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THE COMMITTEE FOR THE FUTURE IN THE PARLIAMENT OF FINLAND

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A committee that can be described as a unique invention of Finnish democracy and its core, the country's parliament, has been at work in the *Eduskunta* for the past ten years.

Like most of the other standing committees, it has 17 members. What makes it different is the nature of its functions and its new fields of tasks. It neither prepares legislation nor reviews the Government's annual budget proposal, but in other respects it resembles the other committees. Its task is to conduct an active and initiative-generating dialogue with the Government on major future problems and means of solving them. Each of the standing committees has its corresponding ministry, and in the case of the Committee for the Future this is the Prime Minister's Office. Since the problems of the future and above all its opportunities cannot be studied through traditional parliamentary procedures and work methods alone, the Committee has been given the specific task of also following and using the results of futures research. Indeed, the Committee can be said to be making policy on the future, because its goal is not research, but rather policy.

The current tasks of the Committee for the Future are:

— to prepare material to be submitted to the *Eduskunta*, such as Government Reports on the Future;
— to make submissions on future-related issues (especially such long-term ones as climate policy, energy policy and information society policy) to other standing committees when requested to do so;
— to debate issues relating to future development factors and development models;
— to undertake analyses pertaining to future-related research and IT methodology;

— to function as a parliamentary body for assessing technological development and its consequences for society.

Genesis of the Committee

Parliaments are generally quite tradition-bound, for which reason giving a committee within the Finnish parliamentary system a new, future-oriented role of this kind was not at all easy. What has been remarkable in light of this is that the initiative to include examination of future-related matters in the work of the *Eduskunta* came from legislators themselves. As early as 1986, 133 of the *Eduskunta*'s 200 members presented a citizen's initiative to the President of the Republic, the Speaker's Council of the *Eduskunta* and the Government proposing the creation within the legislature of a futures research unit. The proposal, which did not lead to measures being taken, was dealt with then (1986) as a written parliamentary question. Again in the early 1990s, a number of members realised that the *Eduskunta* needed a new type of forum for discussion, a new means of guidance - a mechanism which would not be tied to the Government's detailed, separately submitted, and in most cases narrowly focused bills. This insight was prompted by the *Eduskunta*'s recognition that in a smoothly functioning parliamentary system opportunities to amend Government bills or budget proposals are naturally rather limited. This configuration has become more pronounced since the end of the 1970s, because Finland has had a succession of broadly-based Governments, each serving for a full parliamentary term. In addition, EU membership has created a new operating environment for legislative work and the use of state funds. The 1992 legislative proposal, which like the earlier one had the support of 166 members, was likewise rejected. Nevertheless, a process of maturation towards acceptance of a new kind of task had gotten under way, because the Constitutional Law Committee itself expressed support for the matter in its own submission. It wrote: "The Committee requires, however, that already in the course of the current parliamentary term the Government provide the *Eduskunta* with a report containing perceptions, which have been shaped by means of futures research, of essential features and alternatives in future development as well as outlining the goals set by the Government, i.e. a general outline of the kind of model of society the Government aspires to achieve through its own actions during its term of office. Drafting a report of this nature will call for interdisciplinary material of a kind not necessarily available to the Government. Therefore it would be advisable to organise within the Government administration a system of information procurement that would make use of, in addition to traditional economic forecasts, also the means that futures research offers."

In the same year (1992) the *Eduskunta* adopted a resolution requesting the Government to provide it with a report concerning national long-term development trends and related options. The legislature appointed a Committee for the Future on a temporary basis in 1993 for the purpose of evaluating the Government's views and responding to them.

The Committee for the Future functioned on a temporary basis until 2000. Then, in conjunction with its adoption of new Rules of Procedure compatible with the new Constitution, the *Eduskunta* decided on 17 December 1999 to grant the Committee for the Future permanent status, with effect from the beginning of March 2000.

The work of the Committee for the Future to date

Government reports on the future

Four Government reports on the future have been submitted. The first, presented in 1993, dealt with Finland and its relationship to changes in its operating environment. The next Government submitted two reports: one in 1996 on the future of Finland and Europe and another in 1997 on Finland's economy, the Finnish employment situation, science and technology in Finland, the Finnish environment, and the country's general wellbeing. In 2001, the Government formed after the 1999 elections submitted a report on the future with regard to regional development. The outlook for demographic development, production and employment over the next fifteen years were the particular focuses of examination in this report.

The Committee for the Future has drafted a relatively lengthy (over 100 pages) report of its own in response to each of the four Government reports. Each of the Committee's response documents was adopted, with minor additions, by the *Eduskunta* after a debate at a plenary session.

Dialogue between the Government and the *Eduskunta* in the case of reports on the future follows largely the same lines as the associated legislative drafting. After a general debate in the chamber, the matter is referred to the relevant special committee for deliberation. The committee hears the views of experts and drafts a report, which is presented in session. There it is either adopted as such or amended, rarely totally rejected. The *Eduskunta*'s response to the Government can contain demands, which are presented either unanimously or after a vote, for action on the part of the Government. A report cannot lead to a motion calling for a parliamentary vote of confidence in the Government. When the measures proposed in the Committee for the Future's report have been approved at a plenary session, the progress of their implementation is followed by means of the annual reports which the Government must submit to the *Eduskunta*. Thus the dialogue is constant.

Through its deliberation of the four Government reports on the future and its own reports in response to them, the Committee has significantly deepened and expanded the Government's view of the future. It has also initiated technology assessment in the *Eduskunta*. Both of these new parliamentary tasks have meant a lot of work on the level of public opinion — the level of values and attitudes — such as organising seminars, regional and Internet conferences, and so on. For example, the Committee has emphasised that globalisation and modern technology are not isolated phenomena in our society. They are not simply problems faced by businesspeople or engineers; they are factors which permeate the entire society and affect us all.

Assessment of technology's effects on society

What is meant by technology assessment in a parliamentary context is appraisal of the effects on society of using the results of scientific research and technology. The questions and needs stipulated by the parliament provide the point of departure. Technology assessment generally encompasses broader sectors of science and technology, such as biotechnology, mass communications, transport, energy, etc. From the very beginning, the Committee for the Future has examined technology and such phenomena of change in the structure of our society as globalisation, innovation and governance as a development feature permeating the whole of Finnish society.

In 1997 the Committee was given a second official principal task, that of assessing the effects of technology on society. A working group appointed by the Parliamentary Commission, which is made up of parliamentarians and is the highest administrative body, made its submission in 1995 and in it presented the following reasons as evidence that a need for assessment work existed: "The argument that there is a need for technology assessment in the *Eduskunta* can be justified in two ways. The accelerating development of science and technology is having substantial effects on society, economic development and the life of the individual. Technology assessment helps parliamentarians understand these influences better and take them into account in political decision making. The other justifying factor relates to the *Eduskunta*'s tasks and democracy. When legislative and budgetary proposals of significant import for society are submitted for its consideration, the *Eduskunta* must, if it is to be able to exercise oversight of the Government's actions, already have a good enough foundation of knowledge on which to assess these proposals."

In the way recommended by the working group, assessment work began to be done following a procedure resembling the one used by the Bundestag in Germany. However, once centrally important deviation from the German

model was made right at the beginning. No unit independent of the *Eduskunta* has assumed responsibility for technology assessment as had been done by TAB, the Bundestag's Office of Technology Assessment; instead, the task is performed by the Committee itself. To support its work, the Committee can commission studies from various research institutes or think tanks. In some cases, reports have been carried out by only one person.

Technology assessment linked in one way or another to parliamentary work has proved itself to be a successful solution in several European countries. This is demonstrated by the fact that, in addition to the European Parliament's technology assessment unit STOA, there are other units working in thirteen European countries and under the auspices of the Council of Europe. These have joined the EPTA (European Parliamentary Technology Assessment) network either as full members or with observer status. EPTA, which units linked to European parliaments and engaged in parliamentary technology assessment can join, is now well into its second decade of activities. It does not have a fixed organisation; instead, each member country runs the presidency for one year at a time. EPTA's central task has been to swap experiences.

The subject of the most recent technology assessment (2004) model was the Finnish knowledge society model, more specifically its sustainability in its second phase. The person invited to do the background research was Dr. Pekka Himanen of the University of California at Berkeley (where Manuel Castells is a professor). But what was an essential feature also in this project was that the Committee as a whole acted as the steering group for the work and deliberated the researcher's results at its meetings. The Committee also used the results as an aid to preparing the presentation it made as the basis for a discussion at a plenary session. This report and its deliberation in the *Eduskunta* attracted an exceptional amount of public attention.

Power to set the agenda

It is an adage of political life at any level that the first step to power is to take the initiative and put yourself in a position where you can set the agenda. In the *Eduskunta*, the Committee for the Future has taken this adage seriously from the very beginning. The Committee has been working for only 10 years, so it is too early to say if it has been a success. One thing is certain, however; the Committee has taken its place in the Finnish parliamentary system as an innovative political body and, over the years, it has created a new forum that works at the core of the parliamentary system and – still more important – it has demonstrated that parliamentary measures can still be used to take the initiative within democracy.

The Committee has made active use of its power of initiative also in defining its own work. After every election, the agenda of each new Committee takes shape in the minds of the 17 parliamentarians elected onto it. Ten years ago, the Committee was most interested in global threats to the environment. The next major theme totality was economic globalisation and Finland's opportunities in it. Energy is likewise an issue that has come up in one form or another every parliamentary term. During the last (1999-2002), the 3rd Committee for the Future described its task as follows: "Our international operating environment is currently undergoing a number of changes. What will be the impact on political decision-making at the national level? What types of future challenges are to be expected as a result of foreseeable demographic development? What are the success factors in regional development? What are the opportunities and threats brought about by rapid scientific and technological development?"

The following is a cross-section of the issues that the Committee for the Future has highlighted in Finnish democracy:

— Reports on the future, i.e. responses to Government reports on these themes:
  - Major global environmental and other structural problems;
  - The effects on Finland of European economic and other development;
  - Factors in Finland's competitiveness and success;
  - Regional development.

— Topical themes taken up on the Committee's initiative for discussion at plenary sessions:
  - Plant gene technology in food production (1998);
  - Ten pain points in the future of work (2000);
  - The future of work in Finland – outines of policy on the future (2001);
  - The future of the Finnish knowledge society: "A caring, encouraging and creative Finland – review of challenges facing our knowledge society" (2004)

  The first of these was a project to assess technology and other general political themes.

— Technology assessment
  The assessment projects carried out by the *Eduskunta* to date can be grouped into three generations.

  The *first-generation projects* were completed during the 1995-98 term. They included the following:

- Plant gene technology and its effects in food production;
- Information and communications technology in teaching and learning;
- Preliminary study of gerontechnology.

The first-generation assessment projects were commissioned from outside research institutes, whose work was overseen by the Committee for the Future's technology section and a steering group, composed of members of the *Eduskunta*, appointed by the Committee. The assessment project on the theme of information and communications technology in teaching and learning additionally had a separate management theme comprising experts representing various sectors.

The assessment projects completed during the 1999-2002 term can be grouped into two generations. The *second-generation projects* were decided on by the Committee towards the end of 1999 and completed in 2001. They were as follows:

- Knowledge management;
- Actual assessment of gerontechnology;
- Energy 2010

In the second-generation assessment projects, the full Committee rather than its technology section was the steering body. However, the actual steering work was done by a group comprising members of the *Eduskunta* chosen from several different permanent committees. The chairs of the steering groups were members of the Committee for the Future. Parliamentarians' participation in assessment work was appreciably closer during the second-generation projects than during the first-generation ones. It was especially close in the knowledge management project, in which the assessment material was mainly collected in conjunction with visits by the steering group. The most important of these visits were to some of the USA's best universities (MIT, Harvard, Stanford and Berkeley) and major research institutes in Boston, Washington and California's Silicon Valley. When gerontechnology was being assessed, the parliamentarians, alongside their quite close involvement in the work of the steering group, also had a role in defining the relative weights of the criteria used in assessment. In the Energy 2010 project, the parliamentarians formed one of the arguing panels in a Delfoi study, alongside representatives of the world of science, major energy producers and users as well as shapers of public opinion (NGOs, journalists).

The Committee decided in autumn 2001 to launch *third-generation assessment projects*. With the exception of one on the theme of new

and non-renewable energy sources, which did not go beyond a preliminary study, the final reports on these projects were published in the course of spring 2003.

- Social capital and information technology;
- Regional innovation systems;
- Human genome and stem cells;
- Renewable and new energy sources

Of the third-generation projects the parliamentarians had a particularly active involvement in the one dealing with regional innovation systems. For example, it organised meetings with companies and discussion events for members of the *Eduskunta* and authorities representing four regions. They also contributed texts for use when writing the final report. Participation in the other projects was through active involvement in the work of the steering groups. In the human genome and stem cells project, the parliamentarians visited research institutes working in the field in Heidelberg, but unlike what had been done in the case of the Energy 2010 project, they did not take part in the Delfoi expert panel discussions.

Only one technology assessment report has been completed by the Committee that began its work in 2003: "A caring, encouraging and creative Finland – a review of profound challenges facing our knowledge society."

These are themes that the Committee has decided on its own initiative to deal with. Sometimes dealing with a theme means no more than arranging an international or national seminar or a series of meetings in various regions, but it can also mean years of constant study-based work with an expert institution in such a way that the steering group is either the Committee for the Future or part of it in collaboration with representatives designated by other committees. The Committee has its own small research budget for these commissioned studies. The Committee's aim is to avail itself of the latest methods that futures research has provided. Each Committee both chooses its themes and decides how they are to be dealt with.

The topics discussed by the Committee in the ten years since it was established have ranged from the global to the local, from values to the practical efficiency of the machinery of state, from left to right, from history to the future, from structural long-term economic problems to the everyday difficulties that families have in arranging child care, from statistics to weak signals. The only rule in setting an agenda has been that it has to be something that is new and important to people.

The newest Committee

The current Committee, which was formed after the elections in March 2003, has started with five special issues:

— The Future of the Finnish Information Society Model
— The Future of Public Health Care
— Human Security as an Extensive Long-term Phenomenon
— Regional Innovation Systems
— Social Capital in View of Future Risks for Children and Young People

The current Committee for the Future has conducted an advance dialogue also with the Prime Minister on the Government report on the future to be submitted to the *Eduskunta* during the present parliamentary term. As has become customary, the report is being drafted at the Prime Minister's Office and the theme this time is demographic policy. The *Eduskunta* will receive the report for deliberation towards the end of 2004.

Good vantage point

It has been said of the Committee for the Future that it is a good forum where parliamentarians can broaden their views beyond everyday politics and their own country's problems. The Committee's work has become quite international in character – it goes on its own initiative to various parts of the world to familiarise itself with the latest social and technological innovations, it is invited increasingly often to describe its work to international conferences and it is an item that many foreign delegations visiting Finland want to include in their itinerary. Quite a large proportion of the ministers in the present cabinet are former members of the Committee. They include the Prime Minister and the ministers of finance, labour and the environment. The present chair of the Committee was chosen as the leader of the biggest opposition party in summer 2004, one year after the elections. He enjoys his work on the Committee for the Future so much that he has continued to chair it.

Mr Ian HARRIS, President, *thanked Mr TIITINEN for his communication and invited members to put questions to him.*

Mr Anders FORSBERG (Sweden), said that a similar question had been asked several months before in Sweden and it had been decided that a committee of that kind would trespass on the remit of standing committees which already were pursuing a relationship with universities. Discussion had nonetheless led to a reinforcement of the relations between Parliament

and the universities relating to the basic question: what kind of the world do we wish to leave to young people who will be 18 in 2023?

Mr Ari HAHN (Israel) said the problems of this kind were dealt with in Israel by the Committee on Future Generations of the Knesset, which was presided over by a retired judge. This Committee expressed opinions, its role was only consultative and it addressed recommendations to the Knesset.

He wished to know whether the Committee on the Future had a permanent staff, if it took part in the process of preparation of laws, and, if so, how.

Mrs Stavroula VASSILOUNI (Greece) said that in the Greek Parliament there were several committees which were carrying out studies in particular on technical issues. What was interesting in the Finnish experience was the close link maintained with the Government civil service.

She wanted to know more about the impact of the Committee reports – in particular, how they were published and whether there was always a debate on them in plenary session.

Mr Alain DELCAMP (France) asked: what was the legal basis for agreements with the Government? How long did they last – for a year, longer, various lengths of time? Were the Committee reports debated in plenary session?

Mr Yogendra NARAIN (India) asked: how were members of the Committee chosen – were they experts, or was it in proportion of partisan allegiance? Did the Committee have its own specialist secretariat to assist it? How was the problem of trespass on the remit or responsibilities of other Committees solved – in particular, was there a procedure for consultation?

Mr Ian HARRIS, President, asked whether the Committee had its own budget.

Mr. Seppo TIITINEN (Finland) *responding to the various questions, said:*

— The plan had not been to create a body which only was made up of experts, since the Committee was not designed to be one which had specialist expertise, but was only the response of Parliament to reports from the Government;
— The Committee recruited members who understood scientific matters and who closely cooperated with other specialist Committees, on which, moreover, it depended to some extent for its information;
— The Government reports were prepared under the responsibility of the Prime Minister;

— The Committee reports were discussed in plenary session and agreed to – often unanimously. The reports were published, and some were even translated into English;
— The Committee, in principle published a report each session;
— Selection of members of the Committee was under the usual procedure (selection in proportion of the political parties);
— The Committee had its own secretariat, which was made up of highly qualified people.

Mr Ian HARRIS, President, *thanked members for their many pertinent questions.*

FINANCIAL CONTROL IN PARLIAMENT

Mr Ian HARRIS, President, *invited Mr Hafnaoui AMRANI, Secretary General of the National Council of Algeria, to the platform to open the debate on Financial control in Parliament.*

Mr Hafnaoui AMRANI (Algeria) opened by saying that the present sitting would concentrate on financial control by Parliament, and that this would be addressed as much from the point of view of relations between Parliament and the higher financial authorities of the state as on the point of view of the expertise and capacity within Parliament relating to budgetary and financial matters.

There were many aspects to this interesting subject, since the methods of surveillance and control of governmental action by Parliament varied according to the traditions and political and constitutional history of each country. In general terms, Parliaments voted on and supervised the administration of laws relating to State finances. In addition, most countries had specific institutions which had the duty of *a posteriori* control over the regularity of the application and use of public money.

Financial control by Parliament depended on several factors:

— The importance of the role of Parliament in voting and controlling the application of the budget;
— The status of institutions, charged with the verification of accounts and proper application of public money;
— The extent to which a particular regime is democratic.

The importance of control exercised by Parliament depended essentially on its influence on the preparation and voting of the state budget, but also on the human and legal resources which it possessed to oversee action by the Government.

For these reasons, this debate would permit the association to have a better idea of the way in which Parliament was able to exercise proper finan-

cial control over the Executive within our different institutional backgrounds.

Mme Hélène PONCEAU (France) *gave the following presentation on behalf of Mr Jean-Claude BÉCANE, Secretary General of the Senate of France, entitled: "The French Parliament's changing Role in the Financial Control of Government"*

The statutory instrument of January 2nd, 1959 for the constitutional law covering Finance Acts stipulates the terms and conditions for presenting, debating and enforcing Finance Acts (*Loi organique sur les lois de finances,* LOLF). It follows the logic of "rationalized Parliamentarism" of the Vth Republic which is marked by the wish to strictly organize Parliament's powers, especially in financial matters. This legislation which is a real "Financial Constitution" in France, was the subject of wide ranging reform in 2001 aimed at modernizing public financial management and giving the Parliament back its place in the budget procedure.

