet only once a week and consultation with members of the government is much less frequent.

Trias Politica

The essence of the *Trias Politica*, which means a balanced dispersal of powers over the different central government institutions, is realised to a considerable degree in the Dutch constitutional system. The central governmental institutions are relatively independent from each other and occupy separate positions. However, this does not mean that there are no checks and balances to supplement the separation of powers. These checks and balances may to a certain extent infringe upon the autonomy and independence of the institutions. However, these features of the Dutch constitutional system do not create a hierarchical relationship, but rather aim to facilitate joint cooperation between central government institutions.

The concept of (relative) autonomy and independence forms the background of the constitutional provisions on the legal status of parliament. An example of this is the prerogative of the government to dissolve the Houses of Parliament (article 64 Constitution). This power may be seen as an infringement of the aforementioned autonomy and independence, but over the years, governments have only rarely made use of this power. Another important feature of the Dutch system is the rule that membership of one of the Houses cannot be combined with other functions (article 57 Constitution), and especially a combination with the position of State Secretary or undersecretary (Dutch: *staatssecretaris*) is forbidden by this Article. This so-called incompatibility is typical of the relationship between the Government and the States-General. Dutch constitutional law assumes that the Government and Parliament are two separate and distinct government institutions (dualistic system).

In practice however, day to day politics have made the relationship between Government and (the majority of) Parliament much closer. This is mainly due to the way in which cabinets are formed in the Netherlands.

Formation of a cabinet

The Dutch system of proportional representation makes it almost impossible nowadays for one party to gain an overall majority in the Lower House after the general elections. The consequence is that after all the votes have been counted, different political parties in the Lower House have to form a government which will get the support of a majority of the MPs. During the seventies a trend developed in which the final result of the negotiations between these parties was published in a “coalition agreement”. This agreement between the participating parties outlines the policy of the new government for the next four years. Thus, at least initially, these party factions have a great influence upon Cabinet policy. Members of these cooperating parties in the Lower House are at least morally bound by this agreement. In fact, members of parliament who do not belong to the opposition must support their

colleagues in the newly formed cabinet. This simple political fact results in the different position of Parliament towards its role as the evaluator of government policy and legislation.

The parliamentary majority that supports the Cabinet does not accept a critical evaluation. The close link between the Cabinet and the majority in Parliament often proves to be so strong that government *mistakes* have relatively few or no consequences!

The relationship between the Upper House and the Cabinet is less close, partly because this Chamber is not involved in the formation of a new cabinet. It therefore often stands more aloof from the Cabinet, but this does not mean that it can easily force a minister or cabinet to step down. That is the political prerogative of the Lower House.

Parliamentary competence

Regarding parliamentary competence, both Chambers have two main powers: a shared role in the legislative process and the task of supervising government policy and administration. Its legislative role can be found in Article 81 Constitution which reads as follows:

“Acts of Parliament shall be passed jointly by the Government and the States- General”.

The second role of Parliament, supervising the Government, is not defined in any specific article or clause in the Constitution. The most important element of this task is ministerial responsibility, which is regulated in Article 42, section 2 (“The Ministers, and not the King, shall be responsible for acts of government”) in connection with Article 68 Constitution (“Ministers and Under secretaries shall provide either orally or in writing the Chambers either separately or in joint session, with any information requested by one or more members,...”).

The requested information may be asked for in a number of ways. e.g., through oral or written questions. A different way of exercising supervision over the government is the right of inquiry. Both Houses have this right, based on Article 70 Constitution (“The two Houses shall jointly and separately have the right of inquiry (Dutch: *enquête*) to be regulated by Act of Parliament”). This Article authorises both Houses, without hindrance, to conduct inquiries into abuses or any other matter about which they consider that they need information. Up to the present date, thirteen inquiries have been carried out, some of which have resulted in the resignation of a government minister or undersecretary.

Power to levy tax and the power of the purse

Article 104 Constitution regarding the power to levy tax reads as follows:

“Taxes imposed by the State shall be levied pursuant to Act of Parliament. Other levies imposed by the State shall be regulated by Act of Parliament”.

This article underlines the importance of laying down important (tax) decisions in an Act of Parliament. The ultimate right of Parliamentary approval is one of the essential elements of the rule of law in the Dutch constitutional system. In several Articles and sections, the Constitution stresses the importance of the principle of legality of government decisions.

Power over the purse is, as in most other countries, an important tool by which Parliament can exercise control over the Government.

Article 105, sections 1, 3 and 4 Constitution read as follows:

- “1. The estimates of the State's revenues and expenditures shall be laid down by Act of Parliament.
3. A statement on the State's revenues and expenditures shall be presented to the States-General in accordance with the provisions of an Act of Parliament. The balance sheet approved by the General Chamber of Audit (Dutch: *Algemene Rekenkamer*) shall be presented to the States-General.
4. Rules relating to the management of the State's finances shall be prescribed in an Act of Parliament.”

A Budget Act only authorises expenditures. It does not impose an obligation on the ministers to realise that expenditure, nor does a Budget Act regulate the income aspect. That requires (changes to) tax laws, loans and the like. So there is a narrow relationship between government expenditure and Parliament in its role as legislator.

Chamber of Audit

As mentioned in Article 105, section 3, there is a General Chamber of Audit in the Netherlands. The constitutional basis for this institution can be found in several Articles and sections. Article 76 reads as follows:

“The General Chamber of Audit shall be responsible for examining the State's revenues and expenditures”.

In Article 78 we find that

- “1. The organization, composition and powers of the General Chamber of Audit shall be regulated by Act of Parliament.
2. Additional duties may be assigned to the General Chamber of Audit by Act of Parliament.”

The Act of Parliament mentioned in section 1 is the Government Accounts Act of 1976 as amended (Dutch: *Comptabiliteitswet*).

The States-General itself, as in many other countries, is not really equipped to check the regularity and efficiency of income and expenditure.

A specialised organisation is necessary. The Constitution allocates this task to the General Chamber of Audit (Dutch: *Algemene Rekenkamer*). Nowhere does the Constitution explicitly attribute an advisory role to the General Chamber of Audit. Article 76 merely speaks of investigating the revenues and expenditures of the State. However, the Government Accounts Act contains a number of provisions which refer to an advisory role. The General Chamber of Audit can advise on the efficiency of national administration and the organisation and functioning of government departments. In addition, it provides the ministers concerned, the Minister of Finance and the Chambers of the States-General with any information which it deems necessary in the interests of the State. The recommendations of the General Chamber of Audit are published. The General Chamber of Audit has three other functions. First, it conducts a cash audit of the civil service departments which manage national finances and are therefore responsible for them. Second, it supervises State revenue and expenditure. Its investigation into the legality of the accounts must, among other things, answer the question as to whether the expenditure conforms to the allocation in the budget item concerned. The

ministers send monthly statements to the Chamber. If the Chamber objects to a particular item of expenditure, the minister must accommodate the objections or act accordingly to bring about an act of parliament, better known as an Indemnity Act, to justify the expenditure concerned. Third, the Chamber of Audit monitors the efficiency of central government's financial management. The Chamber presents the Government and Parliament with an annual report on its activities during the preceding year. During the 1980s, two parliamentary inquiries were held in the Netherlands (an inquiry into government subsidies on shipbuilding and an inquiry into government subsidies in the housing sector) which concluded, among other things, that the financial management of national expenditure and the controls on that management displayed serious shortcomings on a number of important points.

Some of the criticism was directed at poor supervision of government finances by the States-General and the General Chamber of Audit. Both institutions, the Chamber and Parliament, have learned a lesson from this. As a consequence of the outcome of the above mentioned inquiries, the Chamber of Audit has recently made efforts to carry out its duties more effectively.

This has resulted in an impressive number of reports identifying numerous alleged financial abuses within government departments. In my opinion, however, the question is whether this over-enthusiastic approach adopted by the Chamber of Audit will not be counterproductive in the longer term (overkill can lead to damage). The investigations of the Chamber of Audit tend to focus more on attention to management and political aspects of government policy.

This attitude can easily lead the Chamber to difficult constitutional and political problems. This threat can only be given a positive turn if Parliament gives more and accurate attention to the evaluation of government finances.

IV Organisation of Parliament

As can be concluded from the preceding paragraph the Constitution says little on matters relating to the internal workings of Parliament. The Chambers (Upper and Lower Houses) are to a large extent themselves empowered to determine their organisation and working methods. The standing orders of both Chambers give detailed rules on these matters.

The work of Parliament is mainly conducted in the plenary sessions of both Chambers and its committees. A significant proportion of the work of Parliament takes place in committees. There are different kinds of committees. Some are instituted by standing order (mostly permanent committees), others are special or contemporary (*ad hoc*). In principle the Chamber sets up a permanent committee parallel to each ministry headed by a State Secretary. Other permanent committees may also be set up in connection with special policy areas involving one or more departments. Each Chamber itself is also authorised to set up special committees for other purposes. These committees are set up only for the duration of a session. They exist until their work is completed.

As a general rule, both the permanent and special committees fulfil a dual function. Firstly, they take action on the verbal or written preparatory work on government bills and the yearly budget bill which is sent to the House to be deliberated. Secondly, they play an important role in stimulating the exchange of ideas with the government. The second function has become more and more significant in recent years, especially in the Lower House.

Members of the government nowadays frequently appear before committees to explain government policy. Another feature of this system of parliamentary committees is that they are empowered to hold public or private hearings. These may be held to allow participation, to enable interested private citizens to express their views; or, for example, to gather information, and to hear the views of learned experts. The evaluation of government policy is not explicitly mentioned in the standing orders.

Committee for Expenditure

However, special attention must be given to the committee for expenditure. Established in 1923, the committee for expenditure initially focused on the following tasks: supporting the government in its deficit-reduction plans in the thirties, a better control on government audit and auditing during the whole budgetary year. Nowadays, the committee is primarily responsible for the control of the legality and efficiency of national expenditures and is furthermore responsible for the informing, advising and supporting of the House and its committees in the execution of the power of the purse. Not only is this committee task related to the Budget Acts and other budgetary documents, but also to budgetary and audit aspects of large government investment programmes. The committee for expenditure has a rather internal position in the Lower House and carries out its work, compared with other standing committees, outside media attention.

Committee system

The Constitution mentions in Article 105, section 2, that “Bills containing general estimates shall be presented by or on behalf of the King every year on the date specified in Article 65” (the third Tuesday in September). On this day, Parliament receives from the current government all tax and expenditure proposals (22 bills) and must immediately commence its deliberations on the Budget for the following year. The important political debate (called The General Debate) takes place one day after the Budget is introduced by the Government on the third Tuesday in September. The general financial debate takes place a few weeks later and is mainly concerned with a discussion on the Government’s proposed tax policy.

The thirteen standing committees are each concerned with the preparatory investigation of the budget proposals of the related ministry. In general, this preparatory work is done in written form (written reports). Questions from members of the committee will be answered by the minister in written form (government memorandum). These questions are concerned with information about facts and figures, not with any political opinion. This written deliberation between committee and minister is the first stage of the discussion. The second stage of this deliberation is the so-called “budget investigation” (in the past called fact-finding) introduced in 1986. This method of studying government proposals is concerned with obtaining all relevant information about the budget in order to take later final decisions on a basis which can hold the Government accountable. Financial and technical aspects in this procedure are the search for arguments justifying expenditure reductions or tax increases; the budget baselines; intermediate and longer term deficit projections; the possibility of cash transfer based on changed policy decisions and a projection of risks in the case of budget excesses. During this stage, political conclusions will not be drawn. This is reserved for the final stage. After this stage, the Lower House minutely discusses the budget proposals in plenary session.

In this last stage, the Lower House has the right to propose *amendments* to the budget bills. Members of the Cabinet may incorporate a particular amendment into the bill straight away,

leave the decision to the House, can advise the House to vote against it or reject the amendment. This right, which gives the House an important and direct say in the provisions of an Act of Parliament, is not exercised very often. If it is exercised, its direct financial consequences amount to less than 1% of the budget. So, the changes in the budget on the basis of amendments by the House are not very substantive.

If a minister rejects an amendment, one of various consequences may ensue if the House nonetheless adopts it. The minister may request the Queen to withdraw the bill, which ends the matter (but this is not very likely considering the content of a budget bill). If the minister does not withdraw the bill, but persists in the rejection of the amendment and the House nonetheless adopts the amendment, the action of the House can be seen as a vote of no confidence. This vote, prompted by an amendment, will force the minister or even the entire Government to resign, thus provoking a Cabinet crisis.

The Lower House also has the right to vote on a motion. *Motions* are used by the Upper as well as the Lower House to express their opinions or wishes. They may be tabled in the course of the debate on budget bills, provided that each motion is supported by at least five members of the House. Ministers are formally not obliged to act in accordance with the motion carried by the House. Although they may – and sometimes do – ignore a motion, the Government will in practice try to put the explicit wishes of the House into effect as far as possible. In most cases, the Government changes the budget language in a budget bill. However, (budget) motions of no confidence are never proposed, as a Government is assumed to have the confidence of Parliament unless a vote indicates the contrary. In that case, the vote is taken to be an expression of the House's lack of confidence in the policy of the Government or of one or more ministers. This may result in the resignation of one or more ministers, or even the entire Government.

The debate on the budget bills will be concluded by two rounds of voting: first on amendments or proposed changes by the Government, followed by a vote on the budget bill as a whole.

Upper House of Parliament

After the Lower House has adopted the budget bills, the Upper House has to give its approval. In normal circumstances, this House only debates the main political aspects of the budget and does not take into account the details of the draft budget. This means in practical terms that the Upper House will discuss the budget in the course of the next financial year (in April).

Although Parliament has not formally approved the budget, ministers are allowed to spend money. This so-called 4/12 rule is laid down in the Government Accounts Act of 1976. The rule gives a minister the possibility in “the interest of the State” to enter into budgetary obligations which may amount to a maximum of 4/12 of the amount which is laid down in the budget bill of the preceding year. Parts of the budget bill which cannot be discussed by the House in time will be dealt with by “administrative settlement”. This informal procedure makes it possible for the House to vote on budget bills without discussion. The Upper House does not have the right to amend a budget bill, nor does it reject budget bills.

After both Houses of Parliament have approved the budget bills and the financial year is underway, supplementary budget bills can be introduced by the Lower House. Such

supplementary bills follow the same procedure as the “normal” budget bills as described above. In general, Parliament provides little attention to supplementary budget bills.

Other important documents

During the financial year, Parliament also gives attention to documents closing the preceding financial year. After the summer recess, the government sends the Lower House the Account Act (Dutch: *rekenwet*) together with all sorts of financial information. The Account Act gives a detailed overview of all the formally approved budget items and the realised expenditures.

Especially the deviations between planned and realised expenditures requires the attention and formal approval of the House. With the introduction of the Account Act, a minister gives both Houses of Parliament an overview of all the actions and decisions he has taken in the past financial year and for which he is fully responsible to Parliament. Each ministerial accounts department (Dutch: *departementale accountantsdienst*) has to give its approval to the ministerial budget. The reports of the accounts department are summarised and sent to Parliament. In addition, the General Chamber of Audit reports to Parliament on the legality of the expenditures. Both reports, together with the Account Act, give Parliament a complete picture of the past financial year. On this basis, Parliament can give its approval. Discussions on and approval of the Account Act can give Parliament useful information for the forthcoming financial year. Together with the above-mentioned reports, the Minister of Finance (Chancellor of the Exchequer) will introduce an Act in which the total responsibility for all the financial actions of the Government is laid down. The Constitution requires the explicit assent of the General Chamber of Audit on this bill. With the acceptance of this act by Parliament the financial year is formally and definitively closed.

Together with the introduction of the Budget on the third Tuesday in September, the Government also presents several important documents to Parliament. The most important document is called the Millions Memorandum (Dutch: *Miljoenennota*) in which the Government sets out its policy for the forthcoming year and gives Parliament an analysis of the financial policy which is based on the Budget. Another important document is the macroeconomic studies of the Central Planning Office (an independent agency which gives the Government detailed information on the expected development of the Dutch and international economy). This analysis of the state's economy is also published on the third Tuesday of September. Both documents will be discussed in the Committee for Finance and in plenary session in the Lower House.

Parliament will be informed twice during the financial year by the Government on the realisation of the Budget, first in the Spring Review and later in the year in the Autumn Review. Both formal documents make it possible for the Government and Parliament to adjust the policy if the development of the economy so requires. The Spring and Autumn Review are both discussed in plenary debates in the Lower House. Preceding these debates, a round of written questions and answers has become general practice over the years.

Apart from these formal bills and reports, the budgetary consequences of several important government actions and policies are reported to Parliament separately. It has become general practice, now formally laid down in the Government Accounts Act of 1976, that all important proposals, intentions and commitments of the government have a separate chapter in which the financial consequences are given in as much detail as possible. This information is intended to give Parliament a more complete overview of Government policy during the

financial year. The same obligation is introduced by proposals concerning important (and therefore expensive) infrastructural projects.

The role of the General Chamber of Audit and the method of Accountability

As mentioned above, the General Chamber of Audit plays an important role in informing the Government and Parliament in their formal role as budget law provider.

This Chamber regularly sends reports to Parliament. The concern of Parliament depends on the possible political items in such a report. Some reports attract the attention of the House, for example those reports which directly lead to a parliamentary inquiry (*enquête*). However, most reports only lead to a written reaction by the House without much publicity.

Supervision of the accounts is indispensably connected with the responsibility of the Government towards Parliament, which forms the essence of the power over the purse. As a consequence, the General Chamber of Audit plays not only a formal role in the Dutch system as described above, but, with the support of publicity and public opinion, it can now exert a major influence on the policy of the Government.

Financial management (the Government Accounts Act of 1976 describes this function as supervision of the “legitimacy of government expenditures”) has two major consequences for the auditor: first, he/she has to check whether the revenues, expenditures and commitments correspond with the law (product-control) and second, he/she has to check whether the financial management has been properly organized (process-control). These two forms of control are the basis of the supervisory function. The essence of this function can be summarized in three questions. The first question is: did the employees and the procedures function well during the year under review?

If procedures and employees functioned perfectly, the expenditures are legitimate as a consequence. The second question is concerned with the quality of the administrative organization. The third question focuses on the outcome of the process of financial management: what are the facts relating to expenditures, revenues and commitments? On the basis of the answers to these three questions, the auditor can draw the conclusion that the legitimacy of all transactions is fully justified or that he/she cannot give complete assurance on the legality of the transactions. The last conclusion forces Parliament to take action. A final question in this respect is whether this system of (product and process) control offers a complete guarantee as regards the legality of the transactions. The costs supervising financial management are very high.

Therefore, complete and full-scale supervision is almost impossible. The practice of supervision in the Netherlands can be described as “supervision at random”. Due to this system, audits can only give a 95 percent certainty as regards the facts and figures. The audit departments as well as the General Chamber of Audit employ this standard.

V Conclusions

In general, it can be concluded that the Dutch constitutional system and several articles and clauses of the Constitution in relation to the political culture and parliamentary practices are not mainly directed at a regular and complete evaluation of government policy. There is, however, a close relationship between the theory of ministerial responsibility and the

evaluation of government policy. The formal connection between these two subjects can be found in the yearly budget cycle and the legislative process in general. It is important to note that the formation of a cabinet and the “coalition agreement” on which the government policy is formally based, has resulted in a close (political) relationship between the sitting government and the coalition parties in the Lower House of Parliament. This close relationship makes it almost impossible for Parliament to take an independent position towards the evaluation of government policy and the budgetary process. Although Parliament is well-equipped for this task, political reality makes it difficult for Parliament to change government policy on major issues. In almost all circumstances, there is no guarantee of such a change.

The General Chamber of Audit plays an independent and formal role in the Dutch system. However, it certainly has an eye for the political dimension of certain Government initiatives. With the support of the media and public opinion, the General Chamber of Audit can provide parliament with ammunition for its role as lawprovider and supervisor of government policy. The flow of information, mostly published as (parliamentary) documents, is impressive however. The quantity and quality of the information to Parliament is of a high standard. The key question is whether Parliament will and can take action against the government if something has gone wrong in the past. The conclusion is therefore that Parliament is well equipped for this task but it is a question of political morality if and how it will act in its role as evaluator.

Appendix iv

The German System

**Accountability
and
Control
Federal Republic of Germany**

Federal German Finance Ministry

Downloadable at

http://www.bundesfinanzministerium.de/cln_01/nn_12742/EN/Federal_Budget/1000004.html

Abbreviations

BHO Federal Budget Code

BT Bundestag (lower house of German parliament)

BR Bundesrat (upper house of German parliament)

BVerfG Federal Constitutional Court

FMF Federal Ministry of Finance

GG Basic Law (Constitution) of the Federal Republic of Germany

HG Budget statute (annual)

HGrG Law on Budgetary Principles

HKR Budget, cash and accounts management procedure

SAI Supreme Audit Institution

Introduction

The present paper intends to give a review on the German system of accountability and control.

Part A contains a presentation of the budget system of the Federal Republic of Germany, with emphasis being placed on the aspects of accountability as well as ex-ante and ex-post control.

Part B describes in greater detail the external and internal financial control mechanisms not already dealt with in Part A. Part C responds to the question concerning reforms undertaken in the last five to ten years, while Part D concludes the case study with a brief look to the future.