The "Financial Constitution" reform for France sought to reconcile two goals :

— The first goal is the modernization of public financial management by giving more freedom to managers by improving the decision-making and steering tools for the State's budget.

— The second goal is to rebalance powers in Parliament's favour, by strictly observing the Constitution and especially the Government's initiative in financial matters and the restriction on Parliament reducing the balance of the State budget.

The role of the French Parliament in budget matters and especially its finance committees will be reinforced within the scope of implementing the LOLF. The reform has already borne its first fruit, as the constitutional law's provisions concerning parliamentary information and audit have already come into force.

A. THE CHANGE FROM A CULTURE OF MEANS TO A CULTURE OF RESULTS

1. THE CURRENT BUDGETARY NOMENCLATURE HAS NUMEROUS DISADVANTAGES

The current nomenclature divides the credits between the ministries, six expenditure items (which apportion the expenditures in accordance with their nature : functioning, intervention, investment…) and 850 budgetary chapters (which apportion their expenditures in accordance with their use) which constitutes the budget's unity of speciality. This nomenclature does

not give Parliament a clear view of the resources allocated to a public policy and above all does not allow the managers to easily adapt to constraints or to grasp the opportunities which may occur during the year.

2. THE NEW BUDGETARY NOMENCLATURE

The budgetary nomenclature set up by the LOLF is focused on the objectives and the evaluation of the results of public actions and gives managers greater freedom in managing the credits entrusted to them. From next year the vote on the budget will no longer be by ministry but by mission (47 in all, 10 of which are inter-ministerial), comprising a much smaller number of programmes (158 in all) compared to the current chapters and determined in accordance with the goals of the State's action. The managers are free to use the credits within the programmes, except for staff expenditure which cannot be increased during management.

This new definition of the voting unities and the speciality unities aims:

— to give greater freedom to managers through the specialization of credits by programme;
— to "quash" the negotiation of credits by ministry and to direct the debates towards objectives and the results of public policies, with the vote by mission.

3. THE SWITCH TO A CULTURE OF PERFORMANCE ASSESSMENT

The new nomenclature brought in by the LOLF stipulates that "precise objectives determined in accordance with general interest goals, and the expected results and which have been the subject of an assessment", will be associated with the programme.

The final settlement bill for year *n-1* will now be discussed before the finance bill for year *n+1*, and will be the time for managers to report to Parliament on the performance of their budget and the results of their management. The debate on the Settlement Act will therefore become a high point in parliamentary life and the opportunity for Parliament to learn the lessons from past management.

B. PARLIAMENT WILL HAVE MORE INFLUENCE OVER THE STATE BUDGET

1. A GREATER ABILITY TO MODIFY THE STATE BUDGET

The LOLF aims to restore more power at the budget authorization stage to Parliament.

From now on, each year, when the changes in the national economy and the orientation in the public finances are reported on and debated before the summer, Parliament can recommend modifications to the budget nomencla-

ture and the objectives which are associated with it several months before the Finance Bill is presented.

In addition, Parliament can have more influence on the State budget during the debate on the Finance Bill. The right of the members of Parliament to amend will be enlarged: whereas they can only propose reductions in credits today, they can now present amendments aimed at modifying the apportionment of the credits between the programmes of the same mission, or even propose the creation of a new programme, when these propositions do not result in increasing the amount of the mission's credits.

2. A GREATER INVOLVEMENT IN MONITORING HOW THE BUDGET IS SPENT

The finance committees will be informed of all the measures aiming to modify how the credits are apportioned between programmes, the amount of which is limited. They will be consulted on cancellation of credits, and there will be a limit on carrying credits over from one year to the next.

C. A PARLIAMENT WHICH IS BETTER INFORMED AND BETTER ARMED TO AUDIT THE GOVERNMENT

1. MORE INFORMATION

The information which will be supplied to Parliament will be enriched so as to give overviews of the broad strategies of the public finance by:

— before the Summer, a report comprising a description of the broad strategies of its budgetary policy and a medium term assessment of its resources ;

— in the Autumn, a report tracing all of the obligatory deductions and their evolution ;

— a report in the appendix to the finance bill on the nation's position and its economic, social and financial outlook including "*the presentation of the assumptions, methods and projections which are the basis on which finance bill for the year is drawn up"* and the forecasts for changes in revenue and expenditure for at least the next four years.

Parliament will now be asked to vote on a ceiling for the evolution of the debt in the initial Finance Act in addition to the traditional vote on the level of the deficit. It will authorize borrowing and will vote on a ceiling of authorized appropriation. The authorization to collect existing taxes will be accompanied by documents which exhaustively detail all the taxes as well as the legal persons other than the State they may be earmarked for. The financial guarantees granted by the State will be authorized by Parliament. Lastly, the Finance Bill will have an unchanging structure to enable comparisons to be made from one year to the next and will have an investment

section and a functioning section to establish whether, as unfortunately has been the case in France for several years, the State is becoming indebted to finance its normal operational expenditure.

2. REFORMED ACCOUNTING

The State currently uses a cash basis of accounting which means that it knows its cash position in real time. However, this does not provide any useful information on its financial position.

The LOLF makes far reaching reforms of the State's accounting by adding the following to the cash basis of accounting:

— financial accounting based on the principle of recording rights and obligations. The rules here only differ from those applying to companies because of the specificities of the State's action;
— accounting which analyzes the cost of different actions in the programme.

This reform is essential because it will enable Parliament to know the State's financial health and not just its budgetary health. The State must enter provisions for its future expenditure and depreciate its equipment and members of Parliament will now be able to know the State's commitments, the risks to which it is exposed, and whether the State is getting richer or poorer.

This reform requires a considerable amount of work surveying and valuing the State's assets which is currently ongoing, as well as setting up a new financial information system. It is essential in order to allow Parliament to vote in an informed way on the great financial challenges facing the State.

The Court of Accounts will be responsible for certifying the State's accounts so that their accuracy is totally guaranteed.

3. INCREASED AUDITING POWERS

The LOLF consolidates and strengthens the powers of control of the finance committees in both assemblies which "*follow up and inspect the implementation of Finance Acts and assess any question concerning public finances"*. These special powers include:

— the right for special reporters[1] to obtain "*all the financial and administrative information they request*", including reports from inspection bodies ;
— the possibility of compelling any person whose evidence appears to be necessary to submit to examination. The duty of professional secrecy does not apply to them.

1. Each member of the finance committee in the Senate is responsible for auditing a sector of the State's budget.

— the obligation for the government to reply to letters from the special reporters after their audit and assessment assignments have been completed.

Finally, the finance committees now receive assistance of the Court of Accounts to perform their audits. The Senate's Finance Committee asks it to perform four or five investigations each year and then holds a meeting during which the members of the Court of Accounts and the managers of the inspected organizations and departments are brought face to face. In addition, the finance committees can also benefit from its assistance to carry out assessment and audit assignments, especially when these require special technical skills.

The French Parliament and its finance committees therefore have considerable legal means, but the extent of their financial control will depend on how they are used."

Mr Paolo SANTOMAURO (Italy) *made the following contribution:*

"Article 81 of the Constitution of the Italian Republic lays down that the Chambers – the Senate and the Chamber of Deputies – must each year agree the budget and State accounts which are presented by the Government. All management by the public service must have as its authority this "Budget law". Only Parliament can authorise raising and spending money for the following year. The Constitution does not allow the Budget law to set new taxes or to settle new expenditure and any law which involves new charges or an increase of expenditure must indicate the resources which will be used.

From the 1980s it was thought that the budget law – because of its nature as a formal law and a pure and simple register of pre-existing legislative acts – was no longer an adequate instrument for management of public finances. Therefore, Parliament's intervention in the annual financial programme of the Government was separated into two documents: the first was the budget law and the second was the law on finance. The second law aimed to give form to the economic and social decisions of the Government and to put its programme into effect. The law on finance allows itchanges and additions to the legislative arrangements which affect the State budget and those of autonomous businesses or organisations which will are linked to the budget of the State.

The draft law on finances is presented by the Government to Parliament on the 30th of September each year and is debated with the draft budget for that year. With the draft law on the budget the three-year budget plan is also agreed.

The importance of the law on finance in the Parliamentary political life of Italy has grown enormously in the course of time since the 1980s. Parliamentary rules have taken account of this change and put into place specific procedural instruments for the examination and agreement of the law on finance. Examination of the law on finance takes place in the course of a special session, known as the "budgetary session", which involves both Assemblies of the Italian parliament, the Senate of the Republic and the Chamber of Deputies, which have identical powers and functions. Under the Constitution the Parliamentary system in Italy is a joint bicameral one. The budgetary session has a maximum time limit of 40 days for First Reading from when the budgetary documents are placed in the Senate (in the Chamber of Deputies the time limit is 45 days) and 35 days for Second Reading. During this period the Committees may not to any other work except those which are linked to the draft laws proposed under the law on finance. As an exception to this rule they may examine draft bills relating to the ratification of decrees, that is to say extraordinary and urgent measures which the Government agrees to while waiting for Parliamentary approval; is also possible to deal with matters or draft bills which the Conference of Presidents of the Parliamentary parties unanimously agree should not be deferred.

The budgetary session takes on average up three months of Parliamentary time, that is to say over a quarter of its total activity.

In the course last few years it has been decided that the debate on the law on finance should be preceded by the presentation of a document known as the "Document on Economic and Financial Planning" (DPEF). This document set a programme for the objective, and development of public finances for the following four years on the basis of the prevailing macro economic background. The Government sends the DPEF to both Chambers, before 30th of June each year, that is to say before the budget and the law on finance. Parliamentary debate finishes by agreement on a resolution which indicates the public finance objectives and the priorities for action in terms of the budget which will be brought into effect by the law on finance.

The Court of Accounts oversees the accounts of the State. Although this is a system of control which is outside Parliament, there is a particularly close institutional link between Parliament and the Court of Accounts and therefore this area of oversight is an important part of the scrutiny which is placed on the financial work of the Government.

The obligations which are placed on the Italian government in respect of its membership of the European Community have an important impact on the system of financial oversight. Parliamentary oversight includes respect for the Government's programme in delivering on its obligations as a mem-

ber state which arise from agreements at the decision-making level of the European Union relating to coordination of financial affairs.

The impact of federalism on fiscal cooperation has taken on more and more importance. Since 2001, will after a constitutional reform of regions, provinces and communes have asked that supplementary resources be placed at their disposal, and this has created geographical units which play an increasingly important role in the public finances."

Mrs Roksa GEORGIEVSKA (Macedonia) *made the following contribution, entitled "Financial control in the Assembly of the Republic of Macedonia".*

Financial oversight in the Assembly of the Republic of Macedonia over Government expenditure.

Under the Constitution of the Republic of Macedonia which was agreed in 1991 the political and legal organisation of the State, the function of State bodies, their organisation and action, and all the relations between each other are based on the principle of the separation of powers. On that basis, the Constitution lays down separation of powers between the Legislative, Executive and Judiciary. Each one carries out its duties independently.

This division of power between the legislative, executive and judicial branches makes necessary a proper balance between each one of them and mutual oversight. It is therefore essential that the Legislature maintains oversight over the Executive. The procedures which have been laid down have been arranged in such a way that this aspect of Parliamentary activity is aimed at achieving its objectives of oversight in the most democratic way possible.

Financial oversight by the Assembly of the Republic of Macedonia over Government expenditure is carried out by way of amendments which are put down in the course of the debate on the budget – that is to say by proposed modifications of the budget of the Republic of Macedonia. On the basis of this procedure, which is set down in the Rules of the Assembly, the budget is proposed by the Government and debated once – as a draft budget.

Before the debate in the Assembly the budget is examined by the relevant bodies – the Committee on Finance and the Budget, the Chairman of which is elected by the opposition, and the Committee on Legislative and Legal Affairs of the Assembly of the Republic of Macedonia. The draft budget may also be examined by other relevant bodies of the Assembly within the limits of their powers.

Proposals to change the draft budget are presented in the form of amendments. These are sent to the Speaker of the Assembly in writing, and they must be justified and signed by the authors. If an amendment to the draft budget contains provisions which involve expenditure its author must indicate the possible means by which Finance can be obtained.

The Speaker of the Assembly immediately sends the amendments to Members of Parliament and the Government. He also will send it to the body which is charged with examining the budget and finances so that the Committee can judge the impact of the amendment on the available financial means and possible resources for financing the proposal. The Committee then informs the Assembly of its views. Debate will then take place on the amendment. An Amendment may be agreed to buy majority of votes of those deputies present, representing at least a third of elected Members.

The Assembly may decide to organise debate each chapter of the draft budget. Before deciding on how to vote on the budget, the Assembly will decide whether a vote will take place on each chapter or on the whole text. A vote on each chapter may be organised at the request of a Member of Parliament who is supported by at least 10 of his colleagues. The Rules of the Assembly relating to the procedure for agreeing the budget also apply to the procedure for agreeing the annual Table for balancing the budget.

The Minister of Finance decides on the division of expenditure in the course of a fiscal year, the level of actions and programmes within each departmental budget; division between the various departments is based on a decision by the Assembly – that is to say at the level of autonomous budgetary units – within the limits fixed by the budget.

Relations between the Assembly of the Republic of Macedonia and the Chief Financial Bodies of the State

Payment for Activities of the Assembly comes from its own budget, which is part of the global budget of the Republic of Macedonia. Financial oversight of the expenditure of the Assembly is ensured by the Ministry of Finance and the National Audit Office.

The Secretary General of the Assembly appoints an internal auditor in agreement with the Government. As a beneficiary of the public budget, the Assembly cannot take on financial obligations internally or make any payment without the signature of the internal auditor. If there is no internal auditor, the audit function is done by the Ministry of Finance. The Minister of Finance, with the previous agreement of the Government, selects auditors for a central internal audit. If an auditor detects irregularities in the use of money is allowed, he prepares a report and asks that the error be corrected within a certain time.

If such irregularities are not corrected the auditor instructs that no payments be made from the budget until this matter is dealt with.

The Ministry of Finance has set up a Treasury Department to deal with management of the budget. The Treasury Department the records all operations, receipts and expenditure, relating to the budget and its beneficiaries. In relation to all financial dealings of beneficiaries of the budget the Ministry keeps a register of all operations involving debits or credits on account of the Treasury Department. The Ministry manages the account of the Treasury Department and all its actions.

The National Audit Office has oversight of the use of money under the budget – including the budget of the as Assembly – from the point of view of compliance with the law. The Audit includes an evaluation of how efficiently money has been used.

Mr Jósef MIKOSA (Poland) *made the following contribution, entitled "The Relationship between Parliament and the highest state financial bodies in Poland".*

The subject will include discussion of the following topics:

— assistance given by the highest state financial bodies to parliamentary scrutiny of the Budget;
— availability of expertise in Parliament apart from the system for matters related to the Budget;
— specialist financial control within Parliament.

1. — The Constitution, which is the highest law in the Republic of Poland, sets forth basic principles of the relationship between the *Sejm* [lower chamber of Parliament] and the government in the field of public finances. Among other things it:

— specifies obligations of the government to the *Sejm* in submitting a Budget Bill and presenting a report on the implementation of the Budget Act;
— specifies obligations of the Supreme Chamber of Control [chief authority of state audit] in respect of the analysis of the implementation of the State Budget and of the purposes of monetary policy, as well as the opinion concerning the vote to accept the accounts for the preceding fiscal year presented by the Council of Ministers [discharge];
— specifies obligations of the Council for Monetary Policy, which is an organ of the National Bank of Poland, to the *Sejm* in formulating and presenting the aims of monetary policy and in submitting to the *Sejm* a report on achievement of the purposes of monetary policy;

— invests in the Council of Ministers exclusive right of initiative in relation to a Budget Act, an interim budget, amendments to the Budget Act, a statute on the contracting of public debt, as well as a statute granting financial guarantees by the State, and also limits *Sejm*'s discretion in changing spending and revenues from those planned by the Council of Ministers in such a way that the *Sejm* is not allowed to adopt of a budget deficit exceeding the level provided in the Budget Bill.
— imposes a prohibition against covering a budget deficit by way of contracting credit obligations to the State's central bank.

2. — Specifying more detailed principles is delegated by the Constitution to appropriate statutes, including particularly the Act on Public Finances, the Act on the Exercise of the Mandate of a Deputy or Senator and the Act on the Supreme Chamber of Control. As far as the above-mentioned topics for discussion are concerned, of importance are also its rules of procedure adopted by the *Sejm* by means of a resolution.

3. — Parliamentary scrutiny over public finances is exercised with the use of the following instruments: *Sejm* committees, Deputies' questions (written and oral) and interpellations. Pursuant to the existing provisions:
— Deputies are entitled to lodge interpellations and Deputies' questions and have a right to obtain from members of the Council of Ministers and the representatives of relevant agencies and institutions of State and local government, information and explanations related to matters arising from the performance of the duties of a Deputy.
— Members of the Council of Ministers and representatives of relevant agencies and institutions of State and local government, social institutions, establishments and enterprises of the State and local government, commercial companies with partnership of State or communal legal persons, are obliged to present information and explanations on request of permanent and special committees of the *Sejm* related to matters falling within the scope of their activity.
— The Chancellery of the *Sejm* performs organizational and technical as well as consultative tasks related to the activity of the *Sejm* and its organs. It provides adequate conditions to the Deputies for exercising their mandate and is obliged to render services for Deputies necessary for the performance of their duties. To this aim, it delivers reports and materials to the Deputies and enables them to take advantage of professional literature, analyses and expert reports.

4. — As concerns the above-mentioned tasks, they are performed by organizational units of the Chancellery of *Sejm*, acting within their scope of competence. They include in particular:

— the Bureau of Research, which provides legal consultancy and information to the Deputies and prepares - on request of Deputies and the *Sejm* organs - expert opinions and information on selected subjects. It carries out analysis of economic consequences of legislation adopted by the *Sejm* and research in the field of interest of Parliament. It prepares study and research papers along with expert reports relating to the adoption and implementation of the State Budget and provides assessment of monetary policy of the State and purposes of macroeconomic policy. It renders professional services to the State Finances Committee which is competent for matters of State Budget. *Sejm* committees have the ability to appoint their own advisers and utilize their expertise. The so-called Deputies' clubs, i.e. political groups within the *Sejm* [which do not belong to the structure of the *Sejm* bodies, but play important role in formulating the position of the *Sejm*], may also benefit from services of their own experts. Sometimes *Sejm* committees receive opinions from interest groups concerning particular matters under consideration in Parliament.

— the Legislative Bureau, which renders services for the State Finances Committee relating, inter alia, to the provision of opinion about a Budget Bill and Bureau of *Sejm* Committees which organizes – jointly with the Bureau of Research – cooperation with experts and advisors.

5. — There is no single unit (organ) within the *Sejm* responsible for control of State finances. However, the *Sejm* exercises its powers in this respect through the Supreme Chamber of Control [NIK] which – according to the Constitution – is the chief organ of state audit and is subordinate to the *Sejm*. The Supreme Chamber of Control audits the activity of the organs of government administration, the National Bank of Poland, State legal persons and other State organizational units regarding the legality, economic prudence, efficacy and diligence.

The Supreme Chamber of Control presents to the *Sejm* an analysis of the implementation of the State Budget and the purposes of monetary policy as well as information on the results of audits, conclusions and submissions specified by statute.