A. Description of accountability and control systems in force

The budget process goes through different phases in which control and accountability play a part:

- Budget preparation procedure
- Budget execution
- Rendering and auditing of accounts

1. Budget preparation procedure, ex-ante control

The Federal Ministry of Finance (FMF) is responsible for the budget preparation procedure. The procedure begins with a circular to all government departments to submit their bids / estimates to the FMF.

In accordance with the arrangement of the budget system, the budget is subdivided into departmental budgets, chapters and titles. The departmental budgets contain the funds appropriated for the ministries.

They are subdivided into chapters for the ministry, general appropriations, subordinate authorities etc. Each chapter is subdivided into titles, which are the smallest subdivisions in the budget.

The federal budget comprises approximately 950 revenue titles and 5,450 expenditure titles, grouped together in chapters and departmental budgets. These titles are subject to ex-ante control in the budget preparation procedure and are audited by the Supreme Audit Authority (SAI) at the close of the fiscal year.

The procedure may be seen from the following diagram:

The FMF checks the bids / estimates on the principles of need, conformity with regulations and economy.

Procedure

Ex-ante control of the bids / estimates submitted by government departments is carried out by separate, specifically assigned divisions ("twinned" divisions) in the Budget Directorate-

General of the FMF and the bids are subsequently negotiated with the departments at technical level on the basis of the above principles. These twinned divisions are independent of the departments and are subordinated through the Budget Directorate-General to the executive level of the FMF (Finance Minister and State Secretaries). Most of the staff in this area are officials.

Any issues that cannot be settled at this level are the subject of further negotiations at directorate or ministerial level. After having been adopted by the cabinet, the draft budget is submitted to the Bundestag and the Bundesrat.

The federal government's financial plan (scope and nature of expected revenue and expenditure over a five-year period; Sec. 9 StWG), the finance report (state of public finances and their probable development; Sec. 31 BHO) and every two years the subsidies report (financial aid survey; Sec. 12 (2) StWG) are submitted together with the budget bill.

Preparation of the budget 2004

After the first parliamentary reading, the draft budget is referred to the Budget Committee of the Bundestag, which takes charge of the subsequent deliberations.

The Budget Committee scrutinises all the estimates and, where necessary, submits proposals for amendment. The decisions of the Budget Committee are prepared by a number of committee members (rapporteurs and co-rapporteurs for each departmental budget, selected both from the parliamentary groups of the governing and the opposition parties). The rapporteurs and co-rapporteurs discuss the draft budget with representatives of the supreme federal authorities concerned and of the FMF and the Supreme Audit Institution (SAI). Proposals submitted by the rapporteurs form the basis of deliberations in the Budget Committee and are adopted in most instances. A detailed debate is generally held in the Budget Committee if the rapporteurs and co-rapporteurs are unable to reach agreement on specific points or if an issue is of such fundamental significance as to require to be dealt with by the Budget Committee itself.

The comments of the specialised committees and of the Bundesrat are taken up in the deliberations of the Budget Committee. Issues that cannot be finally disposed of when the departmental budgets are considered by the Budget Committee are shelved until the "settlement" sessions (of which there are generally two). These are usually held in November, and mark the conclusion of the Budget Committee's deliberations on the draft budget. The FMF submits documentation for decisions to be taken in the settlement sessions combining all the deferred issues and other matters on which it considers a decision necessary (the so-called settlement items). This is followed by the second and third readings of the draft in parliament, during which minor amendments are made, and the final debate in the Bundesrat.

Product budgets

Within the framework of a pilot project which was proposed in the late 90s by the Budget Committee of the Bundestag and for which the FMF has since been centrally responsible, product budgets for a number of authorities have been appended as an annex to the budget proper. The aim is to supplement the present budget procedure by adding an output-oriented presentation of the use of funds to render the actual use of resources by the administration

more transparent. The data for these product budgets are generated from the system of cost-result accounting (KLR).

Six pilot authorities are at present involved in the project. These are the Press and Information Office of the federal government, the Federal University for Applied Public Administration, the Federal Statistical Office, the Federal Office for Motor Traffic, the Federal Railways Agency and a part of the customs administration. Five product budget tables of the total of six pilot authorities are already backed up by the requisite data in the government's draft budget for 2004. This will provide parliament with an additional source of transparency and information, enabling delegates to assess in considerably greater detail the work done by these authorities.

2. Budget execution

The basis of execution is the budget as established by the budget statute, authorising the administration to effect expenditure and to enter into expenditure commitments.

Detailed provisions on budget management are contained in a circular distributed by the FMF to the supreme federal authorities (Sec. 5 BHO).

Management of budgeted funds

In accordance with Art. 65 GG, each federal minister is responsible for conducting the affairs of his or her department; accordingly, the minister is also responsible for the management of the departmental budget (departmental principle). The same applies to the heads of those supreme federal authorities that are not ministries.

Each department or agency appoints a budget officer who is directly responsible to the minister or the head of the agency for the management of budgeted funds (cf. Sec. 9 BHO). In accordance with Sec. 9 (2) BHO, the budget officer is responsible for preparing the documents required for financial planning and for the draft budget as well as for executing the budget. In addition, the budget officer is entitled to be involved in all measures of financial significance. The budget officer conducts correspondence, negotiations and discussions with the FMF and the SAI, unless he or she has delegated this task.

The budget officer is responsible for the orderly execution of the departmental budget. As the budget is too complex for one person to handle, the budget officer will delegate the management of relevant parts of the budget to the responsible areas. In this way, entire chapters of the budget are assigned to be managed by subordinate agencies.

All managers of budgeted funds must ensure that they are able at all times to give information on the state of execution of their budgets.

The role of the FMF in the execution of the budget

While each ministry is responsible for its "own" departmental budget, the general aspects of budget management going beyond the concerns of any one department are the responsibility of the FMF. It is the task of the FMF to monitor the state of budget execution and where necessary to intervene, for instance by placing a block on expenditure in accordance with Sec. 41 BHO, if developments in the revenue or expenditure situation deviate from the course

set out in the financial plan. This overall responsibility is reflected in the requirement that the departments must seek the consent of the FMF for any deviation from the budgeted figures.

Management of appropriated funds and authorisations for future commitments in the budget

The cardinal rule for government departments in executing the budget is the principle of efficiency and economy set out in Sec. 7 BHO. This is one of the key principles of budget management, and is again stressed in Sec. 34 paragraphs (2) and (3) BHO, where it is stipulated that money may be spent or recourse had to authorisations for future commitments only "as and when necessary for the purpose of efficient and economical administration" (Sec. 34 (2), first sentence, and Sec. 34 (3) BHO). This means that before government departments spend money or have recourse to authorisations for future commitments (AFCs) under their budget they are obliged to examine in each case whether, with regard to the reason for and the amount of expenditure, spending money or incurring a commitment for future expenditure is both objectively necessary and necessary at the time in question. Moreover, in accordance with Sec. 34 (2), second sentence, and Sec. 34 (3), appropriated funds are to be administered in such a way "that they suffice to cover all expenditure falling under the various purposes indicated." This is intended to ensure, wherever possible, that excess and extrabudgetary expenditure does not occur (cf. Sec. 37 (1) and Sec. 38 (1) BHO, second sentence).

Blocks on appropriations in the budget

Recourse to appropriations in the budget (expenditure and AFCs, established positions and other positions) may in individual cases be restricted (blocked) for important reasons.

Such blocks may be imposed

- by law (cf. for instance Sec. 24 (3) BHO, third sentence);
- by a note in the budget;
- by a cabinet decision (cf. for instance Sec. 6 (1) StWG);
- by the FMF after "having consulted" the responsible federal minister (cf. Sec. 41 BHO).

One may distinguish in principle two categories of block according to the purpose.

- . Blocks intended to effect savings in the current or in future fiscal years (blocks in accordance with Sec. 41 BHO, blocks imposed in the budget law itself, for instance in Sec. 4 (10) HG 1992, blocks in accordance with Sec. 6 StWG). These blocks invariably have the result of rendering the blocked appropriations permanently undisposable.

- Blocks imposed for reasons other than effecting savings (blocks in accordance with Sec. 22 or Sec. 24 (3) BHO). These blocks may be imposed if certain conditions for recourse to appropriations have not yet been met when such appropriations are budgeted (for example under Sec. 24 (3) BHO the submission of documentation required for the inclusion of construction projects in the budget). The effect of such blocks is merely to impose a provisional limitation on access to the appropriations. The blocks must be lifted by the FMF in accordance with the first sentence of Sec. 36 BHO before recourse may be had to the blocked appropriations. On application by the department concerned, the FMF will lift the block only when the conditions necessary for recourse to the appropriations have been met. In the cases referred to in the third sentence of Sec. 22 BHO, the consent of the Bundestag (Budget Committee) must be obtained.

Excess and extrabudgetary expenditure

Unexpected occurrences in the course of budget execution may establish a compelling need to exceed budget estimates in specific titles. In the event of such need, Art. 112 GG authorises the FMF as the government department responsible for the budget to grant applications for excess or extrabudgetary expenditure submitted by departments responsible for administering funds (referred to as the "emergency authorisation powers" of the FMF).

One speaks of excess expenditure where expenditure still exceeds the funds appropriated in a title once all the backup provisions have been exhausted. Extrabudgetary expenditure is that for which no title is provided in the budget and no unexpended balance is available from the previous fiscal year.

In its judgement of 25 May 1977 (BVerfGE 45,1), the Federal Constitutional Court (BVerfG) set out the requirements that must be met if applications for excess and extrabudgetary expenditure are to be granted:

- The need must be unforeseen.

In the judgement cited above, the BVerfG commented as follows:

"The term unforeseen refers not only to an objectively unforeseeable need but also to any need which, for whatever reason, was not in fact foreseen by the Federal Ministry of Finance or the Federal Government in drafting the budget or by the legislative bodies in deliberating and deciding on the budget, or whose greater urgency resulting from changes in the underlying situation has not been foreseen."

It should be noted that the need in question does not have to be an objectively unforeseeable one.

The definition of the term "unforeseen" proceeds from a subjective standpoint; in other words, it requires only those concerned not to have foreseen the need, even if their failure to do so was based on error, and even if the need, given correct forecasting, would otherwise have been foreseeable.

- The need must be a compelling one.

In the judgement cited above, the BVerfG commented as follows:

"There is a compelling need for expenditure only where such expenditure can no longer be postponed without damaging important state interests of a political, economic or social nature. The implication of this restriction of the powers of the Federal Ministry of Finance is as follows. Only where the need for excess expenditure is so urgent that the submission of a budget amendment or a supplementary budget or ultimately the postponement of the expenditure until the next annual budget may no longer be deemed justifiable, given a reasonable assessment of the respective situation, can such need be termed compelling."