It is worth noting that the Act on the Supreme Chamber of Control provides that, it audits the above-mentioned units and investigates in particular the implementation of the State Budget and execution of laws and other legal acts with respect to the financial, economic and administrative activity of these units. It undertakes audits on the order of the *Sejm* or its organs, on re-

quest of the President of the Republic of Poland, the Prime Minister, or at his own initiative.

6. — The *Sejm* exercises its powers in the sphere of public finances at the stage of a Budget Bill, the stage of execution of the Budget Act and the stage of a report on its implementation.

— *The stage of a Budget Bill*

- The time limit for submission of a Budget Bill to the *Sejm* as well as its contents and justification is regulated by statutory provisions.
- Budget Bills and other financial plans of the State submitted to the *Sejm* are referred for consideration to the Public Finances Committee (the committee competent for budgetary matters) and individual parts of the drafts and reports are also considered by the appropriate ("sectoral") committees of the *Sejm*, which deliver statements of their position, including conclusions, opinions or proposals of amendments to the Public Finances Committee. The comments of the Supreme Chamber of Control on the reports are also referred to the appropriate *Sejm* committees considering particular sections of the reports. Moreover, the representatives of the Public Finances Committee also participate in sittings of the appropriate *Sejm* committees. The Public Finances Committee and "sectoral" committees may request additional opinions from the appropriate *Sejm* committees and may pose them questions.

— *The stage of implementation of the Budget Act*

- In the course of implementation of the Budget the Government is obliged to request the *Sejm* committee competent for budgetary matters for opinion on any change of the appropriations specified in the Budget Act (expenditures on investment and multi-annual programmes, earmarked reserves, as well as creating a new earmarked reserve in the event that the planned budgetary expenditures have been blocked), in such a situation the government is allowed to change the appropriation of an earmarked reserve after obtaining a positive opinion of the committee competent for budgetary matters. The government is also required to obtain a positive opinion of the committee competent for budgetary matters in the case of a threat to the execution of the Budgetary Act, resulting in the need for blocking of the expenditures. The committee competent for budgetary matters expresses opinion on a list of the expenditures that do not expire with the end of the budgetary year.

— *The stage of a report on implementation of the State Budget*

- As concerns reporting obligations, the Act on Public Finances specifies the scope of information to be presented to the *Sejm* by the Council of Ministers together with the report on implementation of the State budget and the time limit for such presentation. It also specifies the scope of information to be contained in the above-mentioned report and obliges the Minister of Finance to present to the *Sejm* committee competent for budget matters information on the course of execution of the state budget for the 1st half-year.

7. — Finally, it is worth noting that – apart from parliamentary supervision –internal audit is carried out in the units of the sector of public finances (including, inter alia, the Chancellery of the *Sejm*) which includes in particular: examination of accounting records and accounting book entries, appraisal of the system of collection of public resources and their use, as well as evaluation of asset management and evaluation of the effectiveness and economy of financial management.

Mr Christian AYER (Switzerland) said that the Federal Constitution of Switzerland laid down that Parliament had supreme budgetary authority, and that this conferred upon it a limitless right of amending texts which were put before it (except for related expenditure).

The draft budget was examined by the Committee on Finance, before being voted on by Parliament. On average, four months elapsed between presentation and agreement of the budget.

Since 1902 the question had been asked whether Switzerland should create a Court of Accounts similar to that that which existed in France or whether it was preferable to give Parliament the power to have oversight over public accounts.

In Switzerland there was also a Controle federal des finances, which was similar to the Inspection des finances in France, which was at the disposal of Parliament and the Government.

Dr Yogendra NARAIN (India) said that financial control was one of the most important functions of a Parliament. Therefore, the Indian Parliament had oversight of the Executive in matters of money and finance. This was covered in an obvious way by various provisions of the Constitution. Accordingly, under article 265, no tax could be raised or collected if it was not based on law. Under article 112, the President of India must lay an Annual Financial Statement in each House of Parliament which set out the estimated revenue and expense of the Government of India, usually known as the Budget. Article 266 of the Constitution provides for a Consolidated Fund of India, which received all the money collected by the Government.

Expenditure was included in the budget in so far as it covered the means necessary to pay for expenditure which the Constitution laid down must be made out of the Consolidated Fund of India and also in so far as other expenditure must be covered which it was proposed to take out of the Consolidated Fund of India. Supply could only be voted by the Lok Sabha. The Constitution also lay down that no money could be debited to the Consolidated Fund of India except under the Appropriation Act voted by Parliament.

The Budget was presented before Parliament in two parts: the Railway Budget relating to financing the railways and the General Budget. The Railway Budget was presented before the Lok Sabha by the Minister of Railways, but the General Budget was presented by the Minister of Finance. The Budget was presented with a "budget speech" which was one of the most important speeches in Parliament. A copy of the Budget was placed in the office of the Rajya Sabha at the end of the speech of the Ministry of Finance.

General debate on the Budget started after the presentation of the Budget in the following three or four days before both Houses. The President fixed the day and hour of the general debate before both Houses. The two Houses debated the general aspects of the fiscal and economic policies of the Government. The Ministry of Finance answered at the end of the budget debate.

Once the general debate on the Budget before both Houses had ended, the two Houses adjourned for a fixed period of time to allow the Department-related Standing Committees (DRSC) to examine the different departmental requests for money and to present their reports to both Houses of Parliament. The Committees did not deal with the day-to-day administration of the Departments. After presentation of the reports on the requests for finance from the various Departments, the Speaker of the Lok Sabha, after consulting the leaders of the party groups in the Lok Sabha, decided on dates and chose which of the requests for money which ministries had put forward should be sent for close examination and agreement by the House (Lok Sabha). The Rajya Sabha had a limited role in financial matters, since request for Supply was not discussed there. On the other hand, in the Rajya Sabha debate on the operation of certain ministries was organised on the basis of recommendations of the Business Advisory Committee.

Another means by which Parliament exercised oversight over finances was by way of the Cut Motion. These motions were aimed at reducing the credits asked for by the Government and might be on the basis of saving money (Economy Cut), or of a difference of opinion relating to policy (Policy Cut), or simply to express discontent (Token Cut).

Since no money could be taken out of the Consolidated Fund of India without the authority of Parliament, an Appropriation Act which covered all

the demand for supply voted by the Lok Sabha and all the expenses to be debited to the Consolidated Fund was laid before the Lok Sabha. This Bill gave the legal authority to the Government to spend money from that moment from the Consolidated Fund. After the Lok Sabha had passed the Bill it was sent to the Rajya Sabha where it was debated and then sent back to the Lok Sabha.

In the same way, the Finance Bill, which included provisions of a fiscal nature, was laid before the Lok Sabha immediately after presentation of the Budget by the Ministry of Finance, agreed to by the House and sent to the Rajya Sabha. Since this was a Finance Bill, the Rajya Sabha might propose amendments but the Lok Sabha was free to accept or reject these. Debate on the Finance Bill allowed Members of Parliament to raise questions relating to the Government, particular complaints within Government responsibility, or matters to do with the monetary or financial policies of the Government. Once the Finance Bill was agreed by both Houses of Parliament it was sent to the President for assent.

The role of Department-related Standing Committees. — Parliament had set up Departmental-Related Standing Committees in 1993, in order to make the Government more answerable to Parliament and to make Parliamentary examination of the budget and public finances more detailed. The number of such Committees had recently been increased from 17 to 24 in order to broaden and deepen oversight of the Executive by Parliament.

The staff such Committee was experienced. These officials had acquired considerable expertise and experience as a result of having worked for long time for such Committees. It was the duty of the Secretary General to ensure that such Committees had competent officials who were experienced and efficient. Apart from the assistance of the Secretariat, the Committees also benefited from research staff who could carry out work on subjects which were examined by the Committees. It was also worth noting that in some such cases the Chairman or members of such Committees were former Ministers of Finance or formerly had held a portfolio in the economic sphere. Some of the members were also experienced in the economic or financial areas which allowed the Committees to carry out their oversight of finance and public expenditure very effectively.

The role of financial committees. — Apart from the Department-related Standing Committees there were three financial committees – the Public Accounts Committee, the Committee on Public Works and the Committee on Supply. The Public Accounts Committee and the Committee on Public Works each had 22 members, 15 from Lok Sabha and 7 from Rajya Sabha. The Committee on Supply had 30 members, all of which came from Lok Sabha. The Public Accounts Committee and the Committee on Public Works carried out *ex post facto* budgetary oversight. The Public Accounts

Committee mainly examined the use of money voted by the House for Government expenditure, in order to ensure that the money had been spent in the way authorised by Parliament and for the ends for which it had been voted. The Committee on Public Works examined the reports and accounts of public enterprises and ensured that, subject to the independence of such enterprises, their affairs were managed according to proper principles and prudent commercial practice. Another financial committee, known as the Committee on Supply, carried out a detailed examination of budgetary estimates each year in order to identify savings, improvements in organisation or administrative reforms which cohered with the policies which underlay the provisions and which are possible. The Committee proposed alternative policies in order to introduce efficiency and economy into the administration. It examined whether the money had been properly used within the policy framework that the provision of the money implies. It also suggested the form in which such provision should be presented to Parliament.

Role of the Comptroller and Auditor General. — In addition to the financial committees, the Comptroller and Auditor General of India, whose office was established by the Constitution, assisted Parliament in detecting financial irregularity and imposes on the Executive measures to correct faults. Reports of the Comptroller and Auditor General of India were sent to the President who laid them before Parliament. The audit reports of the Comptroller and Auditor General were automatically referred to the Public Accounts Committee. They formed the basis of inquiries of that Committee which in turn sent its report to Parliament.

In the summary, Parliament had developed a sophisticated mechanism and expertise to carry out oversight of financial questions and to ensure that public money was spent by the Government in a manner authorised by Parliament.

Mr Kasper HAHNDIEK (South Africa) said that voting on the budget was one of the essential prerogatives of Parliament.

In South Africa, the Finance Bill after it was laid before Parliament was immediately sent to the Committee on Finance, which had to publish its report within 10 days. The debate in the Chamber always resulted in a referral to Committee so that the Bill could be examined in detail.

Parliament did not yet have the right to amend Finance Bills. Nonetheless, its views and observations were taken into account within the framework of informal consultations in advance of the Bill being laid before Parliament.

The Government's budget plans in the medium-term, which were an important part of financial openness, were discussed by a particular Committee.

Mr Ibrahim SALIM (Nigeria) said Chapter 80-83 of the Nigerian Constitution of 1999 gave the power of allocation of the budget to the National Assembly. The "power of the purse", was at the heart of the principle of separation of powers, more generally known as a system of "checks and balances". This system guaranteed common action on an equal footing between the three branches of the State, namely the Legislative, the Executive and the Judiciary.

The executive power, which was exclusively responsible for the implementation of public policy, was forbidden to spend public money or to enter into obligations without the express authority of Parliament. Any departure from this, whether in relation to expenditure which was not authorised or the failure to spend authorised funds, or both, constituted a grave breach of the law.

The stages of agreement of the budget were as follows:

i. *Presentation*: the President sent the Finance Bill to Parliament usually presenting it in person during a joint meeting of the two Houses;

ii. *First Reading*: presentation of the Bill by the President of the Republic during the joint meeting of the two Houses was considered as the First Reading of the Bill;

iii. *Second Reading*: after the Finance Bill had been printed and distributed to Members of Parliament the Bill was made the subject of close debate based mainly on the priorities which it set out and the impact that they would have on Government action. At the end of the debate the Bill was referred to the Finance Committee in each House for close inquiry;

iv. *Finance Committee*: within the framework of the budgetary procedure, all the Standing Committees of each House were considered as Sub-Committees of their respective Finance Committees:

- Each Sub-Committee took oral evidence and prepared reports including requests to Government agencies to defend their policies;
- Contributions from pressure groups and the general public were requested in order to ensure the widest possible representation of views;
- On the basis of the above, the Sub-Committees presented their recommendations to the relevant Finance Committee;
- The Finance Committee of each House prepared a final draft budget which would be submitted to their respective House for examination and agreement.

v. *Appropriation Committee*: after the Report of the Finance Committee had been made, the Committee on the Rules and the Orders of the Day prepared a programme for examination of the Report:

- The recommendations of the Reports, including the compendium, must be distributed at least five days before the start of examination of the Report;
- This rule was designed to allow each Member of Parliament the opportunity and time to present observations and possible amendments;
- Such observations and amendments were sent to the Committee on the Rules and the Orders of the Day so that they could be examined during the meeting of the Appropriation Committee.

The Report, along with the amendments proposed, was examined during the time set by key Committee on the Rules and the Orders of the day, in close consultation with the Speaker. During the examination of the Report, the whole House became the Appropriation Committee instead of a Committee of the whole House – which was appropriate for Finance Bills. In such cases, the Speaker of the House presided as Chairman of the Committee.

vi. *Third Reading*: the Bill was agreed to by the House if the majority of Members thought that it corresponded with the resolution of the Appropriation Committee. The Bill was then sent to the other House.

vii. *Joint Finance Conference Committee*: if there were differences between the versions agreed to by the two Houses, a Joint Finance Conference Committee composed of equal member numbers of Members of the two Houses was established. Its task was to seek agreement on the differences and it had no other powers.

viii. *Promulgation*: the members of the Joint Finance Conference Committee reported to both Houses on the Bill. If the two Houses accepted their proposals, the Third Reading was repeated in order to agree the Bill. If one or other of the Houses refused, a joint meeting of the two Houses was arranged where the differences were decided by a vote on the basis of a simple majority. This last solution was usually avoided, particularly by the Senate, since this would allow the House of Representatives whose membership was larger (360 as against 109) to get its own way.

When the Bill was agreed by the two Houses or when it was agreed by a joint meeting of the two Houses of Parliament, it was sent to the

President of the Republic of Nigeria for assent. If the President signed the Bill, it became law.

ix. *Veto*: if the President refused to sign the Bill – or, in other words, if he used his veto – he could either communicate his objections or observations to the National Assembly or reject the Bill entirely within a period of 30 days.

If the President chose to send his observations to the National Assembly, Parliament re-examined the Bill and could take into account the observations of the President or keep the Bill as it had been previously agreed and return it for assent. If the National Assembly looked at the Bill again and returned it to the President for assent, whether or not it had taken into account his observations, the President had 30 days to think about and agree the Bill. If he refused his assent the National Assembly could re-examine the Bill and bring it into law by a simple majority of the members of both Houses meeting jointly.

Control of implementation of the Budget devolved to the Controller and Auditor General as well as the Public Accounts Committees of each House, which examined the expenditure of every ministerial department.

All the funds were consolidated into a single account — the Consolidated Revenue Fund, which could not be drawn on without the express authority of the National Assembly. In addition, the governors had to inform the National Assembly each month about movements of funds.

Thanks to all these proceedings, Parliament was kept up-to-date with how the budget was implemented.

Mr Khondker Fazlur RAHMAN (Bangladesh) said that one of the most important functions of a Parliament was to raise taxes and authorise expenditure. Article 83 of the Constitution of Bangladesh laid down therefore that no tax could be raised or collected except by authority of an Act of Parliament. In the same way, no expenditure could be engaged without its agreement. No financial provision agreed to by Parliament was justiciable.

Parliamentary control was both specific – for example, by way of examination and agreement of the Budget – as well as general – for example, by way of the network of Standing Committees

Generally, Parliament played no role in preparation of the Budget which was the sole responsibility of the Government. It was only after the Budget had been presented to the House that Members had the opportunity of debating the proposals which it contained.

Parliamentary procedure for agreeing the Budget was divided into five stages:

i. Presentation of the Budget;
ii. General debate on the Budget;
iii. Debate and vote on the requests for subventions and appropriations. Introduction of budgetary cuts motions: policy cut, economy cut and token cut;
iv. Introduction and agreement of the Appropriation Bill;
v. Agreement of the Finance Bill.

Parliamentary control of the Budget nonetheless was subject to a series of limitations: lack of time for proper examination; Constitutional limits to changing the Budget in Standing Committee; limits on the right to propose increase in expenditure; the rarity of the budget cuts available to Parliament; the almost systematic agreement of the financial proposals of the Government; the lack of debate or agreement of the budgetary cuts proposed by the Opposition; the overwhelming control of political parties of their members – which made their behaviour easily predictable.

Control of the Budget before it was agreed was basically by way of the Estimates Committee and the Public Undertakings Committee:

— The Estimates Committee could examine the provision for expenditure in the course of the budgetary year and make proposals for any changes which it had thought necessary. It could also suggest alternative policies in order to improve efficiency of administration and economic management of the funds.
  This examination nonetheless was subject to certain limits: requests for subventions could be accepted without the agreement of the Committee; its recommendations did not have to be followed; no Committee since independence had ever reported to the House; most organisations did not know the existence of the Committee; its meetings were infrequent.
— The Public Undertakings Committee examined the way in which public enterprises were managed according to the basic principles of management and prudent commercial practice. The Committee nonetheless could look at the basic policies of the Government in so far as they were different from the usual commercial approach and management or daily administration of public enterprises.
  The potential of this Committee unfortunately remained largely unexploited and its meetings were infrequent.

Control of the Budget after it was agreed was mainly by way of the Public Accounts Committee whose principal functions were:

— To ensure that funds spent were available and related to the services or the objectives on which they were being spent;
— To ensure that expenditure was within the authority given;

— To ensure that any application of funds to different objectives was made according to the rules of the competent authority.

The Comptroller and Auditor General was the principal source of expertise for the Public Accounts Committee. This Committee mainly examined the conclusions of the Reports laid by the Comptroller and Auditor General before Parliament and tried to examine the extent to which the means authorised by Parliament had been properly used by the different spending departments.

The principal limits on the examination by the Public Accounts Committee were the indifference of the Government to its recommendations, the lack of Parliamentary time for debating its Reports, the lack of depth in the Audit Reports by the Comptroller and Auditor General and excessive control by the Executive over this Officer.

In comparison to the two other financial committees, the Public Accounts Committee had succeeded better in meeting and reporting to the House frequently. The Public Accounts Committees which had been established in the course of the seventh and eighth Parliament had seemed to succeed in affecting the behaviour of various recalcitrant officials and agencies, at least to some extent. In accordance with their recommendations, significant sums had been recovered by the Treasury and the Comptroller and Auditor General had been the originator of several important reforms – including the introduction of a performance audit in place of a simple fiscal audit. The Estimates Committee which had a better potential for guaranteeing fiscal discipline and proper expenditure remained the least active of the three financial committees.

It was desirable to reinforce the role of Parliament in examination of expenditure provisions before the Budget was agreed to, which could be brought about by amendment of the Rules of Procedure of Parliament and by:

— Ending of the current provision which prevented the Budget, the Finance Bill and the Appropriation Bill from being sent to committees for examination;
— Asking the Government to seek agreement of the Public Accounts Committee before introducing any correction to the Budget;
— Asking the different committees to publish their Reports within a specified time limit;
— Setting a time limit for the Government to reply to the recommendations made by the different committees;
— Asking the different committees to submit Action Taken Reports to the House which would inform Members of the progress made in implementing decisions by the responsible ministers;

— Associating more closely the Standing Committees on Ministries with the Parliamentary financial procedure;
— In making the Comptroller and Auditor General an Officer of Parliament.

Mr Willem de Beaufort (Netherlands) said that the right to vote on taxation and on public expenditure was a basic part of Parliament's functions.

The Dutch budgetary procedure was relatively rigid, since debate had to end at the latest by the first of December – this meant that the most important ministerial budgets had to be examined in September or October.