The expenditure must be an objectively unconditional necessity that cannot be postponed. If it is unlikely that the legislative bodies will be able to grant the authorisation required by law in time, the above-cited judgement by the BVerfG calls for the FMF to consult the legislative bodies before taking a decision in accordance with Art. 112 GG. However, the BVerfG

leaves it to those bodies to decide whether to exempt the FMF from this requirement where the consultation procedure does not appear to be practicable. This exemption is given in the form of a proviso in the fourth sentence of Sec. 37 (1) BHO that a supplementary budget will not be required if the excess expenditure does not in any one case go beyond an amount to be specified in the budget statute or if legal obligations have to be met. In the budget statute for 2003 (HG 2003), the ceiling for excess expenditure is set at € 5 m in accordance with the fourth sentence of Sec. 37 (1) BHO.

The HG 2003 introduced a new provision on the consultation procedure for excess and extrabudgetary expenditure. In accordance with Sec. 7 (1) HG 2003, the Budget Committee must be notified before obtaining the consent of the Federal Ministry of Finance in the case of excess and extrabudgetary expenditure exceeding the expenditure ceiling or in the case of legal obligations exceeding € 50 m.

Exceptions are permissible only for compelling reasons. This provision reinforces the involvement of parliament. In this way the Budget Committee is involved in the decision on whether legislative procedure leading to the adoption of a supplementary budget should be initiated, notwithstanding the proviso in the fourth sentence of Sec. 37 (1) BHO.

In accordance with Sec. 37 (4) BHO, the Bundestag and the Bundesrat must be notified of excess and extrabudgetary expenditure every three months; in cases of fundamental or considerable financial importance, this notification must be made immediately. Excess or extrabudgetary expenditure of "fundamental importance" is in practice deemed to exist where excess expenditure has consequences for the development of the budget extending beyond the confines of the individual case and is likely to predetermine future budget legislation to a decisive extent. Excess or extrabudgetary expenditure is regarded as of "considerable financial importance" where the expenditure exceeds € 5 m in any one instance.

These notification requirements ensure that the application of Art. 112 GG is subject to constant parliamentary control. They afford the legislative bodies the opportunity to comment on decisions taken by the FMF in accordance with Art. 112 GG and if necessary to admonish the government to adopt a more restrictive approach in future.

Excess and extrabudgetary authorisations for future commitments (AFCs)

The provisions of Art. 110 ff. GG relate only to expenditure, but not to authorisations for future commitments (AFCs). Art. 112 GG thus confers on the FMF constitutionally guaranteed emergency authorisation powers only for excess and extrabudgetary expenditure. In contrast, the powers of the FMF to grant excess and extrabudgetary AFCs are conferred under Sec. 38 (1), second sentence, of the BHO. However, it is clearly stated in this provision that an excess or extrabudgetary AFC may be granted by the FMF only under the same conditions as apply in the case of excess and extrabudgetary expenditure (unforeseen and compelling need).

There is no need for legislation on the adoption of a supplementary budget if in any one case the total amount of excess and extrabudgetary AFCs does not exceed the ceiling to be specified in the budget statute or if legal obligations have to be met. In Sec. 7 (2) HG 2003 the ceiling is set at € 10 m and at € 5 m for excess and extrabudgetary AFCs the expenditure for which falls due in a single fiscal year only.

Close of the fiscal year

In the course of the fiscal year, the Federal Ministry of Finance sets out in the close-of-year circular the assignments to secure the statement of account and at the same time stipulates the last day in the fiscal year on which entries in accounts may be made.

In accordance with Article 114 GG and Section 80 BHO, the FMF is obliged to submit to the Bundestag annual accounts covering all revenue and expenditure as well as assets and debts. In an appropriate circular, the FMF calls on the supreme federal authorities to render accounts for their respective departmental budgets as at the close of the fiscal year. The FMF then draws up the annual accounts (budget and property accounts) for the Federation in accordance with Section 80 to 87 BHO.

The budget account incorporates a wealth of detailed information in addition to the statement of departmental revenue and expenditure, subdivided by titles, ranging from the cash and budgetary accounts of the Federation to the statement of borrowed funds.

The property account shows the assets of the Federation in the form of money and material assets including financial claims and accounts receivable. It also shows the revenue and expenditure of the special funds and the annual statements of account of federal undertakings.

The annual accounts are submitted to the Bundestag, the Bundesrat and the Supreme Audit Institution at the end of the first quarter of the following year. The SAI is provided with additional detailed information on the property account.

Cross-departmental programmes and measures

As the departments manage their respective areas of activity independently and there is no duplication of tasks, programmes and measures can for the most part be clearly attributed to the individual departments. The BHO stipulates in Section 17 (4) that expenditures and AFCs relating to a common purpose are not to be budgeted under different titles. Hence there are only very few cross-departmental measures for which part appropriations are entered in the budgets of the departments concerned.

The reporting on this is not governed by budget procedure and is agreed and undertaken in different ways.

Role of the judiciary

Specific prescriptions relating to the German budget system are contained in the constitution, particularly in Articles 109 ff. (thus for instance the stipulation in Article 115 GG that revenue from borrowing may not exceed the total expenditure for investment provided for in the budget estimates, with exceptions being permissible only to avert a disturbance of macroeconomic equilibrium; the requirement in Article 109 (1) GG that the Federation and the Länder are to be autonomous and mutually independent in their budget management; the measures specified in Article 109 (4) GG to avert disturbances of macroeconomic equilibrium; the requirement that the budget must be submitted to parliament as well as prescriptions on drawing up the budget and rendering accounts). Subject to the admissibility criteria deriving both from the Basic Law and the Law on the Federal Constitutional Court, compliance with these prescriptions is subject to verification by the Federal Constitutional

Court. However, not least with reference to the principle of the separation of powers, it does not follow that in exercising such control the Federal Constitutional Court is entitled to act as budget legislator and itself to take decisions on the budget; rather, its function is to ensure that in taking their decisions budget legislators do not overstep the boundaries laid down in the law.

Moreover, the prescriptions contained in the GG on the system of federal financial equalisation, which largely determines the distribution of revenue within the federal state and thus the budget situation of the individual political subdivisions, are also subject to the control of the Federal Constitutional Court.

A decision by the Court in 1999 may be cited as an example, in which it found that the system of federal financial equalisation had to be reorganised in line with revised principles; a further example is the action currently being brought by the Land of Berlin before the Federal Constitutional Court to have a state of budget emergency declared with the aim of receiving supplementary grants from the community of federal states.

3. Rendering and auditing of accounts

The object of government accounting is to show that budgeted funds have been used as directed and to document the status and location of administrative and financial assets. As public authorities make use of other people's (the taxpayers') money, an obligation to render accounts may be derived from generally accepted principles. Hence the accounts showing revenue, expenditure, property and debt are rendered to parliament (Bundestag).

Overview of procedure

The auditing of federal government accounts also comprises the examination of its budget and financial management. It is conducted in two stages:

- administrative control by the Supreme Audit Institution (SAI) and its audit offices;
- political control by the parliamentary Audit Committee, a subdivision of the Budget Committee of the Bundestag.

This is followed by the granting of discharge to the federal government by the Bundestag and the Bundesrat.

Auditing by the Supreme Audit Institution

Once the FMF has submitted the budget and property accounts after the close of the fiscal year, the accounts are audited by the SAI and its audit offices. This takes the form of an external financial control (see B.1 below).

The outcome of the audits (audit results) are submitted to the departments concerned for comment within a period of two to four months. Audit results of fundamental importance or of considerable financial impact are also submitted to the FMF. The complete audit results are submitted as comments in the form of an annual report to the federal government and to parliament.

Parliamentary auditing of accounts and discharge

The detailed parliamentary auditing of accounts is undertaken by the Audit Committee on the basis of the audit comments of the SAI.

The Audit Committee is a subdivision of the Budget Committee. Whereas the Budget Committee is principally responsible for the authorisation of budgeted funds, the function of the Audit Committee is that of budget control. All members of the Audit Committee are at the same time members of the Budget Committee, so that the same group of persons is responsible both for authorising and for controlling the budget, thus ensuring a high degree of control effectiveness.

The Audit Committee holds meetings at which the comments of the SAI are dealt with in the presence of representatives of the relevant department, the SAI and the FMF. At the conclusion of the audit period, the Audit Committee submits a recommendation for decision through the Budget Committee to the plenary session of the Bundestag.

In the course of a separate discharge procedure, the Bundestag and the Bundesrat take a decision independent of each other on whether to grant ex-post discharge to the federal government for the fiscal year in question. Bundestag and Bundesrat may refuse to grant discharge to the federal government.

However, this has not yet occurred in the history of the Federal Republic of Germany.

Accountability of the political subdivisions

Article 109 GG states that the Federation and the Länder are autonomous and mutually independent in their budget management. Preparation, management, rendering of accounts and control of the budget in the Federation and the Länder are governed by the framework conditions set out in the Law on Budgetary Principles (HGrG). The Federal Budget Code (BHO) and the budget codes of the Länder which regulate the budget system are derived from the HGrG. Hence Federation and Länder conform to common principles in relation to the budget system, and beyond that they are independent.

The Länder submit reports to the Federation solely for the preparation of financial statistics.

These reports are not used for control purposes but serve only the collection of data.

B. Financial control

1. The Supreme Audit Institution, external financial control

In 1950, the German Supreme Audit Institution (SAI) was set up in Frankfurt am Main. At the beginning of 1998, nine Regional Audit Offices were set up which were designed to optimise and enhance government audit work. At the same time the former pre-audit offices were abolished. The Regional Audit Offices are subordinate to the German SAI and are subject to the German SAI's oversight and technical guidance. Since 1 July 2000, the German SAI's headquarters have been located in Bonn.

The German SAI has a branch office in Potsdam which has occupied the building of the former Reich Court of Audit since 1 December 1998.

The audit offices in Germany provide audit coverage of the overall financial management of the Federation and of the Federal states including their separate property funds and federal undertakings.

The German SAI is responsible for auditing federal budget funds. The German SAI is an institution of its own kind that is neither part of the legislative, judicial nor executive branches of government. It has an independent status. This is a special feature distinguishing external audit bodies from the internal audit bodies that are integrated into the various bodies and agencies that they are designed to audit.

The German SAI is a supreme federal authority. As an independent body of government auditing it is subject only to the law.

Organisation and legal status

The status of the German SAI, its Members and its essential functions are guaranteed by the Constitution (Article 114 Section 2 of the Basic Law). The German SAI's structure, the appointment of its Members and the decision-making procedure are detailed in the German SAI Act which is supplemented by Standing Orders. Auditing functions, subjects, criteria and procedures are set forth in the Federal Budget Code (Section 88 et seq.), in the Budgetary Principles Act (Section 53 et seq.) and in other legislation, such as the German Railways Reform Act and the Federal Radio and Television Act.