Speaking time was limited, since it was divided up between the political parties in proportion to their membership and each party was free to divide up speaking time between their members as they saw fit. The general framework was decided in September and agreed to by all the parties.

By custom, any amendment which involved an increase in expenditure had to be accompanied by an increase in receipts to cover it.

A specialist service made up of experts in financial and budgetary affairs had the responsibility of examining the Budget. Its conclusions often had important political consequences.

It was worth mentioning one problem within the framework of thinking about rationalising budgetary procedure: the proposal of the Bureau that budgetary debate should take place in Committee and that only the vote should take place in plenary session had been disagreed with.

Ms Helen DINGANI (Zimbabwe) asked what the origin of the practice was, which was commonly shared, which precluded Parliaments from changing – and in particular increasing – supply to ministerial departments.

Mr Jun Ha SUNG (Republic of Korea) said that the supreme financial authority of the State in Korea was the Minister of Budget and Planning. Once the Budget was presented, the National Assembly examined it and voted on it. In other words, although the administration presented the budgetary programme, it was the Assembly which voted on it before it could be put into effect. Furthermore, the Assembly had the right to reduce the Budget, but it needed the agreement of the Government to increase it.

As far as control of the expenditure of the State was concerned, the National Assembly of Korea had an Office of the Budget, which brought expertise in lawmaking and in budgetary policy. This Office had been established to evaluate and scrutinise government expenditure, but it also assisted legislators in examination of the Budget by providing economic forecasts, evaluation of government plans, analysis of budget, and an estimate of the budgetary requirements of projects which are put before the Assembly.

The Assembly also had established a system for close examination. Once the draft Budget had been laid before the Assembly it was sent to the Office of the Budget for analysis and then it was transferred to the relevant Committee for a First Reading. The draft Budget then preceded through a complex procedure up to the Committee on the Budget and Accounts, before finally being placed on the Orders of the Day for the plenary sitting.

The Assembly had also established an Early Accounts System in order to establish the link between Bills and the budgetary proposals: by finishing the settlement of accounts before beginning discussion of the budget the National Assembly aimed to incorporate the results of their work in the budgetary provision for the following year. In addition, the Assembly recommended to elected Members that they present their draft Bills outside the budgetary session in order to allow the Assembly to concentrate on financial questions during that period.

Finally, the National Assembly estimated the cost of Bills as a way of improving the efficiency of public expenditure and avoiding an excessive charge on public funds through an analysis of their budgetary impact.

Mr Roger Sands (United Kingdom) replying to the question from Ms Helen DINGANI, said that this practice probably had its origin in history. Originally, in the United Kingdom, the principal function of Parliament was to grant to the monarchy the means to carry out his policies: it would be absurd to give the King more than he demanded! This principle had been handed down to all the countries of the Commonwealth.

At the present time, ministers carried out the tasks which previously had been those of the King: because they are the only ones who were accountable for their content and implementation, they were also the only ones to be able to ask for a significant change in money granted.

Mr Ibrahim SALIM (Nigeria) said similar rule existed in Nigeria – although this in practice had been weakened by the informal negotiations in advance of the budget.

Mr Ano PALA (Papua New Guinea) said that in New Guinea the budget was presented in November.

The ministerial departments presented their estimates in September and the monies voted were divided into three equal parts between the three branches of the Government.

Mr Moses NDJARAKANA (Namibia) asked whether any examples were known whether the Government could depart from the law voted by Parliament and, for example, change a budgetary allocation without going back to Parliament.

Mr Roger SANDS (United Kingdom) said that in the United Kingdom it was forbidden for the Government to reallocate money from one budgetary head to another.

Dr Hafnaoui AMRANI (Algeria) said that in Algeria the law on finance presented in September was at first debated in Committee. Each minister presented an account and described his plans before the relevant Committee before debate in the plenary.

Oversight of the Government was carried out in the form of written or oral questions or indeed by the creation of Committees of Inquiry.

Drawing the debate to a close, he said that the discussion had shown the value of diversity in history and the different methods of Parliaments, which had made possible an interesting international comparison.

Mr Ian HARRIS, President, *thanked Mr Hafnaoui AMRANI and all the other members who had contributed to the debate.*

THE TENSION BETWEEN THE WISH TO DEAL AS SPEEDILY AS POSSIBLE WITH PASSING BILLS AND THE NEED TO ENSURE THAT THEY ARE PROPERLY SCRUTINISED

Mr Ian HARRIS, President, *invited Mr Roger Sands, Clerk of the House of Commons to the platform to open the debate.*

Mr Roger Sands (United Kingdom) *opened the debate with the following presentation:*

> *"I know no method to secure the repeal of bad or obnoxious laws so effectual as their strict construction." Ulysses Simpson Grant, from the Inaugural Address, March 4, 1869.*

Introduction

No doubt with this very city of Geneva in mind, Jean Jacques Rousseau in his celebrated essay, *The Social Contract*, claims that it takes Gods to make good laws. One characteristic of the difficulty of law making which he identifies – its inherent complexity and the challenge of making provisions of law clear to all affected by it – is all to familiar to us as modern parliamentarians.

Most legislative proposals are subject to some form of scrutiny. The different procedures deployed for the various types of legislative proposal endeavour to balance progress of the legislation with the appropriate level of scrutiny. Most of the procedures described below apply to Government public bills, but those that apply to other legislative measures are also briefly discussed.

The main formal mechanism for scrutiny of primary legislation is the sequence of stages through which a public bill must pass before being enacted. The time available for a bill to pass through those stages in the House of Commons is frequently controlled by the system of programming introduced by the Labour Government in 1998 and revised in 2000 and 2001.[1]

PRE-LEGISLATIVE SCRUTINY

The introduction of many Government bills will be preceded by the publication of general policy options in a "Green Paper" and an opportunity for consultation on a subsequent White Paper setting out the Government's chosen policy.[2] The origin of proposed legislation will affect the scope and timescale of consultation on it. The first opportunity for Parliamentary scrutiny of Government legislative proposals is a select committee inquiry, which may consider proposals published in a Green or White paper as part of their inquiries into general policy issues. Since 1997 there have been 51 select committee inquiries explicitly considering Green or White Papers, draft or introduced bills, secondary legislation or draft European legislation. Since June 2002, the scrutiny of relevant draft legislation has been an "indicative core task" of departmental select committees. In the current Session departmental select committees, which scrutinise the policy of individual Governmental departments, have considered four draft bills, including a

1. The first programme motion, based on the Modernisation Committee's report was put down on 13 January 1998. Following the Committee's further report of Session 1999-2000, the Government came forward with proposals for a standard framework for programming, to be enshrined in Sessional Orders. Motions for the new Sessional Orders on programme motions were debated in the House on 7 November 2000 and passed. The Committee again reviewed the matter in April 2001, its recommendations were incorporated in the revised Sessional orders adopted by the House on 28 June 2001. These orders initially had effect until the end of the 2001-02 Session but were renewed on 29 October 2002, and again on 6 November 2003 for the current Session.

2. Numbers of Green and White Papers published by the Government since 1997 :

Session	Green papers/consultation documents	White papers/policy documents
97/98	583	66
98/99	357	53
99/00	268	33
00/01	62	32
01/02	181	52
02/03	161	45

joint inquiry with a committee of the National Assembly of Wales into the Draft Transport (Wales) Bill.[1]

The depth of scrutiny and time taken for select committee inquiries is determined by the committee itself, subject to whatever timetable the Government may have set for the consultation process on the proposals. The Government is required to provide a select committee with a response to its report.

It is becoming more common for pre-legislative scrutiny to be performed by ad hoc committees established for that purpose. Such committees are usually joint select committees of both Houses of Parliament, which are required to report by a specified date. These ad hoc Committees usually produce a report, based on evidence they have taken, that may include general commentary and recommendations on the effect of the proposals, or suggest specific changes to the text of the provisions.[2]

Bills are also considered by committees established to assess legislative proposals against specific criteria, for example, the Joint Committee on Human Rights and the Constitution Committee of the House of Lords. The Joint Committee on Human Rights examines every Bill presented to Parliament. It considers Government Bills in respect of their compliance with Convention rights as defined in the Human Rights Act 1998. It also has regard to the provisions of other international human rights instruments to which the United Kingdom is a party.[3] The Lords Constitution Committee has both a scrutiny function in examining public bills for matters of constitutional significance, and an investigative function in carrying out inquiries into wider constitutional issues.[4]

1. Draft Criminal Defence Service Bill, considered by the Constitutional Affairs Select Committee; draft Legislation on identity cards, considered by the Home Affairs Select Committee; Draft School Transport Bill, considered by the Education and Skills Select Committee; Draft Transport (Wales) Bill, considered jointly by the Welsh Affairs Committee and the Economic Development & Transport Committee of the National Assembly of Wales.

2. In the current Parliament pre-legislative joint committees have been established in relation to the Draft Charities Bill; Draft Civil Contingencies Bill; Draft Communications Bill; Draft Corruption Bill; Draft Disability Discrimination Bill; Draft Gambling Bill: Draft Gambling Bill (Regional Casinos); Draft Local Government (Organisation and Standards) Bill and Draft Mental Incapacity Bill.

3. The Joint Committee on Human Rights has been appointed to consider: (a) matters relating to human rights in the United Kingdom (but excluding consideration of individual cases); (b) proposals for remedial orders, draft remedial orders and remedial orders made under section 10 of and laid under Schedule 2 to the Human Rights Act 1998; and (c) in respect of draft remedial orders and remedial orders, whether the special attention of the House should be drawn to them on any of the grounds specified in Standing Order 73 (Joint Committee on Statutory Instruments).

4. The Constitution Committee's remit is to examine the constitutional implications of all public bills coming before the House; and to keep under review the operation of the constitution. For this purpose, the Committee has defined "the constitution" as "the set of laws, rules and practices

The increase in the level of pre-legislative scrutiny is likely to continue in future. In the House of Commons, the pre-legislative scrutiny function is supported by the Scrutiny Unit, which forms part of the Committee Office. The unit is staffed by a range of experts, many seconded from outside the House, including auditors, a statistician, an economist, a lawyer, an Estimates specialist and a social policy analyst.

SCRUTINY OF PUBLIC BILLS

The formal stages of a bill begin with presentation to one or other of the Houses of Parliament at which point it is formally read the first time and ordered to be printed. No decision is taken at this stage. The great majority of Government bills introduced will receive Royal Assent; those few that do not receive Royal Assent may be withdrawn, lost due to lack of time or carried over to the next Session.[1] Most public bills proceed through four stages in each House: second reading, committee, consideration and third reading.

PURPOSE OF EACH STAGE OF CONSIDERATION

The second reading of a bill is the opportunity for the House to consider the principle of the measure. Following second reading most Government Bills will be committed to a Standing Committee. The motion which does that will usually set a date by which the Committee must report the bill. Alternatively, bills may be committed to Committee of the whole House, special standing committee, or a select committee.

Whether in Standing Committee or in Committee of the whole House the purpose of the committee stage is to consider the minutiae of the bill. The committee proceeds by debate on amendments tabled to the text of the bill or on whether a clause as a whole should be included in the bill.[2] Amendments and new clauses tabled in the committee are only considered if they

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that create the basic institutions of the state, and its component and related parts, and stipulate the powers of those institutions and the relationship between the different institutions and between those institutions and the individual".

1. In Session 2000-01, 21 of 26 Government bills introduced received Royal Assent. In Session 2001-02, all 39 Government bills introduced received Royal Assent. In Session 2002-03, 33 of 36 Government bills introduced received Royal Assent.

2.

	2000/01	**2001/02**	**2002/03**	**2003/04**
Standing Committee meetings	450	352	477	399
Total number of new amendments, new clauses and new schedules tabled	10,760	5,809	8,842	8,509
Average per sitting day	*67.7*	*40.6*	*58.2*	*54.9*
Total number of pages of *Hansard d*ebates published	8,135	6,501	9,036	7,826

meet the criteria for selection by the Chairman of the Committee.[1] Selected amendments on the same topic are grouped by the chairman of the committee for the purpose of debate. Once the committee has concluded its proceedings the bill is reported to the House, and, if amended, will be reprinted before the report, or consideration, stage.

The report stage takes place on the floor of the House and all Members may participate. The House considers only specific amendments, and new clauses or new schedules offered to the bill, rather than going through the text clause by clause. As in Committee, proceedings are entirely by debate, and amendments are subject to selection and grouping. Because report stages are usually quite short, the criteria for selection at report stage are more stringent than in committee. Third Reading is the last stage in the progress of a bill through the Commons and represents the House's final approval of the measure. It is generally taken immediately after the report stage is concluded.

A bill introduced in the Commons will, once passed by the Commons, be sent to the Lords and vice versa. In the Lords, a bill passes through similar stages to those in the Commons. Bills are generally taken on the floor of the House for all stages, although the committee stages are now sometimes taken in Grand Committee.[2] Amendments may also be made at Third Reading stage which is customarily taken separately from Report. The relatively strict rules of selection for amendments and new clauses do not apply in the Lords. These differences apart, the process is more or less the same as in the Commons.

Crucially, the House of Lords does not have a system of "programming" (see below) and bills may spend as long as the political parties agree is necessary in committee, consideration and third reading to dispose of the amendments proposed. Moreover, the vast majority of committee stages are taken in Committee of the whole House and/or in the Grand Committee (a parallel Committee of the whole House in which votes cannot be taken) – with the result that the Lords usually have only two bills in committee at the same time, whereas the Commons sometimes has six or seven proceeding in parallel.

Where the House of Lords has amended a Bill originating in the Commons, it is returned to the Commons for those amendments to be considered. Bills may go back and forth on as many occasions as are necessary to resolve the differences between the Houses. However, if an agreement can not be reached the Bill may be lost.

1. The criteria for selection include whether an amendment is within the scope of the Bill, whether it is relevant to the clause it has been tabled to, and whether, if appropriate, it is covered by the resolution covering the expenditure of public funds relating to the Bill.

2. Any Peer may attend a Grand Committee, however, no votes are permitted.

BILLS EXEMPTED FROM THE USUAL PROVISIONS

There are alternatives to the procedures set out above, which are usually only deployed for certain specific types of bill in order to reduce the time taken by the House in dealing with bills which are non-contentious, and essentially technical in nature. Some Government bills, for example, are referred to a second reading committee, although this procedure is considered suitable only for bills "which are not measures involving large questions of policy nor likely to give rise to differences on party lines".

Consolidation, etc Bills

Consolidation Bills are bills which bring together a number of existing Acts of Parliament on the same subject into one Act without amending the law, although they occasionally contain minor corrections and improvements.[1] Consolidation Bills are normally introduced in the House of Lords, and referred to the Joint Committee on Consolidation, etc Bills after Second Reading. The Committee takes evidence from the bill's draftsman and witnesses from the relevant government department. The Committee will generally report either that the bill is a pure consolidation measure which represents the existing law, or draw the attention of Parliament to any point of special interest in the bill. The Committee is also able to make amendments to the bill which would have the effect of improving the consolidation. The other stages of the bill, in both Houses, normally proceed with a minimum of debate.

Tax Law Rewrite Bills

Tax Law Rewrite Bills are prepared by an expert committee in consultation with outside professionals. The purpose of Tax Law Rewrite Bills is to recast and simplify the language of the law relating to direct taxation but not alter its effects. Such bills are referred to a second reading committee and then to the Joint Committee on Tax Law Rewrite Bills, which considers whether the bill preserves the effect of the existing law, subject to any minor changes which may be desirable. The bill stands committed to a committee of the whole House once it is reported from the Joint Committee. The consideration stage may be dispensed with under the standing order governing such bills, and the bill then proceeds immediately to third reading.[2]

1. The procedure for consideration of such bills is set out in House of Commons Standing Order No. 140 and House of Lords Standing Order No. 52. Bills subject to the Standing Orders are referred to the Joint Committee on Consolidation etc Bills.

2. The procedure for consideration of such bills is set out in House of Commons Standing Order No. 60.

SUPPLY BILLS

Supply procedure is the method by which the House of Commons makes provision for the statutory authorisation of ordinary expenditure by the Government. Having historically been a significant function of the House, procedures have developed that ensure the House spends only a limited amount of time in formal consideration of the Government's requests for authority for departmental expenditure. The question on second reading is put forthwith for such bills, which then proceed immediately to third reading without committal.

PROGRAMMING

Most Government bills in the House of Commons are now subject to programming. The initial programme motion sets the date for the end of the committee stage and normally provides for the report stage and third reading to be completed in one day; subsequent supplementary programme motions may alter the finish date the Standing Committee' deliberations, set out time limits, including periods of time for consideration of specified parts of the bill ("internal knives"), or change the order of consideration for the report stage and for third reading. Lords Amendments and further stages may also be programmed. Most programme motions are not debatable and so may not be amended.

PROGRAMMING IN STANDING COMMITTEE

The programme for a Standing Committee is considered by the Programming Sub-Committee of the Standing Committee, which meets before the first meeting of the Standing Committee. The Programming Sub-committee considers a programming motion proposed by the Government, which may set the number of sittings, the time the committee will finish on the final day, or set out in detail the order the bill will be considered and the times when consideration of certain portions of the bill must be completed.

The main opposition party objects to programming in principle and the discussion in Programming Sub-Committees frequently reflects this. It is usual for there to be prior consultation with Opposition parties and debate in sub-committees is rarely protracted, however, it is not uncommon for the sub-committee to divide on programming motions.[1] The Programming Sub-Committee may meet again after the first meeting to alter the terms of the programming resolution. The resolution agreed in the sub-committee is then

1. In Session 2001-02, there were seven divisions in programming sub-committees; in Session 2002-03, there were five divisions in programming sub-committees; in Session 2003-04, there were six divisions in programming sub-committees.

put to the standing Committee at its first meeting for its approval. Any subsequent resolution agreed by the programming sub-committee will also be considered for approval by the Standing Committee.

THE IMPACT OF PROGRAMMING

In Session 2002-03, of 36 Government bills introduced 27 were subject to programme orders.[1] Five were committed to Committee of the whole House, and 24 to standing committee.[2] Of the bills committed to standing committee, 18 had programme orders containing internal knives in addition to the final knife. In five of those 18 standing committees none of the knives fell. For the 13 bills in which knives did fall 264 groups of amendments were not reached, and 508 Clauses or Schedules were not reached because of the knife.[3] For bills in committee of the whole House 12 groups of amendments and 15 clauses or schedules were not reached because of the knives. On report 76 groups or third reading debates were not reached because of the knives.

Programming has, on occasion, influenced the course of debates. There have been instances of Members appearing to speak at greater length in a debate so as to ensure that a knife bites. Conversely, Members may skip through debates faster than they would wish, or not move amendments, so as to ensure that particular amendments do get debated before a knife falls.[4]

Of course, any intention on part of any one opposition party to get to a certain point at a certain time also needs the cooperation of the other parties. For the time to be most effectively utilised, there needs to be active cooperation between the whips or representatives of all parties on a Committee. Where there have been a large number of internal knives, any problems have been magnified: it has been more difficult for Committees to keep up with the programme because there has been less flexibility to reduce debate on some clauses to allow for more debate on others. Whips have been willing to move or suppress knives, but often only at quite a late point, which

1. Of the remaining nine Government bills, three, all relating to Northern Ireland, were subject to Allocation of Time Orders. Of the six bills not subject to programming, three were supply bills subject to time constraints under Standing Orders, and one was a tax law rewrite bill also subject to different procedures.

2. The Finance Bill and Regional Assemblies (Preparations) Bill were both split committals, with both parts programmed.

3. When the time allocated expires, only certain questions may be put, as specified in the sessional orders. In broad terms they are:

(a) the question under discussion;

(b) questions on amendments moved or motions made by a Minister;

(c) questions on any amendment selected by the Chair for separate division;

(d) other questions necessary to dispose of the business.

4. Evidence to the Procedure Committee: Programming of Legislation, Fourth Report (2003-04) HC 325, Ev. p 12, p 26.

can be cumbersome to organise; such changes have often postponed a problem since it is rarely acknowledged that the pressure created by internal knives can result from the inadequacy of the total time provided, and the dates by which Bills are to be reported are rarely changed.

Consideration of bills in committee or on report is affected by the extent of Government amendment. There is a perception that Government amendments fall into three broad categories: those that correct drafting errors in the bill as introduced, but do not alter the intention of a provision; those that alter the intention of an existing provision in the legislation; and those that introduce new material into the bill. Since the introduction of programming there has been no definite trend in the numbers of amendments tabled.

CARRY-OVER

Until recently it was a clear constitutional convention that bills (other than private bills) had to complete all their stages in both Houses before the end of the session (parliamentary year) in which they were introduced. An exception was made in the case of the Financial Services and Markets Bill, which was carried over from session 1998-99 to session 1999-2000: it was reported to the House at the end of the first session so far as it had been amended, then lay on the Table until the second session, when it was introduced afresh and taken without further debate through those stages through which it had passed in the first session.

A new temporary Standing Order agreed to on 29 October 2002 now makes provision for carry-over of public bills. Under that Order, a bill can be carried over from one session to the next by motion. If a bill is carried over, it is reprinted (as amended in the previous session) as a new bill, and notices of amendments, new clauses and new schedules tabled but not disposed of in the first session are automatically reprinted. The first two bills to be carried over under the new procedure were the Planning and Compulsory Purchase Bill and the European Parliament and Local Elections (Pilots) Bill; but since both had completed their committee stages in the previous session, precisely how the new procedure will work out in full remains to be seen.

PRIVATE MEMBERS' BILLS

Private Members' bills (bills introduced by Members who are not Government Ministers) follow the same procedure as Government bills but can only make progress in the limited time set aside in the Commons for such legislation. Only thirteen Fridays are devoted to this business in each session and the priority for the use of this time is initially determined by an annual ballot. Few Private Members' bills are successful in a Session. There is

seldom any form of pre-legislative scrutiny; however, as unsuccessful Private Members bills are often taken up and reintroduced in a subsequent session there is opportunity for informal consultation with interested outside bodies and Government departments. The system of programming does not apply to Private Members' Bills.

DELEGATED LEGISLATION

There are varying forms of delegated legislation, most of which are classed as statutory instruments, made by Ministers under powers conferred by an Act of Parliament. Of those statutory instruments many are not subject to any parliamentary procedure, and simply become law on the date stated. Whether they are subject to parliamentary procedure, and if so which of the two sorts of procedure, negative or affirmative, is determined by the parent Act. A debate must take place if an instrument is subject to affirmative procedure. Instruments subject to the negative procedure are only debated if a "prayer" has been made against it.[1] In either case a debate may take place, either on the floor of the House or in a Standing Committee on Delegated Legislation. The debate is usually limited to 1½ hours or 2½ hours for Northern Ireland instruments.[2] It is extremely rare for the parent Act to provide that either House can amend an instrument. Parliament therefore usually only has the opportunity to approve or reject a measure. An instrument is rejected if either House rejects, or declines to approve, it.

There are a number of concerns relating to delegated legislation. Not only can they not be amended, but there is increasing use of so called "Henry VIII" clauses–whereby primary legislation is amended or repealed by delegated legislation. A further problem arises for Parliamentary control as a result of the sheer volume of statutory instruments–each year over 3,000 are registered under the Statutory Instruments Act 1946, of which more than half are of a general, rather than local, character.

Once an instrument is laid before Parliament it is considered by the scrutiny committees–the Joint Committee on Statutory Instruments or the Commons Select Committee on Statutory Instruments as appropriate.[3] The Joint Committee is empowered to draw the special attention of both Houses to an instrument on any one of a number of grounds specified in the Stand-

1. A "prayer" is a motion praying that the instrument be annulled.

2. Northern Ireland instruments equate to primary legislation.

3. The Joint Committee on Statutory Instruments is responsible for scrutinising all statutory instruments made in exercise of powers granted by Act of Parliament. Instruments not laid before Parliament are included within the Committee's remit; but local instruments and instruments made by devolved administrations do not fall to be scrutinised by JCSI unless they are required to be laid before Parliament. Instruments laid before the House of Commons only are considered by the Select Committee on Statutory Instruments, which is comprised of the Commons members of the Joint Committee.

ing Order under which it operates; or on any other ground which does not impinge upon the merits of the instrument or the policy behind it.[1] In the Lords there is also a Merits of Statutory Instruments Committee with a remit to examine the merits of any Statutory Instrument which is subject to either the affirmative or negative procedure.[2]

REGULATORY REFORM

The Regulatory Reform Committee scrutinises Government proposals for regulatory reform orders under the Regulatory Reform Act 2001, under which the Government may make an Order (instead of having to obtain an Act) to amend or repeal provisions in primary legislation, which are considered to impose a burden and which could be repealed or amended without removing any necessary protection. Such Orders follow a special procedure.

The Regulatory Reform Committee and its Lords counterpart, the House of Lords Select Committee on Delegated Powers and Regulatory Reform scrutinise proposed Orders twice — when first proposed and when subsequently laid in draft — and report each time on whether the proposed Order should proceed. The Committee may take evidence from interested parties

1. The Joint Committee determines whether the special attention of the House should be drawn to a Statutory instrument on any of the following grounds:

(i) that it imposes a charge on the public revenues or contains provisions requiring payments to be made to the Exchequer or any government department or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment;

(ii) that it is made in pursuance of any enactment containing specific provisions excluding it from challenge in the courts, either at all times or after the expiration of a specific period;

(iii) that it purports to have retrospective effect where the parent statute confers no express authority so to provide;

(iv) that there appears to have been unjustifiable delay in the publication or in the laying of it before Parliament;

(v) that there appears to have been unjustifiable delay in sending a notification under the proviso to section 4(1) of the Statutory Instruments Act 1946, where an instrument has come into operation before it has been laid before Parliament;

(vi) that there appears to be a doubt whether it is intra vires or that it appears to make some unusual or unexpected use of the powers conferred by the statute under which it is made;

(vii) that for any special reason its form or purport calls for elucidation;

(viii) that its drafting appears to be defective.

2. The Merits of Statutory Instruments Committee considers every instrument laid before each House of Parliament with a view to determining whether the special attention of the House should be drawn to it on any of the following grounds:

(i) that it is politically or legally important or gives rise to issues of public policy likely to be of interest to the House;

(ii) that it is inappropriate in view of the changed circumstances since the passage of the parent Act;

(iii) that it inappropriately implements European Union legislation;

(iv) that it imperfectly achieves its policy objectives.

and suggest amendments to draft orders. The draft Order requires approval by each House.[1]

OTHER FORUMS FOR SCRUTINY

GRAND COMMITTEES

Grand Committees have been established for Scotland, Wales and Northern Ireland, principally composed of all Members of the House from those territories. Although the role of the Grand Committees has diminished since the advent of devolution, they provide an additional forum for debate and questioning on matters affecting the territories with which they are concerned. Grand Committees have considered delegated legislation and draft legislation.[2]

EUROPEAN STANDING COMMITTEES

As a consequence of the United Kingdom's accession to the European Community (now the European Union) and the enactment of the European Communities Act 1972 certain provisions adopted by institutions within the Union can become law in the United Kingdom without legislation being passed by Parliament. Various procedures have therefore been established to ensure that measures that may have direct or prospective legal effect may be considered before those measures are adopted.

In the House of Commons the European Scrutiny Committee assesses each European document and recommends those of legal or political importance for debate in European Standing Committees. Any Member of the House may participate in the Standing Committee. The procedure allows for an hour of questions to a Minister followed by 1½ hours of debate on an amendable Government motion. The Committee reports the motion to the House, which takes the final decision on whether to approve the motion.

In the House of Lords the EU Select Committee considers "European Union documents and other matters relating to the EU". The Select Com-

1. In the Commons the procedure depends on what happened in Committee: approved without division: Question put in House without debate; approved with division: Debate in House for up to 1½ hours; or rejected: Motion in House to disagree with Committee's report, debated for up to 3 hours; if agreed, question then put forthwith on draft Order.

2. The Scottish Grand Committee comprises all Scottish Members, and traditionally considered the principles of Scottish Bills referred to it at second reading, though UK Parliament bills relating exclusively to Scotland are rare since the establishment of the Scottish Parliament.

The Welsh Grand Committee consists of the 40 Welsh MPs and currently up to five others. It may consider bills referred to it at second reading on matters concerning Wales only but such bills are very rare.

The Northern Ireland Grand Committee comprises all the 18 MPs in Northern Ireland, together with up to 25 other MPs. It debates matters relating specifically to Northern Ireland, including draft legislation and delegated legislation.

mittee has seven sub-committees covering different policy areas.[1] The committee publishes reports on a wide range of European Union issues, including legislative proposals.

Mr Samson ENAME ENAME (Cameroon) *made the following contribution, entitled "The passing of laws by Parliament: a cursory or substantive study?"*

The topic selected to be the theme of our current session is: "The passing of laws by Parliament: a cursory or substantive study?" a topic which, in our opinion, is important on two counts:

— firstly, because it is, itself, the very basis of parliamentary work which, as we know, is to legislate in order to provide the nation with the legal rules and norms required for its peaceful and harmonious growth and development;

— secondly, because of the problem it poses, or because of the debate called for by the two aspects of it which are considered here: on the one hand, the cursoriness which refers to its duration, the rhythm of parliamentary work and, on the other hand, the substantive study which refers to the procedure followed in the August House and, to a certain extent, a mastery of the domains in which bills are tabled before Members of Parliament.

No experienced actor or observer of the life of modern democratic states can be indifferent to the question tag accompanying the wording of our theme for today. Far from being a simple stylistic device, this wording in the interrogative form plunges us into the heart of the broader and more fundamental ongoing debate in several countries where politicians, political experts, jurists, opinion leaders of the Civil Society and even a cross-section of ordinary citizens have, for quite some time now, been exchanging views on the changing nature of relations between the Legislative and Executive

1. Sub-Committee A covers economic and financial affairs, and international trade policy in the European Union, including the Budget.

Sub-Committee B covers all aspects of the internal market, including energy, industry, transport, communications, research and space.

Sub-Committee C covers European defence and security, international aid and development and foreign affairs.

Sub-Committee D covers agriculture and environment.

Sub-Committee E covers law and institutions in the EU.

Sub-Committee F covers home affairs policy.

Sub-Committee G covers social policy and consumer affairs.

Powers, to the extent that they sometimes join André Chandernagor in asking his famous question, "a parliament; to what end?".

In our statement, we would, in a bid to contribute, in our own modest way, to an understanding of the theme proposed, restrict ourselves to analysing the functioning of the National Assembly of Cameroon.

Cameroon's political system is the Presidential type wherein the Legislative and Judicial Powers play a considerable role in the conduct of the country's business. Executive Power is exercised by the President of the Republic, Head of State, who defines the policy to be implemented by government. Section 25 of the Constitution stipulates: "Bills may be tabled either by the President of the Republic or by Members of Parliament." By setting up a Senate, law No. 96/6 of 18 January, 1996 to revise the Constitution of 2 June, 1972, introduced a bicameral system in our Parliament which, hitherto, was monocameral. This Upper House is, however, not yet put in place.

This development responds to the dual need to modernize and to adapt the legislative apparatus to the democratisation initiative upon which Cameroon and a certain number of other African countries have embarked. The imminent putting in place of the Senate will lead to innovations in parliamentary work. In the meantime, the National Assembly is the only House that is currently functional. It is the National Assembly that considers and passes into law the bills tabled before Parliament by Government.

In this wise, it should be pointed out that before the legislative phase, the bill drafting process in Cameroon does not follow the codified mechanisms which require the formal participation of Members of the National Assembly. However, using a wide range of procedures, Government often consults the country's living forces and other major organs of the State when necessary.

Generally speaking, the Legal Units in the various ministries give a technical touch to bills initiated by the said ministries at the behest of the Head of Government who may effect some changes after discussing the drafts during inter-ministerial meetings, before forwarding them to the Presidency of the Republic to be tabled before the National Assembly. The Executive attaches an explanatory statement to each bill tabled before the National Assembly. Besides, one or more Ministers are officially designated to defend the bill.

On the other hand, the legislative phase proper which starts from this moment follows a precise constitutional and statutory procedure. Without losing sight of efficiency and respect for set time limits, the Constitution and the Standing Orders of the National Assembly lay down the Various stages to be followed in passing a bill into law. The problem here then is to know whether the substantive study of a bill, which is a fundamental aspect, is paid undue attention to the detriment of celerity which seems to be an-

other exigency for both the Members of Parliament and the entire population. In other words, is the notion of celerity in passing bills antinomic to that of the substantive study of the said bills? That is the substance of our theme for today.

I. CELERITY AS AN EXIGENCY IN THE PASSING OF BILLS INTO LAW

Celerity is a modern exigency which, moreover, is facilitated by the use, by Members of Parliament, of new technologies in the various domains of human activity. As a matter of fact, the sluggish consideration of bills could lead to anachronistic laws which are outdated right from the day they are passed.

Consequently, the organization of parliamentary work in Cameroon seeks to ensure the rapid passing of bills into law thanks to legal and statutory provisions made available as regards the duration of sessions, the definition of the domain of the law, the drawing up of the agenda of the National Assembly and the organisation of debates.

1. THE DURATION OF SESSIONS

In Cameroon, the Constitution provides for a system of sessions rather than the system of sitting permanently. According to sections 14 and 16 of the Constitution, there are three ordinary 30-day sessions per year (March, June and November) with the possibility of also holding, where necessary, extraordinary sessions not exceeding 15 days each. Given the great number of bills, or their importance, the time thus allowed for ordinary sessions (30) days or extraordinary sessions (15) days could effectively give the impression that the National Assembly does not have enough means to consider the bills tabled before it and that, consequently, it only carries out a cursory study of the said bills.

2. THE DOMAIN OF THE LAW

Cameroon's Constitution which acknowledges the right of both the National Assembly and the President of the Republic to initiate legislation, however limits the domain of the law; that is to say, the issues on which the National Assembly can make laws (Section 26). And even on the said issues, the President of the Republic may be authorized by the National Assembly to legislate, by ordinance, in emergency situations. It is true that an enabling law implies the temporary nature of the authorization thus given and the need for ratification by parliament within a relatively short time. But ordinances are immediately enforceable pending their ratification.

Enabling laws are therefore exceptional legislative measures which make it possible for the President of the Republic, Chief Executive, to cope with pressing problems facing the country and the solution of which might require long delays due to parliamentary procedures. The excessive use of such laws in a country whose parliamentary institution is functioning normally could therefore give the impression that parliament is being bypassed in order to rapidly push bills through.

3. DRAWING UP THE AGENDA, VOTING WITHOUT DEBATING, THE EMERGENCY PROCEDURE, THE BLOCKED VOTE.

The manner in which the agenda of the proceedings of our Assembly is drawn up can also give the impression that in the National Assembly bills are cursorily passed into law. As a matter of fact, though drawn up by the Chairmen's Conference, the agenda gives priority, in the order decided by Government, to consideration of Government bills and Private members' bills accepted by it (sections 27 of the Standing Orders and 18 of the Constitution).

Moreover, the Standing Orders stipulate that Government, a Committee to which a bill has been referred for a substantive study, or a Member of Parliament, may request that a vote be taken without debate or, as the case may be, that the emergency procedure be followed in considering bills or private members' bills tabled before the National Assembly (sections 28 and 44). Similarly, the blocked vote may, as a result of a motion of no confidence moved by the National Assembly, enable Government to rapidly have its bills passed by the National Assembly.

In short, Government's mastery of he agenda of the National Assembly, and other mechanisms like the vote without debate, the emergency procedure and the blocked vote, are the arms which the Executive uses to enable it to have its bills rapidly passed into law by the House.

4. ORGANIZING DEBATES

In the Standing Orders of the National Assembly, just as in the Constitution, a good number of provisions put in place pertaining to organizing debates in Committees or in plenary are also intended to enhance the rapid passing into law of the bills tabled for scrutiny by Members of Parliament.

Such is the case as regards the time allowed for taking the floor. As a matter of fact, the Standing Orders authorizes the Chairmen's Conference to share the time during which a Member of Parliament may speak and even to limit the number of persons to take the floor as well as the amount of time allowed for each of them.

Similarly, the President or any Member of the National Assembly may propose the closure of debate when at least two speakers of apposing views

have dealt with the substance of the matter (section 43 of the Standing Orders).

The same thing could be said as regards amendments. They may be admissible only if they have a bearing on the bill under discussion, or only if they have been previously submitted to the appropriate Committee. Apart from these cases, only the following amendments may be admissible during open meetings:

— amendments the discussion of which has been accepted by Government or by the Committee to which the bill has been referred for a substantive study;
— amendments tabled on behalf of a committee to which a bill has been referred for an advisory opinion, subject to the prior scrutiny of it by the committee to which the bill was referred for a substantive study;
— amendments tabled by Government.

All these precautions (organizing debates, limiting the time for taking the floor, limiting amendments) are the legal techniques or normal procedures used so as to avoid the Assembly having to legislate indefinitely.

However, there are still other methods used to attain the same objective.

5. OTHER ARGUMENTS IN FAVOUR OF THE RAPID PASSING OF BILLS INTO LAW

One of these is the majority phenomenon in parliament today. In Cameroon, where, for example, 75% of the Members of Parliament belong to the country's majority party, it has become a tradition that when a bill deemed to be very important to the Nation has been tabled before Parliament, a concertation meeting between the majority Parliamentary Group and Government is first of all held before any discussion in committee or in plenary session. Such a meeting enables parliamentarians of the Majority Group to ask all types of questions, make observations or propose amendments to Government. This greatly avoids time wasting during parliamentary work proper; and the time for debates either in committee or in plenary is greatly reduced. This enables bills to be passed into law with celerity.

After this inexhaustive inventory, one point stands out. Provisions is made to enable the rapid passing of bills into law. For obvious reasons, Government is involved in every initiative that seeks to accelerate parliamentary work; for a parliament that legislates indefinitely could tend to block government action and paralyse the country. The National Assembly is, however, not a simple rubber stamp whose role is to endorse government bills without any substantive study. The composition of the National Assembly which brings together several political parties, and its concern to

control Government action, make Members of Parliament pay special attention to the substantive consideration of bills tabled before them for scrutiny.

II. THE SUBSTANTIVE STUDY OF BILLS

Bills are initiated by the Executive Power as a function of diverse circumstances: the economic situation of the country, natural disasters, the state of the Nation. During the drafting phase, bills pass through several stages: consultation with the grassroots, concentration with the majority party, the Economic and Social Council, and the intervention of the Prime Minister. As we saw in the introduction, the preparatory stage is extra-parliamentary. However, its importance is undeniable when we consider the substance of bills. The intervention of various administrative and political structures, the consultation of actors within the economic life of the country, or of those of the civil society, already contributes to an in-depth study of the bills to be forwarded to the Presidency of the Republic which should then table them before the National Assembly.

As soon as these bills reach Parliament, they are first examined in the Chairmen's Conference which declares them admissible before committing them to the competent committees. The main point here is to make sure that the bill does not violate the Constitution, and to see whether its subject matter falls within the domain of the law.