Apart from that the German SAI's audit manual provides for uniform audit criteria and procedures governing mission performance by the German SAI and the regional audit offices.

The German SAI and the audit courts of the sixteen constituent states of the Federal Republic are autonomous and independent institutions of government auditing. This fact precludes any subordination to one another. Nevertheless, the fiscal systems of the Federation and of the states are intertwined to a degree necessitating close co-operation between the audit institutions. Where the German SAI and any State Court of Audit share auditing responsibilities, they may perform joint audits, or they may agree to delegate audit functions.

Currently the German SAI consists of nine audit divisions and 52 audit units. It has 603 staff members, of which 56 are Members and 450 audit staff.

Government audit work is assigned to the various audit divisions and units on the basis of an annual schedule of responsibilities. The audit divisions are headed by senior audit directors and comprise each several audit units and a steering unit. Each audit division has a steering unit and a special audit support unit. Audit work is mainly allocated to the audit units responsible. Audit units are headed by an audit director who is a Member of the German SAI. The audit units are staffed with auditors and other support staff. In addition there are audit support units to help with complex and difficult audit projects.

The steering units provide support to the senior audit director in his efforts to coordinate work among the audit units and between the German SAI and its subordinate regional offices.

Apart from what is set forth in the schedule of responsibilities audit groups may be formed to deal with an audit mission if audit purposes so require. Composed of specialists from different audit units, they tackle new audit priorities at short notice - and quite beyond the routine schedule of audit work – enabling the German SAI to respond flexibly to changing audit challenges.

Decisions relating to audit work are generally made by "colleges" of German SAI Members. As a rule, a college is made up of two, i.e. the senior audit director and the audit director. Colleges of three

Members, to include either the President or the Vice-President, may also be formed. If a college cannot agree on a particular point, it is incumbent on either the respective divisional senate or the senate to decide. Certain types of decisions, e.g. on what observations should be included in the annual report, are reserved to the senate.

The Senate is the German SAI's supreme decision-making body. It is composed of 16 Members:

President, Vice-President, all senior audit directors, three audit directors and two rapporteurs. The Senate may set up committees. The most important and obligatory committee provided for by the German SAI Act is the standing committee. It participates in the decision-making process on the allocation of audit assignments within the German SAI.

In addition to the Senate law provides for the divisional senates as another decision-making body at the German SAI. The divisional senates are each composed of the division's senior audit director, all its audit directors and one audit director from another audit division. So far this body which is designed to decide in cases of diverging opinions among the colleges or the divisions has been of minor significance.

The schedule of responsibilities which determines the distribution of functions within the German SAI is drawn up by the President in consultation with the standing committee of the Senate in accordance with statutory procedure.

One major purpose of this procedure is to ensure full audit coverage. The schedule of responsibilities is based on audit units which are grouped together to form the audit divisions. The tasks assigned to individual audit units usually address organisational units or legal entities (e.g. government departments or bodies incorporated under federal public law). Alternatively, audit functions may reflect certain revenues or expenditures across various departments (personnel, public works covering one or more government departments, taxes) or specific funds (ERP Separate Property Fund). Furthermore, there are also units for cross-sectional audit work that examine certain issues across the board, without regard to organisational units or specific budget items. Finally, there are some audit units that deal with legal or administrative issues (such as co-ordination and drafting of the annual report to be adopted by the Senate).

Scope of auditing

The German SAI examines

- the financial management of the Federation, its separate property funds, and federal undertakings;

- public corporations established under federal law (e.g. the Federal Employment Services), including those federal enterprises of the same legal form;
- social security institutions established under federal or state laws, receiving grants from the Federal Government or where the Federation has entered into guarantee commitments;
- the activities of the Federation in private-law enterprises of which it is a shareholder (with an audit approach following commercial principles, such as Telekom AG and Deutsche Bahn AG);

The German SAI may also carry out examinations of bodies or other third parties outside the federal administration where these receive or handle federal funds (e.g. the constituent states, local authorities, or grantees).

Each year, the German SAI carries out some 600 audit missions and reports on the relevant audit findings to the audited bodies, i.e. the federal departments in most of the cases. The audited bodies may comment on the shortcomings found and outline their views on how to address the problems stated. At a later stage in the procedure the German SAI follows up on the action taken in response to the audit recommendations made. In accordance with applicable legislation the results of these audit procedures are not made public.

Reporting

Each year, the German SAI submits an annual report on major audit findings and audit recommendations to both Houses of the German Parliament and to the Federal Government (cf. section 97 Federal Budget Code). This report is also used by Parliament to approve the accounts for preceding years.

The annual report also highlights saving potentials or options for increasing revenue. The audit recommendations are discussed by the Public Accounts Committee and usually most of them are supported by the Committee. The observations are not limited to the year for which approval is sought.

Most of them deal with topical issues that are still open for remedial action.

In October each year, the annual report is presented to the public at a press conference in Berlin by the German SAI's President. About two years later the German SAI issues an audit impact report stating whether and how the audit recommendations have been supported by Parliament and what remedial action has been taken.

In addition to annual reporting, the German SAI may at any time inform the legislative bodies and the Federal Government of matters of particular significance (cf. section 99 Federal Budget Code). Recent examples of this have been the reports about the federal participation in the construction of Munich's new airport, information processing security in computer centres of the federal administration and the refund of turnover tax on inputs in connection with the establishment of family partnerships of farmers and forest owners, the organisational restructuring of the Farmers' Pension Insurance and the taxation of revenues from the sale of securities.

The German SAI has also been given the task of making recommendations on the basis of its audit findings and of advising the bodies under audit and Parliament. Thus the German SAI helps enhance public sector management and performance.

Advisory functions

The German SAI may give advice in advance of decisions being made. Such advice is designed to help prevent shortcomings. Sometimes this may prompt legislators to revise or amend the law.

The Bundestag and, above all, its Appropriations Committee rely on the German SAI's expertise and advice especially in connection with major government projects and programmes that pose a high risk to value for money. This function of the German SAI to provide testimony in a timely manner on current government issues is given more and more emphasis. A wide array of issues are addressed, ranging from the reliance on external IT experts, federal funding provided to the EXPO 2000 world exhibition, the Federal Armed Forces Special Air Mission Unit, federally funded railway net extension to the awarding of licenses for restaurants on Federal Motorways. Other topics include the status of cost and performance accounting within federal departments, the feasibility study of the Transrapid and Metrorapid magnetic levitation tracks.

It is mainly when the budget estimates are prepared that the German SAI makes its audit experience available. It participates in the budget negotiations between the Federal Ministry of Finance and the departments and provides testimony to Parliament in the course of preparatory talks with the rapporteurs of the Appropriations Committee and during that Committee's deliberations.

Audit procedure

In the implementation phase of the budget, audit emphasis is on financial management. Audit findings may lead to adjustments at a stage early enough for spending cuts to become effective during the ongoing financial year.

The German SAI audits receipts, expenditures and commitment authorisations, the federal assets and the federal debts. In addition, the audit mandates provides for audit of all government programmes that have financial implications even if expenditures have not yet been incurred (such as the contract awarding procedure for a management consultant in the context of a privatisation project). However, it is always a prerequisite for audit that a decision has been made. Particularly large-scale programmes comprise a multitude of individual decisions any of which may be examined separately. This approach allows the German SAI to detect and correct mistakes at an early stage.

The German SAI is free to determine the timing and nature of audit work. It may conduct field work. It has the right of access to any pertinent information, records and vouchers it requires for audit work.

Audit matters are selected when drawing up annual audit plans. The German SAI is free to set audit priorities, arrange for sample audits, or leave accounts unaudited. A major purpose of audit programming is to provide a reliable overview of federal financial management and to avoid any audit gaps to the extent possible. When selecting audit topics the German SAI relies on any information available during audit work but also on petitions from citizens or on issues reported by the public media. In addition the German SAI bases its selection on a systematic analysis of major government programmes having a major financial impact or presenting a high audit risk. Audit requests submitted by Parliament or its committees are met to the extent possible.

The SAI may take account of internal control reports in order to evaluate areas of risk as it deems fit. It also does systematic evaluations of internal control systems. The SAI has issued audit rules and standing orders that govern its audit work. Apart from that it also applies the INTOSAI auditing standards.

The German SAI is authorised by law to rely on external expertise as it deems fit.

The German SAI is authorised to demand from all bodies under audit any information or documents that it may consider necessary for audit purposes. It is notified whenever the executive branch introduces any regulation, provision or rule which has financial implications. This is to ensure that the German SAI is kept informed of public sector activities which may warrant immediate attention and may provide an informed opinion. Furthermore, where accounting and auditing issues are involved, the authorities must first consult or seek the approval of the German SAI.

In its audit of regularity and compliance the German SAI examines whether the laws, the budget, any pertinent regulations, provisions and rules have been observed.

Performance audits under the criteria of economy, efficiency and effectiveness are carried out to ensure that good value for money is obtained. Auditors pay special attention to the staff resources employed and to the effectiveness of public sector management. Effectiveness audit is becoming increasingly important to see as to whether the desired objective has actually been achieved; and as to whether adequate programme evaluation has been carried out. This applies particularly to large-scale government programmes or projects.

The German SAI sets out the audit findings in management letters, which are sent to the audited bodies. These are required to submit their comments on the audit findings and conclusions within a time frame set by the German SAI.

The German SAI may also communicate audit findings to other government bodies and the Appropriations Committee. In addition, significant audit findings of a basic nature or that have major financial implications are brought to the attention of the Federal Ministry of Finance.

The German SAI must not judge the merits of policy decisions, but it may examine and report on the rationale for and the effects of decisions made. While the German SAI is not authorised e.g. to second-guess the political expedience of specific subsidies, it may check and report on compliance with applicable laws, regulations and rules and on achievement of the desired impact.

However, the German SAI may not make assessments as to whether certain subsidies should be paid or not. The German SAI may examine and report on its findings as to whether in a case under review applicable procedures have been complied with and whether the subsidies granted have actually achieved the desired impact.

Since the German SAI cannot compel compliance with its recommendations, it needs to rely on the persuasiveness and credibility of its arguments. Apart from that the parliamentary Appropriations Committee and the Public Accounts Committee help ensure that the problems stated in the German SAI's annual report are effectively addressed. During the past years, these committees endorsed more than 90 per cent of the audit findings following deliberations in which the responsible German SAI Members provided testimony.

Government departments, generally represented by the Federal Minister or the Permanent Secretary of State or other senior staff, are held accountable by the Public Accounts Committee for any mismanagement.