Work in Committee is the crucial phase during which the real substantive study of the bill is carried out. This is done in the presence of designated members of Government and their close collaborators. There is first of all a general discussion of the bill before moving on to the examination of the sections. All the sections are considered and debated upon one after the other. The Committee writes out a report on the bill and formally adopts the said report which it will later on have to defend in the plenary sitting which passes it into law.

This procedure therefore comprises two main phases:

— the preliminary study phase which is the responsibility of general Committees to which bills are referred either for a substantive study or for an advisory opinion. There are nine (9) such General Committees within the Parliament of Cameroon, each of which comprises twenty (20) members and is competent in a specific domain;
— the discussion or decision phase which is reserved for plenary sessions.

Committees play an important and determinant role in the functioning of the National Assembly: They facilitate the examination of issues insofar as the said issues concern precise technical points. Thus, by enabling a more complete and more in-depth examination of problems time is gained in the final analysis.

In Cameroon, when a bill is very important to the life of the nation, the Assembly may transform itself into a committee which is then known as a Committee of the Whole House; this Committee has all the powers of the National Assembly. This enables the participation of the greatest number of parliamentarians in debates.

Moreover, Members of Parliament may, in certain cases, either individually or collectively consult experts in order to have clarifications on a bill. They may, for the same reasons, interview professionals in all sectors of activity (trade unions, corporations, government services) concerned with a bill just so as to measure its eventual impact on the sector in question. In the same vein, Members of Parliament also undertake information tours to certain corporations and enterprises in order to acquaint themselves with the realities and difficulties which they face in their day to day functioning. This enables them to make a better appraisal of the bill relating, for example, to privatisation.

The President of the Republic may address the National Assembly. This is a provision which can enable the thorough consideration of certain bills, and the better circumscription of the scope thereof before or during the substantive study. The President of the Republic may also send to Parliament messages to be read by the Prime Minister. Members of Parliament may, pursuant to the provisions of section 35 of the Constitution, put verbal or written questions to Ministers. This approach enables them to broaden their knowledge on various issues and at the same time enriches debates. It should be pointed out here that limiting the duration of sessions to thirty (30) days does not necessarily mean that all the bills have to be considered within that time limit. A bill that might not have been considered during a given session, may be carried forward to the next session, or may simply be withdrawn by Government.

It is perhaps time now to attempt a provisional conclusion to the general problematic of relations between the Legislative and Executive Powers which is at the back of our theme. In the light of the foregoing analyses, a study of these relations shows that today, for various reasons (reinforcing the role of the State, the need for efficiency, the majority phenomenon), Parliament is tending to eclipse itself in the face of the increasing power of the Executive. As a matter of fact, parliamentary assemblies do not have enough means to efficiently cope with the problems and the needs of the modern world. The Executive Power seems to be better armed to act promptly, consult socio-professional interest groups or negotiate with trade unions. For very often the problems concerned are those of the day to day management of he contradictory interests of citizens. Can we then validly speak of he inability of the legislator to resolve the problems facing States

and citizens? Some thinkers have even gone too far by programming the imminent death of the parliamentary institution.

These points of view seem by far too exaggerated. For, although its role seems reduced today, parliament still maintains certain functions which are important to both democracy and the State of law. Indeed, Parliament still maintains its function as legislator, even if the areas covered have reduced. It still has the prerogative of making the most important and most necessary rules of law, especially in essential domains like those of:

— the protection of the rights and freedoms of citizens;
— the status of persons and the regime of property;
— the political, administrative and judicial organization of the State; as well as;
— financial issues (the Currency, the Budget, Taxation and duties;
— the system of education, and many others.

Moreover, although parliamentary initiative is often drowned in government bills nowadays, it is still Parliament that has the final say. It is Parliament that passes the bills tabled into law, amends or rejects them.

Finally, Parliament remains almost the exclusive controller of the action of the Executive Power which it may sanction. That is to say, although Parliament is sometimes supplanted today by the Executive, it still remains an important factor of the smooth functioning of the democratic regime in that it urges nations to practise good governance and the rule of law; it makes for the emergence and consolidation of a democratic culture.

Consequently, it would be erroneous to think that relations between the Executive and the Legislative Powers are only based on mutual suspicion, cunning and subterfuge with the former striving, for the reasons given here above, to have its bills endorsed by the latter without any substantive study. As a matter of fact, before or during the legislative procedure, Parliament has some means at its disposal which can enable it to have a clear idea of the intentions and objectives of the government bill. Whether it is through constitutions, interviews, information tours or proceedings in Committee or open sitting, the objective is the same, viz to enable Parliament to have as an exact an idea as possible on the purport of the bill tabled before it.

Thus, finally, celerity and the substantive study of bills are seen to be two indissociable exigencies. Celerity which is cherished by the Executive Power is not considered as a priority by Members of Parliament whose mission as controllers of Government action compels a meticulous study of the bills tabled before Parliament. This is a type of dialectical move wherein the People's representatives centre all their efforts on the thorough consideration of the bills tabled before them (with a view to comprehending them fully), while the Executive puts in place well greased mechanisms that seek to

accelerate the legislative process in order to rapidly have at its disposal the laws that are indispensable for its action and the implementation of its policy.

This is how the Powers in Cameroon collaborate in the quest for the well being of citizens. This is the ultimate objective sought by all national institutions."

Mr Brissi Lucas GUEHI (Côte d'Ivoire) *made the following contribution.*

"The Cote d'Ivoire is a democratic and lay Republic which acceded to international sovereignty since August 7, 1960, its Independence Day.

From 1960 to 1990, Cote d'Ivoire has been governed through a unique party system. The establishment of the multiparty system on April 30th, 1990, did actually not involve real constitutional changes. But the real break of both the mind and the practices of the unique party took place by the law 2000-513 establishing the Constitution of Republic of Cote d'Ivoire, adopted by referendum in date of August 1st, 2000.

That Constitution gave birth to the Second Republic with a President elected by universal suffrage in an open and challenging vote.

On the legislative hand, the Second Republic first legislature started to work in January 2001 by an extraordinary session.

In reference to the Constitution (article 62), the National Assembly holds by full rights two ordinary sessions a year:

— The first session starts on the last Wednesday of April and cannot last more than three months.
— The second starts on the first Wednesday of October and ends on the third Friday of December.

Moreover, the article 63 gives possibility to summon the National Assembly in extraordinary session. That possibility is given both to the President of Republic and to Members of Parliament (an absolute majority is required).

The National Assembly of Côte d'Ivoire includes 223 Members shared into six general committees assigned to a specific work:

— the Committee of General and Institutional Avails
— the Committee of Economic and Financial Affairs
— the Committee of Social and Cultural Affairs
— the Committee of International Relations
— the Committee of Security and Defence
— the Committee of Environment

The new State authority established by elections in year 2000, committed himself to undertake a deep reform of the whole Iberian society. That social and economic reform was based on a legal reform.

This reform required a new reading of the legal texts to make them adapted to the new political context and therefore involved an increase in the intensity of parliamentary work.

This trend has been maintained until September 19th, 2002, date on which unfortunate events, caused by the rising of an armed conflict, led to the division of the country in two pads.

A. GENERALITIES ON THE PROCESSING OF BILLS

The Constitution (article 42) states that laws can be initiated both by the President of Republic and by the Members of the National Assembly. When initiated by the President of Republic, the bill is called "projet de loi" (project of law) and in the case of Parliament initiative, it is called "proposition de loi" (proposal for a law).

1. CASE OF GOVERNMENT-INITIATED BILLS

This kind of bill starts by a technical survey initiated by a Government Department.

In fact, the minister undertakes a survey to set up or improve regulations in a sector of activity which depends on his Department.

His proposals of regulation will be written as a bill and transmitted to the Secretary General of Government to be examined by the Council of Government presided by the Prime Minister.

Once the Council of Government passes the bill, the Secretary General of Government submits it to the approval of the Cabinet presided by the Head of State (President of Republic).

Depending on the political context, the adoption of the bill by the council of Government and its examination by the Cabinet may take a certain time. However, as soon as the Cabinet passes the bill, the President of Republic transmits it to the National Assembly through a referral letter.

The Speaker of National Assembly, to whom the bill is referred, summons a ''Meeting of Presidents'' in order to set up a schedule of work and appoint the relevant committee to examine the bill.

The real legislative work can then start.

2. EXAMINATION OF BILLS

The examination of a bill is the responsibility of the members of the relevant committee', however, the rules of the National Assembly allow the other MPs, who are not members of that committee to take pad in the discussions but with no right to vote.

That examination is done in the presence of a Government delegate i.e. a Minister who must defend the bill before the MPs on behalf of the President of Republic, the bill initiator.

While they examine the bill the MPs can make amendments both on the form and on the content. These amendments, when they are accepted, are gathered by the staff of the committee who leads the debates. Writing tasks are actually fulfilled by the clerks of Legislative Services. Those amendments are inserted in the final text.

3. ADOPTION OF REPORT

The adoption of bill by the committee will be stated in a report written by the Board of the committee-with the support of the Direction of Legislative Services.

The committee gathers to adopt the report. Only the committee members are required for that adoption. But any other MP is allowed to take part, make remarks and bring his contribution. Adoption of reports is made without Government Delegates.

4. THE PLENARY MEETING

The bill adopted by the committee becomes the Parliament property. That bill is then titled 'proposition de loi'' (proposal for a law) and will be processed without any Government delegate.

So, to sum up, the adoption of the report takes place after the bill is passed by the committee. Then that proposal for a law is presented to be approved by all MPs at a plenary meeting presided by the Speaker of the National Assembly.

At the plenary meeting, the MPs have the possibility to make amendments. The Board of the committee replaces the Government delegates and replies to MPs' questions and remarks. The Assembly passes the report presented by the committee before voting the bill.

After the final text (Iaw) is voted, it is signed by the President and the Secretaries of the Meeting.

The Secretary General of the National Assembly transmits that law to the Secretary General of the Government to make it promulgated by the Head of State.

These generalities describe the procedure followed by a bill. AII the steps must be fulfilled even if emergency cases require fast working. The only step which can be used to save time is that of writing report. Instead of a written and detailed report, the committee can present an oral report.

B. REQUIREMENTS OF RIGOROUS EXAMINATION OF BILLS CONFRONTED TO CONSTRAINTS OF TIME

1. FROM YEAR 2001 TO SEPTEMBER 19, 2002

As soon as the first legislature began, the Government, motivated by its will to reform society, transmitted many bills related to various fields to the Parliament.

The following board gives an idea of the work fulfilled by MPs for the two first years of legislature: 2001 and 2002.

YEAR	Bills received	Passed	Rejected	Not examined
2001	45	27	03	15
2002	37	18	03	16

During that period, the Government insisted on the emergency of examining bills. That pressure obliged the MPs to work even by night.

The Universal HeaIth Insurance Law which must involve a great innovation in healthcare supplies, the General Council law which was another priority of the Government as well as sharing Mowers and tasks between General Councils and the State, are some of the main bills which required very lasting work sessions.

All the bills received in the period 2001-2002 where classified as emergencies. That constraint of emergency set by the Government programme was opposed to the will of MPs to vote well written laws which really meet the People needs. That situation should be taken in account in setting up the schedule of work. Thus, days even weeks were granted to parliamentary groups to examine bills. And even if parliamentary Groups have enough time to study the bills, lasting, stiff and hard meetings could still take place. The discussions on the reasons that motivate the bill (i.e. the philosophy of the bill) may last three days.

The Government delegates can meet with the Parliamentary groups in order to allay them about any matter of doubt or fear. In spite of all these precautions the Parliament always examines bills meticulously.

The period 2001-2002 was one of intensive parliamentary activities during which the MPs, proud of their constitutional prerogatives, kept to use them. The Parliament administration had thus been severely tested and the lack of assistant personnel increased the pressure on the staff of Legislative Services.

2. FROM YEAR 2003 TO YEAR 2004

Since September 19, 2002, the Parliament activity has known a great decrease, mainly during year 2003 compared to that of year 2002, if we refer to the number of voted laws.

YEAR	Bills received	Passed	Suspended	Not examined
2003	25	07	02	16
2004	32	10	06	16

That situation can be explained by:

— the difficulties met in setting up the Government of National Reconciliation proposed by the Linas Marcoussis Agreement;
— the delay in the transmission of the bills required by the Linas Marcoussis Agreement ;
— the uncertain situation (no more fighting but not yet peace) that has been occurring since the cease war declaration by the soldiers;
— the suspension of Government activities by the Ministers representing the "New Forces".

However, in their active search of Peace in Côte d'Ivoire and their will to remedy the weakness shown by the Executive power in the elaboration and the transmission of bills to the Parliament, the MPs organised several meetings to inform populations on the current political situation.

In other respects, a Parliamentary inquiry mission initiated by the Committee of Security and Defence, on security and defence forces, enabled the MPs to audition the representatives of the transport sector trade unions and federations and the authorities of the police force and gendarmerie.

Peace agreements have given rise to consensual texts supposed to have an impact on peace process. This is why it is necessary to work fast.

Here again, the MPs are ready to work fast and in a diligent way to vote the bills proposed by those agreements but they don't accept to give up their right to amend bills. Then, the bills examining meetings, where they take place, are submitted to the same rigorous procedure required by a meticulous analysis of the motivations and the content of the text. That situation often troubles the Government delegates who don't hesitate to express their hindrance to face the firm will of the MPs to fulfil their mission in due respect of the rules and the legislative process.

So then, the Ministers hesitate to come before the Parliament to defend Government bills. To fill the spare time, the MPs decide to think on the conception of Parliament initiated bills.

But the problem still remains: shall we give up the right of amendment to conform to the obligation of speedy vote of laws. That seems difficult to ac-

cept for the MPs of Côte d'Ivoire because as far as they are concerned doing so means to renounce to their power and to deny their fight for democracy.

The general committees worked for a global duration of 75 hours and 17 minutes to examine bills of any kind during the year 2002.

In 2003, the general committees dedicated 58 hours and 8 minutes to examine bills.

This decrease doesn't denote less intense debates, because the bills examined in 2003 and 2004 are very sensible from the political point of view. Thus they must be examined at a prudent speed.

That attitude shown by the Parliament in general and particularly by the members of the Committee of General and Institutional Affairs (which is assigned to examine about 90 percent of bills) is wrongly thought of by some members of the current Government and by the International Community. The International Community considers it as a blocking of the peace process. In fact, that attitude conveys, on the one hand, the firm expression of the Parliament autonomy and, on the other hand, the will of MPs to be considered as effective actors of the current process, actors who want to influence history by their view on freedom, justice and democracy.

As people are used to say in Cote d'Ivoire, despite the requirements of peace, the MPs don't want to confuse speed and haste. The attraction of Parliament activity dwells on the permanent struggle between those two matters which appears to be contradictory.

We can take time to meticulously study a bill, make some amendments and improve it while keeping a reasonable rhythm."

Mr Francesco POSTERARO (Italy) *made the following contribution:*

"I have great pleasure in adding to our discussion today a contribution based on the experience acquired in the Chamber of Deputies, in particular in the course of the last few years, on the way in which this question is dealt with – a question which concerns the very reason for being of the Parliamentary institution, in other words, the search for the necessary balance between taking speedy decisions and the proper presentation of different political positions.

In fact, a Parliament which only cared for the speed with which decisions were taken would reduce politics to a merely results-based exercise and Parliament would end up by losing almost all claim to be a democratic and representative organisation.

By the same token, a Parliament which was unable to take decisions within in an appropriate timescale would be inefficient and marginalised and

would end up by being seen by citizens and public opinion as a useless, indeed harmful, organisation.

By all accounts, they were dealing with the immutable opposition between representation and the ability to decide which was a characteristic of the operation, not only of Parliament, but, more generally, all public administration. Parliamentary assemblies had to resolve the apparent contradiction between these two demands, uniting preservation of political debate with the capacity to intervene speedily in subjects which they are examining.

The need to balance idealised procedures and efficient methods had become more acute than in the past, partly because of social circumstances which demanded change more rapidly and which therefore made prompt decisions more necessary, and on the other hand an insistence on wider representation throughout civil society. In order to be able to continue to serve the interests of citizens in a globalised world, parliamentary institutions had to avoid at the same time the risks associated with slowness and those associated with haste.

In the Italian experience, the long-term political background, which was characterised by a proportional electoral system and the lack of change in the management of the country between the different political parties had led to the progressive dominance in Parliamentary life of the demands of representation over the demands of efficient decision-making. When that period had finished, thanks to electoral law reform which had produced majority government (1993 to 1994) it had become necessary to change the Parliamentary rules in order to reflect changes in the political system, in particular to give the majority party the clear opportunity to put into effect its programme, on the basis that it had received direct mandate from the voters.

The Chamber of Deputies therefore in 1997 had approved a vast reform of its Rules, with the basic aim of achieving the following:

— Certainty and speed in decision-making;
— Development of legislative preparation, with the aim of improving the quality of legislation and giving the body of law greater clarity and efficiency from the point of view of the public, the public service, and business;
— Special status for the opposition to underline its policies and to enable it to make counterproposals.

Reinforcement of the decision making ability of Parliament had been achieved by developing various tools which were already within Italian Parliamentary Law, such as the programming of work and the setting of frameworks for time limits. These tools had been very generally expressed and

they were made more incisive so that the programme of work set aside proper time limits for the examination of each subject, in proportion to the complexity of the matter and the time available and divided up between the various parties. Procedural mechanisms were introduced which allowed a reduction in the number of votes in plenary sitting, where there was an excessive number of amendments.

Improvements in the examination of the measures before Parliament was obtained by way of closer examination during the preparatory stages of a bill in the standing committees. In each case, the question was asked whether legislation was needed or whether an alternative course of proceeding might be used other than passing a new law; whether the proposed change conformed to the Constitution, was compatible with community legislation and respected the powers of the regions and local bodies; if the objectives, the means, the terms and the charges had been planned properly; if provisions contained in the bill were clear and unambiguous. A new body had also been created, the Committee for Legislation, composed of an equal number of Government and Opposition Members of Parliament. Its duty was to provide opinions to Committees on the quality of draft legislation in terms of its clarity and whether it was properly formulated, as well as whether it would effectively simplify and reorganise the law which was currently in force. The equal number of party members of this Committee underlined the fact that its deliberations were in no way linked to partisan positions, since improvement in the quality of legislation was a goal for Parliament and, consequently, an objective which was equally shared by all political parties.

Finally, turning to the status of the opposition, a fifth of available time had been reserved for the discussion of subjects proposed by the opposition within the programmed framework of the work of the Assembly and its Committees. The role of rapporteurs in minority parties had been reinforced and provision had been made to make easier the presentation not only of simple amendments, but of proper alternative texts to those proposed by the majority party. Furthermore, a weekly session had been established both in the plenary as well as within the Committees for questions for immediate reply.

He thought that the general framework of the reform of the Rules of the Chamber of Deputies, which he had tried briefly to summarise, had achieved its objectives. As a result of the new provisions approved in 1997 Committees were guaranteed the possibility of carrying out a proper analysis of draft bills in suitable time planned in advance. At the same time, simplification of the Assembly procedures had led to abolition of useless rituals and excessively long speeches and had encouraged, in return, a proper political debate on the essential themes arising from the measures which were

the subject of discussion. In exchange for considerable diminution in the ability to obstruct – at present, this was limited to most important draft bills and subject to time limits – the opposition had acquired proper tools to make public its own programme, insofar as it was different from that of the majority party.

Reform of the Rules had been very effective. The increased throughput of work of the Assembly showed that the Chamber of Deputies had regained the capacity to take decisions within planned time limits. Other hand, other procedures had not produced such a positive result, probably because of the difficult political balance which was the product of political and institutional change which was still happening in Italy. In that connection, in conclusion, he pointed out that the Chamber of Deputies was currently discussing a general revision of the provisions of the Constitution which affected the management of the State. The probable agreement to this would, of course, oblige Parliament to reform its procedures once again.

Mr Jósef MIKOSA (Poland) *made the following contribution, entitled "Information on Legislative Procedure: Rapidity of Proceedings Concerning Draft Legal Acts and Ensuring of Proper Quality of Legal Norms Enacted in the Sejm of Poland".*

DETERMINANTS OF LEGISLATIVE ACTIVITY IN POLAND

On account of socio-political or legal determinants, sometimes bills need to be passed rapidly. On the other hand, experience teaches us that that affecting quality of the law enacted depends largely on having carried out thorough substantive, legislative and comparative law-related analyses which take time.

In Poland, the issue of combining two divergent values, such as the quality of law and the rapidity of its establishment, is particularly topical. This is due to the fact that the regaining of freedom as a result of the democratic spurt of 1989 carried with it a number of systemic, social and economic reforms. The sort of those reforms was determined by our country's aspiration to integration with the Euro-Atlantic political and economic structures. In great measure the transformation determined the style and the speed of the work of the Polish parliament. A positive majority of the legal acts so far in force had to be altered. Also, the area of regulation increased considerably, including fields which had not been regulated previously. That brought about a rapid increase of bills and the necessity of shortening the legislative work on them. The need to complete the process of adjusting Polish law to the acquis communautaire dictated a quick pace of changes.

As an example, it can be pointed out that within the last two years, the average time for a debate on a bill was 95 days. In that time, 434 bills were adopted. Undeniably, these circumstances increased considerably the workload of both parliamentarians and the *Sejm*'s legislative services. That required that every participant in the legislative process be available evening and weekend, and be versatile — as every bill required that the essential information be collected, and analyses and predictions of the current and proposed regulatory environment be made.

During more than a decade of the *Sejm* working within the democratic system, the number of initiatives submitted by Deputies was markedly larger than of those by the Government. It was only in 2001, when the trend was reversed. In the present, 4th *Sejm*, in two years the Council of Ministers introduced 450 bills (67 per cent) out of the total of 673. Groups of Deputies came up with 170 legislative initiatives (25 per cent) submitted as group motions, and with 20 legislative initiatives (3 per cent) submitted through committees. That against as much as 68 per cent of all the bills submitted by Deputies (groups of Deputies and committees) to the 1st *Sejm* in the years 1991-1993. This means that compared to the situation in the 1st *Sejm*, the relevant proportions have been fully reversed. The indicated changes show that after a period of thorough systemic changes, initiated first and foremost by Deputies, Poland has been joining the states of a stable structure of legislative work, where the government is the driving force behind changes in law.

POLISH SYSTEM OF SOURCES OF LAW AND OUTLINE OF LEGISLATIVE PROCEDURE

Before we proceed to a further discussion, we should put forward the principles of the Polish constitutional system as regards the sources of law and the legislative procedure.

The sources of universally binding law of the Republic of Poland are: the Constitution, statutes, ratified international agreements, and regulations. Moreover, enactments of local law issued by the operation of organs are a source of universally binding law of the Republic of Poland in the territory of the organ issuing such enactments.

Bills are passed by the *Sejm* and the Senate, and signed by the President who may refer the bill, with reasons given, to the *Sejm* for its reconsideration or to the Constitutional Tribunal for adjudication upon its conformity to the Constitution.

Regulations are issued on the basis of specific authorisation contained in, and for the purpose of implementation of, statutes by the organs specified in the Constitution. The authorisation shall specify the organ appropriate to is-

sue a regulation and the scope of matters to be regulated as well as guidelines concerning the provisions of such act.

The right to introduce legislation belongs to Deputies, to the Senate, to the President of the Republic and to the Council of Ministers. The right to introduce legislation belongs also to a group of at least 100,000 citizens having the right to vote in elections to the *Sejm*.

Polish legislation has no equivalent of private bills. As regards private members' bills, they may be introduced by *Sejm* committees or by at least 15 Deputies who have signed a bill. This means that a single Deputy may not propose his own bill but should win support of at least 14 other Deputies for his initiative. Bills may be introduced by Deputies from both the opposition as well as the ruling coalition (which is quite often the case).

Procedure applied for debating the bill submitted does not depend on the "kind" of its mover. Thus there is no difference in the procedure for work on Government, Deputies' and citizens' bills. However, the subject of the regulation may be important. The Standing Orders of the *Sejm* of the Republic of Poland of July 30th, 1992 (Monitor Polski of 2003, No. 23, item 398), establishing the procedure for and principles of legislative work, lays down special principles of procedure for:

— draft law codes,
— draft budgets and other financial plans of the state,
— bills aimed to enforce the acquis communautaire.

Moreover, Article 123 of the Constitution gives the Council of Ministers the right to submit to the *Sejm* the so-called urgent bills, the procedure for consideration of which is stepped up considerably. As regards bills classified as urgent, the time periods for successive stages of legislative work are shorter; in force are also special provisions concerning amendments proposed by Deputies. The Council of Ministers may classify a bill adopted by it as urgent, with the exception of tax bills, bills governing elections to the Presidency of the Republic of Poland, to the *Sejm*, to the Senate and to organs of local government, bills governing the structure and jurisdiction of public authorities, and also drafts of law codes.

WORK ON DRAFT NORMATIVE ACTS PRIOR TO THEIR SUBMISSION TO *SEJM*

Drafts of normative acts are produced by ministries interested, which results from every member's of the Council of Ministers obligation "within the scope of his activities, to initiate and prepare the policy of the Government, to present initiatives and appropriate drafts of normative acts at the sittings of the Council of Ministers" (Article 7.2 of The Act of 8th August

1996 on the Council of Ministers (Dziennik Ustaw of 2003, No. 24, item 199)).

The Government Legislative Centre ensures co-ordination of the legislative activities of the Council of Ministers, the Prime Minister, and other organs of government administration (Articles 14b and 14c of The Act on the Council of Ministers). The Centre provides legal services to the Council of Ministers. In particular, it:

— prepares legal and legislative positions concerning the Government's drafts of legal acts;
— co-ordinates the course of drafting the Government's legal acts, including estimates of the social and economic effects of the regulations drafted;
— prepares in legislative respect the Government's drafts of legal acts to be debated by the Council of Ministers; the elaboration includes the assessment of the drafts from the legal and editorial points of view by the Centre's Legal Committee;
— prepares the Government's drafts of legal acts within the scope specified by the Prime Minister.

With the Prime Minister there has been established a Legislative Council, acting as an advisory body to the Council of Ministers and to the Prime Minister on matters relating to the establishment of the law and the assessment of particular legal environments. The Legislative Council expresses an opinion on draft legal acts of special social, economic or legal significance.

Furthermore, with the Council of Ministers there operate codifying committees for drawing up draft codifications of particular fields of law (Article 12a of The Act on the Council of Ministers). Currently there function: the Codifying Committee for Criminal Law, the Codifying Committee for Labour Law, and the Codifying Committee for Civil Law.

The Council of Ministers' Rules of Procedure of 19th March 2002 (Monitor Polski, No. 13, item 221) define the system of cooperation among Council of Ministers members, among other things, within the framework of co-ordination of draft legal acts. The Council of Ministers' Rules of Procedure establish the principle of collective decision-taking, of deciding on and implementing a consistent Government policy. The Rules of Procedure establish the principle of cooperation and of representation of the Council of Ministers to the public by Council members. The Rules establish a detailed procedure for drawing up, setting and submitting drafts of Government documents. The Rules lay down the principles of explaining and overcoming differences in opinion and of resolving disputes. Also, a separate chapter is dedicated to the assessment of legal acts from the point of view of their conformity to the legislation of the European Union. Provisions es-

tablishing the rules of the Council of Ministers' proceedings and of examining and deciding questions constitute a significant element of the Council of Ministers Rules. Additionally, these Rules establish the procedure for the fulfilment of the Government's duties vis-à-vis the *Sejm* and the Senate of the Republic of Poland, which stem from the Constitution and the standing orders of the *Sejm* and the Senate.

The principles of legislative technique, adopted in the form of the Prime Minister's order of 20th June 2002 (Dziennik Ustaw, No. 100, item 908) help affect high quality of the law established. They define, in particular, the elements of the methodology of the drawing up and editing of draft laws, orders and other normative acts, conditions to be satisfied by the reasons for draft normative acts, and also the rules of effecting changes in the system of law. Adherence to the principles of legislative technique is aimed at ensuring coherence and completeness of the system of law and of clarity of the texts of normative acts, with due regard to the achievements of science and practical experience.

Worthy of note is the fact that each draft legal act is referred to the Committee for European Integration in order that they form and convey to the Council of Ministers an opinion on this act's conformity to the legislation of the European Union.

Government draft laws are also consulted with public institutions and non-public organisations. Government consultations on draft laws with interested institutions are conducted as:

— Consultations in a form:
  - of the sending of draft legal acts and of inviting people to take part in work on these drafts,
  - of the holding of joint meetings, discussions and negotiations,
  - of participation of representatives of institutions interested in consultative groups.
— Consultations held within the framework of committee meetings (of the Joint Committee of Central and Local Government, the Trilateral Commission for Socio-Economic Affairs).
— Analysis of the motions and demands submitted, regarding the creation and administration of the law.

Co-ordination of social consultations on Government draft legal acts pertaining to social policy is ensured by the Government Legislative Centre (Section 11.1 of the Council of Ministers' Rules of Procedure).

The Council of Ministers acts on the basis of the Government's programme of work, adopted by the Prime Minister for a given year or for shorter periods. Basing on the Government's programme of work, the Prime Minister may decide on detailed programmes, the programme of the Gov-

ernment's legislative work included. The programme of the Government's legislative work is no more than a Government document with no bearing on the work of the parliament.

As regards bills introduced by groups of Deputies, it is worth adding here that, in principle, they prepare a bill on their own, unaided by *Sejm* draftsmen. The Deputies' legislative proposals become the subject of the *Sejm*'s work (bills as defined by the Standing Orders of the *Sejm*) the moment they are submitted, in writing, to the Marshal of the *Sejm*. Only from this moment on employees of the *Sejm* Chancellery (which performs advisory tasks related with the activities of the *Sejm*) may be engaged in the work on the bill. The only exceptions are bills introduced by a *Sejm* committee, as in such case *Sejm* draftsmen attend (within the framework of their duties resulting from their participation in committee debates) to the work on the bill since its initial, pre-legislative stage (prior to the submission of the bill to the *Sejm* Marshal).

STAGES OF LEGISLATIVE WORK

In principle, *Sejm* legislative services embark on work the moment they receive a bill prepared by its sponsor. Pursuant to the provisions of the Standing Orders of the *Sejm*, such bill should be accompanied by a detailed explanatory statement which explains the need for and purpose of passing it, presents the actual situation within the area to be regulated, indicates differences between the presently existing and the proposed legal position, and presents an estimate of the social, financial and legal effects thereof. Sponsors should put forward the assumptions of basic executive orders (in case of a Government submission, drafts of such orders are enclosed) as well as a statement of conformity of the bill to the legislation of the European Union or specifying the extent and reasons for its non-conformity to that legislation (or a statement that the subject-matter of the proposed legislation is not governed by the legislation of the European Union). An explanatory statement should also refer to the results of prior consultations, and distinguish the various proposals and opinions, especially when there exists a statutory obligation to seek such opinion.

The first decision on each bill is taken by the *Sejm* Marshal who resolves whether to refer the bill for a first reading. The decision to refer the bill for a first reading opens the procedure for the *Sejm* debate on a bill. In accordance with the principles laid down in the Standing Orders of the *Sejm*, the Marshal refers the bill for a first reading at a sitting of the *Sejm* or a committee.

Sejm committees examine the proposed bill and amendments to it from the point of view of their legislative correctness (in particular, whether there does not arise any discrepancy between particular regulations) and factual

correctness (analysed are assumptions and arguments propounded in the bill's justification). Representatives of the *Sejm* Chancellery's legal services submit to Deputies their conclusions or comments regarding the legislative issues, the question of the bill's conformity to the legislation of the European Union included.

A sponsor of a bill, or authorised government draftsmen, is obliged to attend committee and subcommittee meetings considering this bill. Authorized representatives of the Government state the Council of Ministers position, give opinion and explanations, table motions and take other steps necessary in view of the nature of the case and of the required procedure — in keeping with the position of the Government. They exercise, among other things, the sponsor's powers to introduce amendments and to withdraw his bill (before the conclusion of the second reading). As regards non-Government bills, on request of the presidium of a committee, representatives of ministers participate in sittings of a committee where the matters relating to the scope of their activity are considered.

If the first reading of a bill takes place at a plenary sitting, the *Sejm* may refer the bill for further work or resolve on its rejection. In the former case (the decision to refer the bill for further work), the *Sejm* refers the bill to committees to examine in detail the regulations being the matter of proceedings. In exceptional, particularly justified instances, the Standing Orders of the *Sejm* allow to shorten the proceedings, and to begin the second reading immediately after the conclusion of the first reading, without referring the bill to committees.

In keeping with the Standing Orders, when concluding the second reading of the bill, the *Sejm* may:

— return the bill to the relevant committees, in the event of new amendments and motions, for drawing up an additional report,
— in the event the bill is not returned to the committees, set to the third reading immediately,
— conclude the second reading without returning the bill to the committees (without setting to the third reading immediately),
— upon the committees' motion, reject the bill.

In keeping with the Standing Orders of the *Sejm*, the third reading is the last one with regard to all bills, both the ordinary ones and those classified as urgent.

A bill passed by the *Sejm* in the third reading becomes the subject of Senate work. The Senate is obliged to adopt a position on this bill within a time limit set in the Constitution. The Senate may adopt the bill passed by the *Sejm* without amendment, adopt amendments or resolve upon its complete rejection. Article 121.2 of the Constitution reads, "If, within 30 days

following the submission of the bill, the Senate fails to adopt an appropriate resolution, the bill shall be considered adopted according to the wording submitted by the *Sejm*." In the situation where the Senate has introduced amendments or rejected the bill as a whole, the *Sejm*, at its additional sitting, decides whether to accept or not to accept the Senate's viewpoints.

The President plays an important role in the legislative procedure not only due to the legislative initiative but also to his right to refuse to sign a bill, with reasons given (the so-called veto), and to make application to the Constitutional Tribunal for adjudication upon the conformity of the bill passed by the parliament to the Constitution. According to Article 122 of the Constitution, after the completion of the legislative procedure in the *Sejm* and the Senate, "the Marshal of the *Sejm* shall submit an adopted bill to the President of the Republic for signature. The President of the Republic shall sign a bill within 21 days of its submission and shall order its promulgation in the Journal of Laws of the Republic of Poland (Dziennik Ustaw). The President of the Republic may, before signing a bill, refer it to the Constitutional Tribunal for adjudication upon its conformity to the Constitution.

The President of the Republic shall refuse to sign a bill which the Constitutional Tribunal has judged not to be in conformity to the Constitution. If, however, the non-conformity to the Constitution relates to particular provisions of the bill, and the Tribunal has not judged that they are inseparably connected with the whole bill, then, the President of the Republic, after seeking the opinion of the Marshal of the *Sejm*, shall sign the bill with the omission of those provisions considered as being in non-conformity to the Constitution or shall return the bill to the *Sejm* for the purpose of removing the non-conformity.

If the President of the Republic has not made reference to the Constitutional Tribunal, he may refer the bill, with reasons given, to the *Sejm* for its reconsideration. If the said bill is repassed by the *Sejm* by a three-fifths majority vote in the presence of at least half of the statutory number of Deputies, then, the President of the Republic shall sign it within 7 days and shall order its promulgation in the Journal of Laws of the Republic of Poland (Dziennik Ustaw). If the said bill has been repassed by the *Sejm*, the President of the Republic shall have no right to refer it to the Constitutional Tribunal in accordance with" the article of the basic law referred to here.

After 1st May this year, when Poland became an EU member, the tasks executed by the *Sejm* have changed. The role of the body that controls the Government as regards the establishing of the Community law is a new experience. The Parliament (and its services) has to not only match the requirements concerning the establishment of good national law, but also, through an efficient discharge of its new responsibilities, ensure that it takes part in the establishment of the Community law.

These particular issues are resolved by the bill on cooperation between the Council of Ministers and the *Sejm* and the Senate on matters related with the membership of the Republic of Poland in the European Union, adopted on 20th February this year. (On 11th March the bill was referred to the President for signature.) The bill imposes on the Council of Ministers an obligation to cooperate with the *Sejm* and the Senate:

— in the establishing of the Polish law to enforce the law of the European Union,
— in the establishing of the law of the European Union, and
— in giving an opinion on candidates for certain posts at the European Union.

The obligation is primarily to consist in providing information on the subject of the current work of Community organs, in the setting, in accordance with the principles defined by the bill, of Poland's relevant positions on areas related with the establishment of the Community law and with the prompt discharge of the obligations indicated.

When submitting a bill to the *Sejm*, the Council of Ministers states whether this bill enforces the law of the European Union. When setting the wheels in motion, the *Sejm* Marshal sets at the same time the timetable of the *Sejm* work on the bill, taking into consideration the deadlines for the enforcement of the European Union law.

Within the *Sejm*, a European Union Affairs Committee has been established to, among other things, discuss issues related to the establishment of the legal acts of the European Union. The Committee may pass an opinion on draft legislative acts of the European Union and on the Council of Ministers information on the position it is going to take during the consideration of the proposal in the Council of European Union. Such opinion includes the Committee's position in the form either accepting or not accepting that of the Council of Ministers. In its opinion the Committee may offer recommendations to the Council of Ministers.

THE AVERAGE TIME SPENT ON DEBATING A BILL IN THE *SEJM* (UNTIL THE CONCLUSION OF THE THIRD READING)

The average time the *Sejm* spends on debating a bill (from the day the *Sejm* Marshal resolves to refer the bill for a first reading until the conclusion of the third reading) is this statistical parameter which defines the time dimension of the effectiveness of the *Sejm*. The chart below illustrates — taking the division into sponsors into consideration — how long the present *Sejm* was working on bills in the first two years of its term (from 19th October 2001 until 19th October 2003).

The average time spent on debating a bill (until the conclusion of the third reading), taking the division into sponsors into consideration

All bills (total)		**95**				
Citizens' bill	30					
Bill submitted by the President						250
Bill submitted by the Senate			119			
Bill submitted by a committee		67				
Bill submitted by a group of Deputies				156		
Bill submitted by the Council of Ministers	79					
0	50	100	150	200	250	300

In that period, the average time spent by the *Sejm* on debating a bill amounted to 95 days. One citizens' bill took the least time, because 30 days, but it has to be remembered that other citizens' bills have been still waiting to be debated. Ten bills submitted by committees were waiting for a relatively short time, because 67 days on average. Work on Council of Ministers bills took somewhat longer, because 79 days. Bills submitted by groups of Deputies and by the President took, on average, the longest time, because 156 days and 250 days respectively.

Worth noting are also the differences in the time taken for debating bills, arising from the procedures for considering and submitting urgent bills. The average time for considering a bill by the *Sejm*, counted only for ordinary bills (urgent bills submitted by the Council of Ministers excluded), amounted to 99 days, whereas for considering the urgent ones — a mere 17 days.