Staff

The German SAI's staff is made up of Members (President, Vice-President, Senior Audit Directors and Audit Directors), audit managers, auditors and support staff. The Members are independent both personally and in respect of the performance of their duties. The regulations on independence and disciplinary measures within the supreme federal judiciary are applied to the Members of the German SAI.

Either the President or the Vice-President and at least one third of the Members must be qualified to hold judicial office. This means that they must have passed the first and second state examinations in Law.

Members and auditors are university and polytechnic graduates, or have a higher technical college education. Many auditors have a law background. The German SAI also employs business and economics graduates, computer experts and graduate engineers specialised in various fields.

The audit units are headed by Audit Directors. These participate in field work and inform the other Members of matters of general or major significance.

Upon the proposal of the Federal Government, the Bundestag elects both the President and the Vice-President of the German SAI for terms of twelve years each by the same majority of its members as is required for the election of the Federal Chancellor. The Presidents must not be re-elected, and tenure of office must not extend beyond the statutory retirement age for civil servants of the Federation.

The President is the head of the German SAI as a supreme federal authority. In this capacity, he/she is the superior of all German SAI staff and represents the German SAI externally. He/she bears the overall responsibility for the orderly fulfilment of the German SAI's tasks and ensures the consistency of the principles underlying its decisions. He/she arranges for due priority-setting and promotes the course of business. He/she is the chairman of the Senate and may chair the Divisional Senates under his jurisdiction as agreed between him and the Vice-President (section 7 para 5 German SAI Act). In the latter capacity the President may join the decision-making procedure of the colleges concerned.

The other Members of the German SAI are appointed upon his/her proposal. He/she nominates them after consultation with the standing committee of the Senate.

The Vice-President of the German SAI deputises for the President. He/she joins the decision-making process in those colleges and divisional senates for which he/she is answerable under the general schedule of responsibilities. In addition the Vice-President may take the chair of a Divisional Senate and is also the chairperson of the Senate's standing committee.

2. Internal financial control and internal auditing

As regards financial control, a clear distinction must be made in the budget system of the Federal Republic of Germany between ex-ante and ex-post control. Ex-ante control is comprehensive and is integrated in the budget preparation procedure, whereas internal auditing is carried out ex-post in the form of random self-checks on the management of budgeted funds. These functions are performed by separate agencies in the administrative organisation.

Ex-ante control in the budget preparation procedure

In public budgets in the Federal Republic of Germany, ex-ante control of expenditure is integrated in the budget preparation procedure. The budget negotiations are concerned with checking, negotiating and determining the items making up each title which are subject to disposition in the execution of the budget.

Efficiency analyses are conducted in advance in the case of large-scale projects and expenditure in the nature of investment. The basis for these analyses is Section 7 BHO, which stipulates that the principles of efficiency and economy are to be observed and appropriate efficiency analyses are to be conducted.

Taking account of the requirements of each case, the most simple and economical method is to be used in conducting efficiency analyses. Procedures are available having specific or general economic application. The procedure to be selected will depend on the type of measure, the objective to be attained with that measure and the effects the measure is likely to have.

Procedures having specific economic application

In general, discounted cash flow methods (e.g. net present value method) are to be used for measures having only negligible benefits and costs that may consequently be left out of account.

Alternative procedures used for routine applications (e.g. cost comparison, tender comparison) may also be employed for measures with only negligible financial impact.

Procedures having general economic application

Efficiency analyses having general economic application (e.g. cost-benefit analysis) must be employed for measures whose general economic impact must be taken into account.

Each department or agency appoints a budget officer who is directly responsible to the minister or the head of the agency for the management of budgeted funds (cf. Sec. 9 BHO); in supreme federal authorities this will be the head of the budget directorate, who answers to the minister for the orderly execution of the budget and can be outvoted only by the minister or the minister's appointed deputy.

In accordance with Sec. 9 (2) BHO, the budget officer is responsible for preparing the documents required for financial planning and for the draft budget as well as for executing the budget. In addition, the budget officer is entitled to be involved in all measures of financial significance. The budget officer conducts correspondence, negotiations and discussions with the FMF and the Federal Court of Audit, unless he or she has delegated this task.

Ex-post control by internal auditing

Internal auditing is carried out on a decentralised basis in all departments in the form of a self-check.

In terms of organisation, internal auditing facilities are frequently concentrated in a division with line function in the authority, generally within the central directorate. However, the head of the authority may opt to install internal auditing as a unit with staff function in proximity to the executive level. Internal auditing is thus organisationally and functionally dependent on the authority and does not give out any audit opinion on the accounts rendered by the government. Internal auditing duties are carried out by officials and public-service employees appointed in accordance with the recruiting rules of the relevant authority (application, grade average, assessment centre).

The type and extent of the audit is determined by the heads of the respective department or subordinate authority in a plan drawn up a plan to give the main points of emphasis of ex-post control. The subjects of control are administrative expenditure and administrative activity, which are audited at random both during budget execution and ex-post. Following the audit criteria of the SAI, expenditure is examined to ascertain whether it is correct, expedient and economical. The control methods include the means at the disposal of internal auditing to carry out checks on the current management of funds at any time. Checks on risk management and IT management have also been envisaged but do not as yet play any major part.

The outcome of internal auditing is reflected in internal audit reports submitted to the head of the department, comprising the audit mandate, the result and suggestions for action. The internal audit unit itself prepares the final version of the report in accordance with the prescribed main points of emphasis.

No adjustments to the report are made at executive level. As this constitutes an internal control the result of which is not made public, internal auditing has no consequences for the executive level of the department. If sufficient grounds are established in the course of the internal audit to suspect a criminal or disciplinary offence, a copy of the report is forwarded to the appropriate authorities. Any misconduct at executive level in the departments must be made public in the course of external control by the SAI and by parliament.

C. Major reforms over the last five to ten years

Ten years ago, Germany already had a very elaborate system of public budgeting with its accountability, auditing and control procedures. Hence only relatively minor reforms have since been undertaken:

- Enhanced flexibility of budget legislation
- Product budget pilot project
- Replacement of pre-audit offices by internal auditing

Enhanced flexibility of budget legislation

Introduced for the first time in the 1998 federal budget, enhanced flexibility was applied across a broad front in 117 chapters comprising about 2,500 titles and an expenditure volume

of approximately € 13.7 bn. In the federal budget for 2003, flexible management applies in 107 chapters with an expenditure volume of about € 15.3 bn. This is equivalent to 6.2 % of total spending. The new flexible management instruments relate in general to administrative expenditure in the narrower sense, i.e. personnel and non-personnel expenditure by the federal authorities. Such generalised arrangements are not appropriate for the programme expenditure (for instance on transport and communications, social security, subsidies) that makes up the bulk of spending in the federal budget. For this, specific budget arrangements are required that are tailored to suit the type of programme in each individual case.

Appropriate provisions in the respective budget statute provide scope for the flexible management of administrative expenditure in the current fiscal year and beyond. Budget execution is made flexible by the admission of extensive eligibility for virement within individual expenditure categories without departing from the parliamentary prescriptions. Moreover, eligibility for carry-over of the expenditure coming under flexible budget management is ensured by allowing uncalled budgeted funds to remain available beyond the relevant fiscal year where there is an objective requirement to do so.

Nonetheless, flexible budget management does not obviate the need to observe essential budget principles:

- The principle of a yearly budget and the yearly rendering of accounts are crucial in ensuring timely verification that the intentions of parliament have been complied with.
- Establishing annual benchmark data for government action is of great importance for economically active persons and for the financial markets.
- The budget as broken down into separate titles conforms to the requirement that all public budgets should be transparent and comparable.
- The principle of general coverage, i.e. that all revenue serves as cover for all expenditure, must at all events be observed.

Product budget pilot project

The "product budget" pilot project was launched in 2000 with the aim of adding an output-oriented steering instrument to the input-oriented presentation of the budget. The product budget shows the performance of an authority in product areas and groups and assigns to these both quantities and costs derived from cost-result accounting. Thus for the first time the product budget is a performanceoriented budget presentation.

Product budgets were included for the first time in the form of tables in the government draft of the budget for 2001. As far as can be assessed at present it will take a lengthy period of time for the goaldirected use of this new steering instrument to be integrated into the budget preparation procedure.

Replacement of pre-audit offices by internal auditing

The pre-audit offices were replaced by internal auditing as from 1 January 1998. Before that, personnel had been installed in the departments and authorities to check the current management of funds and to carry out ex-post control of data. These personnel were functionally subordinated, and were obliged to report, to the SAI. As this form of auditing produced very little by way of results in the course of the years, internal auditing was introduced as a self-check focusing on specific points of emphasis.

The reform promotes the "two person" principle within the departments, and the control function stems in part from the very fact that specific transactions can be checked at any time. Setting main points of emphasis in the audit reports enables internal auditing to target specific areas, thus going far beyond the checking of warrants and the plausibility of calculations.

D. Look to the future

With its accountability, control procedures and mechanisms, the budget system of the Federal Republic of Germany is generally regarded as efficient. Through its Budget Committee, parliament is involved at an early stage (after adoption by the cabinet) in the detailed planning of departmental budgets and grants discharge to the federal government after the end of the fiscal year on submission of the annual statements of account and the audit reports of the SAI. Parliament is thus involved in the budget cycle from start to finish. As authority exercising external financial control, the SAI occupies a prominent position and is involved in all phases of the budget cycle or is informed directly by the FMF.

The outstanding features of the system are that spending is very precisely planned and tight restrictions are imposed on the redirection of expenditure. Increases in spending are invariably subject to the consent of the FMF. Extensive auditing is conducted by the SAI and is concluded by the granting of discharge by parliament. The system has shown itself to be effective and no immediate reforms are planned.

Changes in the form of accounting and control may prove to be necessary if the outcome of costresult accounting in the form of product budgets should in future take on a more central role in budget negotiations. But the experience gained from the "product budget" pilot project is as yet insufficient to justify any definite plans in this respect.

Appendix v – Generally Unacceptable Accounting Principles: the Irish Public Finance Accounts

This article by Colm McCarthy was published originally in the ESRI Economic Commentary in its summer edition of 2002. It may be downloaded at the following link.

http://www.esri.ie/pdf/QEC0702SA_McCarthy.pdf

Appendix 2

COMMITTEE OF PUBLIC ACCOUNTS

VISIT TO THE U.S.A.

19th - 23rd SEPTEMBER, 2005

1. Introduction:

The Committee of Public Accounts agreed to travel to the United States to study, at first hand, parliamentary accountability of expenditure at both Federal and State levels with a view to improving procedures in Ireland. The Committee also had, to the fore-front, the soon to be finalised report of Deputy Pat Rabbitte which will also study alterations and improvements in the Dáil's consideration of Estimates and the operation of the Committee of Public Accounts.

The Committee was represented by Deputies Michael Noonan, JohncGuinness, Dan Boyle, John Deasy and Michael Smith. The delegation was accompanied by the Comptroller and Auditor General, Mr John Purcell and Brian Hickey, Clerk to the Committee.

In the United States the Committee delegation met with representatives of a number of organisations at both Federal and State levels.

2. Congressional Budget Office

The Congressional Budget Office is a non-partisan agency that provides the Congress with the objective and timely analysis needed for economic and budget decisions. CBO was founded in 1974, with the enactment of the Congressional Budget and Impoundment Control Act.

CBO's Role in the Budget Process

Under the Congressional Budget and Impoundment Control Act of 1974 the annual Congressional budget process begins with the adoption of a concurrent resolution on the budget that sets forth total levels of spending and revenues, and broad spending priorities, for several fiscal years. As a concurrent resolution, it is approved by both the House of Representatives and Senate but does not become law. No funds are spent or revenues raised under the budget resolution. Instead, it serves as an enforceable blueprint for Congressional action on spending and revenue legislation.

CBO assists the House and Senate Budget Committees, and the Congress more generally, by preparing reports and analyses. In accordance with the CBO's mandate to provide objective and impartial analysis, CBO's reports contain no policy recommendations.

Output

In the fiscal year 2004, CBO issued 46 studies and reports, 16 briefs and 12 Monthly Budget. CBO also testified before the Congress 18 times on a variety of issues. In the calendar year 2004, CBO completed 635 formal federal cost estimates as well as 1,090 estimates of the impact of unfunded mandates on state and local governments and the private sector. The Legislative Branch Appropriations Act for 2005 provides an appropriation of \$34.6 million. It currently employs 230 people.

Meeting with P.A.C. delegation

The delegation from the P.A.C. was particularly interested in meeting with the C.B.O. in order to examine the involvement that the Legislature has in the budgetary process. The

delegation met with Mr. Bob Sunshine, Assistant Director of Budget Analysis and other senior officials of the Congressional Budget Office.

Mr. Sunshine stressed the independence of the Office in its effort to act as honest brokers between conflicting views and to provide useful forecasts to Congress based on the data compiled. Their forecasts give Congress a baseline upon which different policies will impact to varying degrees.

Mr. Sunshine outlined the role of the CBO in the budgetary process which starts each year with the publication in January of the C.B.O.'s Greenbook. The Greenbook sets out the budget and economic outlook for the following 10 years. It details Government spending both mandatory and discretionary and includes baseline projections of the Federal budget. The Presidential Budget is published in February for the year beginning 1st October and this in turn is analysed by the C.B.O. In April, the C.B.O. produce a Congress Budgetary Review which reflects upon particular policy matters and the impact that these will have. This is the Congressional Budgetary Framework for the next budget year.

In short, the system produces a Presidential Budget along with a Congress Resolution. Both lead to independent and different spending acts and make up the budgetary process. The C.B.O. also publish economic forecasts based on what would happen in the event of different policy options being chosen.

Resolutions of Congress to spend are all analysed by the C.B.O. In almost all cases the C.B.O. will have prepared its forecast of the financial and economic impact of a particular piece of legislation prior to individual Committees of Congress completing their report of a bill. Originally, the C.B.O. put a cost on a particular policy but in more recent times the policy is based around the cost implications of the C.B.O.

Thus, the activities of the CBO extend from estimating the revenue and spending levels of the following 10 years, through independent examination of the President's budget proposals and analysis of the effects of specific legislative proposals, to the production of a volume of options that tackle the impact of various changes in revenue and spending.

C.B.O.'s role in the budgetary process is detailed and clear. It not alone takes a look back at past expenditures but involves itself greatly in pre expenditure analysis which prides itself on the unbiased nature of its forecasts. Its activities ensure that Congress as a whole as well as committees of Congress and individual members can have a direct input into various aspects of public expenditure.

3. Office of Management and Budget

Mission:

The Office of Management and Budget assists the President in the development and implementation of budget, programme, management and regulatory policies. It does this by developing the President's annual submission to Congress; by assisting the President in managing the Executive Branch; by developing the Administration's position on legislation before Congress; and by providing top quality regulatory analysis. Similar to other federal institutions the OMB has evolved since the Budget and Accounting Act of 1921 which created the Bureau of Budget.

Meeting with P.A.C.

The delegation met with Mr. Clay Johnson, Deputy Director of the Office of Management and Budget. The Office is, in the words of Mr. Johnson, the 'overall controller agency'. Mr. Johnson explained that the Federal Government is good at setting goals but it is not efficient in the way that organisations are held accountable – a function in which the O.M.B. comes to the fore. He referred to recent developments brought about by Hurricane Katrina which have highlighted the need for all expenditure to be effective.

Mr. Johnson acknowledged that the measurement of output was a difficult task as was the measurement of outcome measures. He admitted that about 50% of government programmes encountered this problem. The whole process was now being aided by Investigative Groups who together with the Government Accountability Office examine projects afterwards in an attempt to decrease waste. The O.M.B., together with the Government Accountability Office examine matters prior to the expenditure taking place. In the course of the examinations the OMB analyse whether particular programmes, being run by different government agencies, are worthwhile. In the event of the OMB and an individual agency being unable to agree about a particular programme the matter is referred to an Appeals Agency.

In addition, Mr. Johnson referred to the President's Management Agenda which he described as an aggressive strategy for improving the management of organisations within the federal Government. It focuses on five areas, namely, Human Capital, Competitive Sourcing, Financial Reform, Information Technology Investment and Budget Performance Integration. Analysis of individual agencies, since the introduction of the agenda in 2001, has shown that their performances have shown improvement.

The OMB also keep a score card on individual members of Congress – tracking the way that members have supported particular items of legislation and the impact that they have had on the efficient use of resources. The OMB also track the performance of Directors of agencies in these matters.

The role fulfilled by the OMB, within the U.S. system, is clearly important. Ensuring that resources are allocated in an efficient and effective manner is a vital activity no matter what the size of an economy.

4. Government Accountability Office

The U.S. Government Accountability Office (GAO) is an independent, nonpartisan agency that works for Congress. GAO is often called the "congressional watchdog" because it investigates how the federal government spends taxpayer dollars.

GAO gathers information to help Congress determine how well executive branch agencies are doing their jobs. GAO's work routinely answers such basic questions as whether government programmes are meeting their objectives or providing good service to the public. Ultimately, GAO ensures that government is accountable to the American people. To that end, GAO provides Senators and Representatives with the best information available to help them arrive at informed policy decisions--information that is accurate, timely, and balanced. GAO supports congressional oversight by:

- evaluating how well Government policies and programmes are working;
- auditing agency operations to determine whether federal funds are being spent efficiently, effectively, and appropriately;
- investigating allegations of illegal and improper activities; and
- issuing legal decisions and opinions.

With virtually the entire federal government subject to its review, GAO issues a steady stream of publications - more than 1,000 reports and hundreds of testimonies by GAO officials each year. GAO's familiar "blue book" reports meet short-term immediate needs for information on a wide range of government operations. These reports also help Congress better understand issues that are newly emerging, long-term in nature, and with more far-reaching impacts. GAO's work translates into a wide variety of legislative actions, improvements in government operations, and billions of dollars in financial benefits for the American people.

Structure

Headquartered in Washington, D.C., GAO has offices in several major cities across the country. The agency is headed by the Comptroller General, who is appointed for a 15-year term. The long tenure of the Comptroller General gives GAO a continuity of leadership that is rare within government. GAO's independence is further safeguarded by the fact that its workforce is comprised almost exclusively of career employees who have been hired on the basis of skill and experience. Its 3,300 employees include experts in programme evaluation, accounting, law, economics, and other fields. The P.A.C. delegation met with Mr David Walker, Comptroller General and other senior officials of the GAO.

GAO today – Meeting with P.A.C.

Today, the agency that once checked millions of government vouchers has become a multidisciplinary organisation equipped to handle Congress's toughest audit and evaluation assignments.

Its role has changed from when it was established in 1921. Today, about 15% of its work is taken up with auditing functions; the bulk of the work of the GAO is concerned with the operational side of Government, the examination of programme initiatives and policy analysis. The GAO can make recommendations in relation to the operations of Government but it recognises the need for the Executive to be able to take action. The GAO acknowledged a couple of problems that are likely to develop in the future, namely, the increased cost of health and social security payments as the effects of the baby boom experienced by the U.S. between 1946 and 1964 works its way through the demographic cycle and the increasing level of the Federal Budget deficit.

The GAO also publish their "High Risk" reports. These Reports indicate the areas in which organisations are not operating efficiently or effectively. The GAO in addition to detailing the problems, also outline the steps to be taken that can rectify the situation. Further, when requests are made to the G.A.O. by Congress to have a matter investigated, the GAO will, in most cases, have already planned for such a request. The experience of the GAO also highlighted the need for matters in the accountability process to be followed through to conclusion in a comprehensive manner.

The adoption of such practices in Ireland would ensure a greater impact to the scrutiny activities of various bodies in Ireland.

5. House of Representatives Committee on Government Reform

The Committee on Government Reform has existed in varying forms since 1816. In 1927, 11 Committees on Expenditure, which were spread among the various Government Departments, were consolidated into the Committee on Expenditures and Executive Departments whose role was to oversee the way in which taxpayer's money was spent. In 1952, the name was changed to the Committee on Government Operations which emphasised the role of the Committee in studying the operations of Government activities at all levels with a view to determining their economy and efficiency. Today, it is the Committee with the broadest remit of all House Committees. In the past 10 years it's area of responsibility has extended to matters previously dealt with by 3 full committees and 14 subcommittees of Congress. Its remit extends to all Government agencies and all of their activities. The Committee's jurisdiction includes the Office of Management and Budget and the Government Accountability Office.

The P.A.C. delegation met with senior official, Mr John Brosnan. The activities of the Committee tend to focus on current policy issues, for example the Committee recently reported on the B.S.E. problem and is currently examining the licensing of drugs. When examining an issue the Committee requests witnesses to give evidence. If they refuse the Committee subpoena them. Witnesses are entitled to be legally represented. The procedure is that reports of the Committee are referred to the House for further consideration.

The role and functions of the Committee mark it as a body with a significant part to play in the activities of Congress. However, the delegation noted that in practice the activities of the Committee tended to be re-active rather than pro-active in terms of its reporting on the Federal agencies. In this way, it was felt that it is constrained in a manner similar to that of the P.A.C.

6. Taxpayers for Common Sense

Taxpayers for Common Sense is an independent voice for American taxpayers. TCS is dedicated to cutting wasteful government spending and subsidies in order to achieve a responsible and efficient government that lives within its means. Their vision is for a federal government that costs less and lives within its means. TCS seeks to transcend ideological and partisan differences and to build support for common sense reforms. It is funded by donations and membership fees. The PAC delegation met with its two vice Presidents, Mr. Steve Ellis and Mr. Keith Ashdown.

TCS examines major infrastructural projects to check for cost overruns and also maintains an overview of tax policy. They highlight problems that they perceive in a consistent and non partisan manner through interventions both in the media and on the internet. Mr. Ellis acknowledged that, on occasion, the TCS has a difficulty in gaining access to all relevant information and that this, at times, hinders its ability to properly analyse projects. Its experience shows that the greater the level of analysis done on a project prior to authorisation the lower the level of cost overruns.

TCS makes use of a number of different methods to achieve its goals. Firstly, they work extensively with elected officials from both political parties. As a result, the opinions of TCS are often cited during floor debates and TCS testifies frequently before congressional committees. In addition, TCS Action, holds Members of Congress accountable by tracking their votes through the acclaimed, non-partisan Common Sense Taxpayer Scorecard. That enables TCS to follow the actions and voting patterns of congressmen as different pieces of legislation proceed through Capitol Hill. This is particularly relevant, according to TCS, as legislation can be altered dramatically as it passes through Congress. In addition TCS make extensive use of the internet to highlight problems that, in their view, will arise with certain projects. Prominent fora within the media are also used to sound alarm bells on projects which, in the view of TCS, will be wasteful. Finally, TCS assists grassroots citizen groups by helping them to get media coverage and to guide them through the corridors of power in Washington, D.C.

Their activities have, it is reckoned, saved the U.S. taxpayer more than \$5 billion in the last 10 years. Their pledge is that the taxpayers will be saved an average of \$1 billion per year in the next five years.

No one organisation comparable to TCS is in existence in Ireland. Notwithstanding the difference in scale between Ireland and the United States the role played by TCS, as it operates in the US by saving taxpayers money, was acknowledged by the delegation from the PAC.

7. Congressman Jim Walsh

The delegation met with the Congressman, who in addition to having a keen interest in Irish affairs, is also one of 10 Chairmen of the Appropriations Subcommittees. This group has a major influence on national spending policies. Congressman Walsh has constantly emphasised the need for reducing government waste in order to get better value for money in the public sector.

In addition, the delegation highlighted the harsh treatment of some Irish illegal immigrants in the U.S. – a matter that will be followed up by Congressman Walsh.

8. Office of the Governor of California, Department of Finance

The Department of Finance has three functions, namely, to serve as the Governor's chief fiscal policy advisor; to promote responsible resource allocation through the State's annual financial plan; and to ensure the financial integrity of the State. One of the goals of the organisation, which is of particular relevance to the PAC, is the continuous improvement of the structures, systems, processes, programmes and performance of the State.

The delegation met with Ms. Anne Sheehan, Deputy Director of Finance. Her role is to prepare a draft Budget for the Governor and then to monitor spending by the different Departments of the State. Ms. Sheehan outlined the way in which 'Performance Budgeting' is to the fore in all major expenditure projects which is particularly important given the state of California's finances. Experience has shown that the greater the analysis of spending proposals the more accurate the prediction of the outcome of the levels of spending. California's analysis consists of costing everything, e.g. each mile of new

roadway is costed and the Department of Finance maintain a contingency fund for increases in expenditure on projects. Ms. Sheehan consistently emphasised the need for the proper analysis of the costing of projects prior to authorisation and the accurate profiling of expenditure during the operation of programmes. This, she added, was needed to increase the accuracy of estimates of expenditure and afterwards to prevent spending from going over budget.

9. Bureau of State Audits

Background

The role of the Californian Bureau of State Audits is to ensure the effective and efficient administration and management of public funds. As the State's external auditor the Bureau provides independent, non-partisan, accurate assessments of the State's financial and operational activities in compliance with generally accepted government auditing standards.

Senate Bill 37 which passed the Legislature with significant bipartisan support was signed by the Governor on May 7, 1993. It created the Bureau of State Audits to replace the former Auditor General's Office that closed due to budget reductions in December 1992. The bill transferred all of the Auditor General's powers, duties, and responsibilities to the Bureau of State Audits. The Bureau is headed by the State Auditor. To assure its independence, the law frees the bureau from the control of the Executive and Legislative branches. The State Auditor is solely responsible for exercising the bureau's powers and duties and its administrative operations are overseen by a State Commission.

Role

The State Auditor is directed to perform different audits, namely, financial audits, compliance audits, performance audits, contract audits and investigative audits. As mentioned above, the role of the Auditor is set in legislation and the office undertakes both oversight and interventionalist functions. The latter function, is currently to the fore but there is a change currently underway that is reversing the emphasis.

This change in direction is causing some discomfort as involvement in the instigation of a new project can, it is felt, lead to a situation where the office is, in a sense, investigating itself when it carries out an examination afterwards. A further complication is caused by the fact that the State financial year runs from July to June which differs from the Federal financial year.

Currently, two thirds of the audits carried out are performance audits with a third being financial audits. 80% of the office's recommendations are adhered to. In the event that Departments do not act upon its recommendations the Office reports the fact to the legislature. However, the fixed term of legislators has reduced the dynamic of Congress and increased the reliance on the permanent State government. It has also increased the need for independent audits.

In addition, the Audit Office is setting up a process whereby it can examine major projects. Currently, it receives requests from the legislature to examine particular matters. A consequence of the term limits legislation, which limits the time that State Congressmen can

serve, has resulted in a major increase in the number of such requests being made which has, in turn, led to the Audit Office having to prioritise such requests.

10. Congressman Gene Mullin and Congressman Guy Houston

The delegation met separately with both of these Congressmen.

Congressman Mullin, a Democrat, is a member of the Californian State Budget Committee. As a member of that Committee he is very aware of the financial difficulties encountered by the State of California and the actions being taken to attempt to rectify the situation.

Congressman Houston, is a Republican. He has concentrated his efforts in attempting to reform California's government by seeking to improve the overall effectiveness with which services are delivered. When he was Mayor of Dublin he eliminated the city's debt whilst keeping taxes low.

11. State Controller, California

The delegation from the P.A.C. met with Mr Ross La Jeunesse, Deputy State Controller. The Controller is the state's independent fiscal watchdog, providing sound fiscal control over more than \$100 billion in receipts and disbursements of public funds a year, offering fiscal guidance to local governments and uncovering fraud and abuse of taxpayer dollars. The functions of the Office include accounting for and control of the disbursement of all state funds; responsibility for the auditing of various state and local government programmes; and informing the public of financial transactions of city, county and district governments.

The Controller, along with the Bureau of State Audits and the Department of Finance's Office of Audits who act as auditors for the Legislature and Executive respectively, carries on his auditing activities on behalf of the people.

12. Legislative Analyst's Office

The Legislative Analyst's Office (LAO) has been providing fiscal and policy advice to the Legislature for more than 55 years. It is known for its fiscal and programmatic expertise and nonpartisan analyses of the state's budget. The PAC delegation met with Mr Jon David Vaché, Director of Economics and Taxation.

The LAO is overseen by the Joint Legislative Budget Committee, a 16-member, bipartisan committee. The office currently has a staff of 49 people. The analytical staff is divided into seven subject area groups of fiscal and policy experts.

The office serves the Legislature to ensure that the executive branch is implementing legislative policy in a cost efficient and effective manner. The office carries out this legislative oversight function by reviewing and analysing the operations and finances of state government.

Historically, one of the most important responsibilities of the LAO has been to analyse the annual Governor's budget and publish a detailed review at the end of February. This document, the *Analysis of the Budget Bill*, includes individual department reviews and

recommendations for legislative action. A companion document, the *Perspectives and Issues*, provides an overview of the state's fiscal picture and identifies some of the major policy issues confronting the Legislature. These documents help set the agenda for the work of the Legislature's fiscal committees in developing a state budget. Staff of the office work with these committees throughout the budget process and provide public testimony on the office's recommendations.

The LAO also undertakes other functions, namely, it reviews requests, mainly by members of the Joint Legislative Budget Committee, to make changes to the budget after it has been enacted; it undertakes special reports on the state budget and topics of interest to the Legislature; and it prepares fiscal analyses of all proposed initiatives (prior to circulation) and analyses of all measures that qualify for the statewide ballot.

The work undertaken by the LAO is considered, by the majority of neutral observers, to be extremely useful. In doing so it compiles forecasts on revenue and tax. Every proposal within each programme of expenditure is scrutinised from an efficiency and effectiveness viewpoint. In addition, when the L.A.O. is critical of aspects of a programme an alternative option is suggested. The L.A.O. ensure that the correct criteria for analysis are used as this leads to greater accuracy in results. Its analysis is carried out at different times of the year to that of the Department of Finance – sometimes the findings of the two do not concur.

The LAO is politically neutral and is an organisation that is unique to the State of California. The delegation was of the opinion that their analysis of major state spending programmes was a major benefit to decision makers.

Findings

1. Although the constitutional framework within which the accountability mechanisms operate in the USA is different to Ireland, there are features, which suitably amended, could be beneficially adopted.
2. In particular, the existence of certain agencies, at federal and state level, charged to carry out independent examinations of taxation and spending proposals enables public representatives to be provided with the necessary information to effectively scrutinise expenditure (including tax expenditure) in a timely manner.
3. The range of supports available to committees of the legislatures and to individual representatives ensures proper analysis of legislation and policy initiatives/options.
4. Regular reporting on the performance of Government Agencies in key areas has produced improvements in efficiency.
5. There is systematic follow-up on the implementation of recommendations.
6. There has been a discernible move to performance auditing in federal and state audit agencies.
7. Strong formal and informal relationships exist between federal and state agencies to cover federal spending in individual States.
8. There is a growing acceptance of the need to address long-term budgetary problems in the areas of social security and healthcare.
9. Non governmental organisations play an important role in trying to ensure that government spending is responsible and efficient.

Recommendations

1. Sufficient research resources should be allocated by the Oireachtas Commission to support an inhouse function capable of analysing proposed major programmes of expenditure.
2. The results of the financial analysis should be factored into Committees' examination of the Annual Estimates.
3. The likely cost implications of proposed legislation and budgetary initiatives should be established independently of Government before implementation.
4. More performance (or value for money) auditing should be undertaken by the Comptroller and Auditor General while still maintaining the current scope of his financial audit.
5. A pilot scheme to track Government Departments' performance in agreed key areas should be introduced.
6. A mechanism should be agreed to enable the Comptroller and Auditor General to examine the use of funding provided by central government to local authorities.
7. The Committee and the Comptroller and Auditor General should frame their recommendations in a way that facilitates systematic follow-up.