The average time for considering a bill (until the conclusion of the third reading), taking the procedure for urgent and ordinary bills into account
(the arithmetic mean expressed in days)

All bills (total)						**95**
Council of Ministers bill ("not urgent")					84	
Council of Ministers urgent bill	17					
Ordinary bill (without the urgent ones)						99
	0	20	40	60	80	100

From the chart above it results that bills classified as urgent are dealt with five times faster than other Government bills, and nearly six times faster than an average "ordinary" bill."

Mrs Cecilia PĂDUROIU (Romania) *made the following contribution:*

During the last years, following the progress of negotiations for Romania's accession to the European Union, it has appeared the necessity of accelerating certain legislative proceedings. In order to outline this necessity, in the autumn of 2003, the Chamber of Deputies and the Senate passed the Law on the revision of the Constitution of Romania, which came into force after its approval by national referendum of October 2003.

According to the Law on the revision of the Constitution of Romania, the new constitutional regulation of the legislative procedure represents one of the most important reform in optimizing the decision-making process within the framework of the political regime set up by the Constitution. In this new conception the equality of the Chambers is maintained, but in the meaning of a functional specialization: on the one hand as Decisional Chamber and, on the other hand, as Reflection Chamber.

According to the provisions of the 1991 Constitution, the bills or the legislative proposals passed by one Chamber were forwarded to the other Chamber of the Parliament. If the latter rejected a bill or a legislative proposal, then the bill/legislative proposal in question was sent, for a new debate, to the Chamber who passed it. A new rejection was final.

Also, if one of the two Chambers passed a bill or a legislative proposal in a different wording than that adopted by the other Chamber, the presidents of the Chambers initiated, through a parity committee, the mediation procedure. In case the mediation committee did not come to an agreement or one of the Chambers did not approve the mediation committee report, the texts in dispute were submitted to the debate of the Chamber of Deputies and the Senate, in joint sitting.

This procedure, in fact a double one, made the legislative process extremely difficult; a more complex bill could have been passed, taking also into account the mediation procedure, during 2 or 3 parliamentary sessions.

Aiming at the fluidity of the legislative activity and at the elimination of mediation and disputes stages, the revised Constitution stipulates a better distribution of each Chamber legislative powers, ensuring a certain specialization and, in this way, a better cooperation, without affecting their decision-making balance. The legislative drafts are debated and passed, in turn, by both Chambers, each of them having a well established decisional

power, which means that the second intimated Chamber makes the final decision in its designated legislative field.

For maintaining the Chambers equality, the decisional powers have been distributed as follows: the Chamber of Deputies is the Decisional Chamber for ordinary laws, that is in all the cases in which the decisional power does not belong to the Senate, and the Senate acts as Decisional Chamber for the ratification of treaties and other international documents, for the legislative regulations resulting from their implementation, as well as for the organical laws regarding exclusively the State organization and functioning.

During the first debate, in the Reflection Chamber, this one could adopt measures within its decisional competence, such as, i.e. defining an offence in the ratifying law of a treaty. In this case, two hypotheses are possible: if during the second debate, the Decisional Chamber agrees with this measure, adopted by the Reflection Chamber, the first intimated, the measure is final because, although the order is reversed, compared to the usual one, ultimately the competence of each of the two Chambers was respected. If during the second debate, the Decisional Chamber doesn't agree with the respective measure or modifies it, the law is returned, but only for the provision in cause, to the Chamber which initially adopted it and which, according to its decisional competence, ultimately decides under emergency procedure.

In order to make the legislative process fluid, the new constitutional provisions abolish the mediation procedure between the two Chambers of Parliament, as regards the adoption of a bill or legislative proposal in a different wording from that approved by the other Chamber, the mediation procedure being reserved only for the constitutional laws.

The new constitutional text represents also an innovative work, meant to offer a constitutional solution to one of the extremely complex situation appeared in the legislative practice namely: what is the finality of a bill approved by a Chamber and rejected by the other one, especially if the project refers to the approval or rejection of a Government ordinance. Therefore, by the solution proposed by the new constitutional text, many of the situations which blocked for a while the legislative procedure have been solved.

This new legislative procedure is meant to speed up the adoption of bills, by reducing the debate and adoption terms in the first intimated Chamber, terms which, as mentioned before, cannot go beyond 45 days (respectively 60 days for more complex bills); the term is imperative and, at the same time, is meant to offer to the Decisional Chamber the possibility of a deeper analysis and debate of the project, in reasonable terms.

At the same time, the new constitutional provisions have a view to the legislative process speeding also by the adoption of the bills under emergency procedure, but only in well determined situations. Such a procedure

has an exceptional character and unfolds by right (in the restrictive cases stipulated by the Constitution, i.e. the approval of the Government emergency ordinances), or with the approval of the intimated Chamber Standing Bureau at the request of the initiator. At the Chamber of Deputies, the debate of the bills or of legislative proposals under emergency procedure is approved by the Agenda Committee at the proposal of the Chamber Standing Bureau.

Usually, the bills from the Priority Legislative Programme for Romania's integration within the E.U. are debated under emergency procedure.

Mr Constantin SAVA (Romania) *made the following contribution:*

"Taking into account, on the one side, the need – recognised at global level - for the national Parliaments to adapt themselves to the challenges and to the realities of an increasingly complex society and, on the other side, that a pro-active and fully functioning Parliament is a key factor for the timely finalization of the process of Romania's integration into the EU, the Romanian parliamentarians are constantly concerned to optimize the legislative process and to ensure the institutional efficiency of the Parliament.

The new Constitution of Romania (November, 2003), establishing the appropriate constitutional framework for our country's Euro-Atlantic integration, also sets up a clearer division of the legislative competencies of the two Chambers of the Parliament, in order to avoid the weaknesses of bicameralism and to maximum valorize its advantages, to speed up the legislative activity, to eliminate the stages of mediation and divergences, together with increasing the efficiency and the quality of the parliamentary activity.

As a consequence, the need to harmonize the Standing Orders of the Senate with the provisions of the new Constitution of Romania provided us the opportunity to also eliminate the deficiencies noted after the last revision of the Standing Orders of the Senate (2001), having in prospect:

— The necessity of establishing the adequate new framework for the development of the Senate's proceedings taking into account the division of the legislative competencies of the two Chambers of the Parliament;
— The need for a more efficient organisation of the working bodies of the Senate: new responsibilities for the members of the Standing Bureau, better functioning and greater promptitude of the Standing Committees; new criteria for drafting the agenda of the plenary sittings, etc;

— The requirement to implement the new constitutional provisions regarding the emergency legislative procedure, legislative delegation and assumption of the responsibility by the Government.

1. — I will firstly refer to the most relevant amendments of the Standing Orders of the Senate on the matter under discussion today, namely to the newly introduced chapter "Competence of the Senate" which, according to Art. 75 of the Constitution, establishes the categories of bills and legislative proposals which the Senate debates as:

— *first notified Chamber (Chamber of reflection)*: all the ordinary projects of laws and legislative proposals, organic laws concerning to matters as : territory, citizenship, national symbols, equality of rights, right of private property, right of petition, the Economic and Social Council, the President of Romania - prolongation of the term in office;

— *the decision-making Chamber*: all the bills and legislative proposals adopted by the Chamber of Deputies on ratification of international treaties or other international agreements and the legislative measures imposed by their implementation, organic laws referring to right of information, right of association, defence of the country - military service, the Advocate of the People — appointment and role, the Government - role and structure, the Legislative Council, the Court of Counts — structure, establishment of administrative autonomous authorities, etc.

At the same time, according to the competencies stipulated by the Constitution and by the Standing Orders of the Joint Sittings, the Chambers may also meet in joint sittings, in order: to receive the message by the President of Romania, to approve the State Budget and the State Social Security Budget, to examine reports of the Supreme Council of National Defence, to approve the circulation and replacement of the national currency by the European Union currency, to adopt the law on Romania's accession to the North-Atlantic Treaty, and to the constituent treaties of the European Union.

The bills/legislative proposals shall be first submitted to the Chamber having the competence for its adoption, as first notified Chamber. Thus, the first notified Chamber, which analyses and debates the text, is considered as a Chamber which pre-examines the project of law, before the decisive vote of the second Chamber.

The specialization of the two Chambers in Chamber of reflection and decision-making Chamber in relation with the categories of bills/legislative proposals they are notified to debate and adopt, together with maintaining their equality in attributions - according to their electoral legitimacy -, has as an immediate result the optimization of the legislative process and makes

possible the fast adaptation of the Parliament to the reforms in substance and to the political, economic and social evolution of the country.

In the next phase of the legislative process, after the first Chamber adopts or rejects it, the bill/ legislative proposal shall be sent to the other Chamber, which will make a final decision.

According to the new Standing Orders, if the Senate, as the first notified Chamber does not pronounce within 45 days or 60 days — for codes and other extremely complex laws — exceeding the time limit, it shall be deemed that the bill or legislative proposal has been adopted in the form submitted by the initiator, the adoption shall be pronounced in plenary sitting and the bill shall be sent, after being signed by the President of the Senate, to the Chamber of Deputies.

In the case where the first notified Chamber adopts a provision which belongs to its decision-making competence, the provision is adopted as final if the other Chamber also adopts it. Otherwise, for the provision in question only, the bill shall be returned to the first notified Chamber, which will make a final decision in an emergency procedure. The same provision shall be also applied if the decision-making Chamber shall adopt a provision for which the decision-making competence belongs to the first Chamber.

At the same time, in the case the Senate rejects a bill/legislative proposal previously rejected by the Chamber of Deputies, the decision is considered definitive and the bill/legislative proposal shouldn't be discussed again during the same parliamentary session.

2. — Secondly, I would like to refer to other amendments to the Standing Orders aiming to re-organize the working bodies of the Senate - Standing Bureau and Standing Committees - and to re-establish their tasks, in order to significantly increase the efficiency, the quality and the transparency of the legislative process, as for example:

a) The two Secretaries of the Senate were in charged with new tasks in order to actively participate in the chairing of the sittings together with the President and to ensure - through the Services of the Senate -, the drawing up of the shorthand reports which are send to the Romanian Official Gazette for being published, the keeping of the record of the situation of the bills and legislative proposals submitted to the Senate as first noticed Chamber and of those received from the Chamber of Deputies, the recording of the situation of receiving the necessary advices for the legislative proposals.

b) The bills and the legislative proposals which are to be debated and adopted by the Senate as first notified Chamber, after their registration, shall follow the legislative procedure only if all advises requested by the Standing Bureau of the Senate from the Legislative Council, the Govern-

ment, the Economic and Social Council and the Constitutional Court, are received.(new provision)

c) In a view to increasing the efficiency and the discipline of the Standing Committee's activity according the new amendments and completions of the Standing Orders of the Senate:

— Terms allocated to each stage of the legislative process were substantially reduced and new terms were introduced where the parliamentary practices proved as being necessary, as for example:
  - The report drawn up by the Standing Committee intimated in substance - representing the final act of analyze, in the anterior phase of the debate in the plenary sitting of the bill/legislative proposal - shall be sent to the Standing Bureau within a time limit which can be modified only upon special request of the respective committee, but shall not exceed 15 days (new introduced term) from the day the bill/legislative proposal was submitted to the respective committee.
  - The period of time between the submission of the report to the Standing Bureau by the Standing Committee intimated in substance, and its submission to the plenary debate shall not exceed 5 days — in cases when the Senate is the first notified Chamber — and 10 days — in the other cases. (Instead of 30 days as the old Standing Orders stipulated)
— The report drawn up by the Standing Committee intimated in substance, in order to more accurately and comprehensively reflects the work of the committee, shall include distinct annexes containing : all the amendments and the conclusions of their examination, the motivations for their approval or rejection together with the specification on the decision - making Chamber for each amendment.
— In cases when a committee is intimated in substance with more than one bill/legislative proposal on same matter of regulation, the committee shall draft an approval report for only one among them and rejection reports for all the others. (new provision)
— Standing Committees may meet - on their own will, or shall meet - upon special request of the Standing Bureau, in joint sittings. According to the new Standing Order, in this situation the respective Committees shall draw up a joint report.
— In the case when following the debate results the necessity of re-examination of the draft law or legislative proposal by the committees intimated in substance, the plenary sitting may decide, by the vote of majority, the sending for re-examination. In order to discourage the tendency to postpone the debates, the new Standing Orders stipulates

that a term shall be established for the committee to draft the supplementary report.

d) While the old Standing Orders stipulated that the project of the Agenda for the next week should have been adopted by the last plenary session of the week, according to the new provisions, in order to allow a prompt answer to the legislative urgencies, the Agenda and the Program are adopted, upon proposal by the Standing Bureau, at the opening of each plenary sitting. In drawing up and adopting the Agenda in the legislative domain, priority shall be ensured to the debating of :

— the Emergency Ordinances of the Government;
— the bills and legislative proposals in emergency procedure;
— the bills and legislative proposals in the competence of the Senate as first notified Chamber;
— the bills for the ratification of the international treaties and the reports or the declarations of the Prime Minister on matters of foreign policy.

3. — Referring to the Constitutional relations between the Parliament and the Government, the most important amendments refers to:

— The legislative delegation regulating the regime of the emergency orders issued by the Government in order to avoid on the one side, the practice of their excessive utilization and, on the other side, the non-justified delay of their debate by the Parliament.
— Assumption of the responsibility by the Government

a) According to the new Constitution :

— The Government can only adopt emergency ordinances in exceptional cases and have the obligation to give reasons for the emergency status within their contents.
— Emergency ordinances cannot be adopted in the fields of constitutional laws or in the fields affecting the status of the fundamental institutions of the State, the rights, the freedoms and the duties stipulated in the Constitution, the electoral rights and cannot establish steps for transferring public property forcibly.
— An emergency ordinance shall come into force after it has been submitted for debate in an emergency procedure to the Chamber having the competence to be notified and after it has been published in the Official Gazette of Romania.

Taking into account these new provisions as well as the fact that the adoption of the bills /legislative proposals under an emergency procedure shall be established by the Standing Orders of each Chamber, another important category of amendments of the Standing Orders of the Senate regulates the emergency procedure, as follows:

— According to a new provision the Senate debates and approves bills and legislative proposals under emergency procedure in the following cases:
  - Emergency ordinances;
  - The Senate adopted, as first notified Chamber, a provision of one bill/legislative proposal of his decisional competence, which was not approved by the Chamber of Deputies and was returned for new debate;
  - Chamber of Deputies adopted a project of law, as a decision making Chamber, but some of its provisions are on the decisional competence of the Senate;
  - The bills on the harmonization of the national legislation with European Union and Council of Europe legislation.
— At the same time, the new Standing Orders eliminates the compulsory need for the approval of the plenary for the emergency procedure, which following decision of the Standing Bureau only if the case may be, is submitted to the approval by the first plenary sitting after its registration.

According to a new provision if, within 30 days at the latest of the submitting date, the notified Chamber does not pronounce, the bill/legislative proposals/ordinance it shall be deemed adopted and shall be sent to the other Chamber, which shall also make a decision in an emergency procedure.

I would like to mention here that, following these changes, during the parliamentary session February-June 2004, the number of bills on the adoption of the Government Emergency Ordinances decreased at 35% from the total number of bills adopted, comparing with 52% in the parliamentary session February-June, 2003.

b) The Government may assume responsibility before the Parliament upon a program, a general policy statement or a bill. If a motion of censure which shall be tabled in three days from the date of the presenting the program has not been passed implying dismissal of the Government, the bill presented shall be considered as passed and the program or the general policy statement become binding on the Government. Taking into account the practice revealed the necessity for a legal way allowing political negotiations and co-operation between the Government and the Parliament on one or other solution proposed by the Government, the new Constitution allow the parliamentarians to amend or complete the program/bill, amendments which shall be accepted by the Government.

I consider also important to mention here that, as an imperative and a guarantee for Romania's full integration in the big family of the occidental democracies, the Standing Orders of the Senate eliminates, according to the new Constitution, the possibility for the Parliament to decide on objections to the unconstitutionally of laws, thus enhancing the authority of the Constitutional Court.

I will finally underline that in the first 6 month of the year, within 41 plenary sessions, 7 joint sessions (with the Chamber of Deputies) and 37 committee meetings, a number of 522 bills and legislative proposals have been debated by the Senate, out of which 357 were adopted. Taking all these into account, I will conclude that the adoption of the new Constitution of Romania and the amendments to the Standing Orders of the Senate represent a real gain for the fulfilment of the desideratum of the faultless functioning of the Senate as the supreme representative body of the Romanian people and legislative authority of the country."

Mrs Stavroula VASILOUNI (Greece) said that in Greece the Conference of Speakers which met at the end of each week had the duty of settling the available time for discussing each Bill.

Article 74, paragraph 5 of the constitution of 2001 nonetheless laid down that draft Bills "of little importance" could be voted on in Committee.

Mr Manuel Alba NAVARRO (Spain) said that basically it depended on the political will of the Government how fast Bills were examined.

The internal structure of the Parliamentary system was also an important element from the point of view particularly of the degree of domination of the majority over it.

It was also necessary to mention the existence of means of obstruction within the Standing Orders which the minority parties could use.

It was probably desirable to introduce some element of direct democracy into the process, but this would making the procedure for agreeing to a Bill even slower.

The debate revealed two different questions: on the one hand, should the response be internal, that is to say procedural, or external? On the other hand, what would be the impact of the introduction in Parliamentary procedure of new elements of direct participation?

Mrs Claressa SURTEES (Australia) said that Australia had a bicameral system, where the upper chamber was the Senate and the lower chamber was the House of Representatives. The two Houses had developed different practices and procedures for finding a solution to the tension between

the necessity for proper examination of draft Bills and maintaining a certain speed in carrying out Parliamentary work.

In 1994 the House of Representatives had established a second place for debate – known as Main Committee – which was not one of the standing committees. All the Members of Parliament were members of this Main Committee and each of them could join in its proceedings when they needed to during sitting hours of the House of Representatives.

Originally, it had been planned to make this a forum where non-controversial Bills would be debated or where it was thought that a particular Bill would not excite real opposition. The underlying idea of the Main Committee was to allow more available time for the Second Reading of a Bill, without increasing the total number of sittings – any such increase would have met with opposition from Members of Parliament, in particular those whose constituencies were far from Canberra.

The practice of the House of Representatives was to send Bills to the Main Committee after the second speech of the minister in charge of the Bill. Any Member of Parliament could take part in the next stage in the Main Committee and therefore in its in-depth examination –and this included putting down amendments. At the end of the debate, the Main Committee formally sent the Bill to the House, accompanied by a brief Report; the House then agreed to the Bill in a final stage.

The practice had developed whereby more and more Bills were sent to the Main Committee, including important and controversial Bills: for several years, the main debate on budgetary Bills had taken place in the Main Committee.

Mr Alain DELCAMP (France) said that in France about 70% of the matters before the assembly is related to Bills – as opposed to 12% which was devoted to more general debates about society. In 2003-2004, this represented in the Senate 111 sitting days, 860 hours of debate and 10,000 amendments to be examined.

This situation had developed from the continued pressure from society on institutions, which always led to more laws and regulations.

In addition, the uncontrolled use of the right of amendment had led to its misuse as a procedure for obstruction, so that laws were becoming too numerous and of insufficient quality. The question was how to improve the process without attacking the freedom of speech of Members of Parliament, to which they were very attached.

An attempt had been made to establish a shortened procedure for agreement of Bills, which were nonetheless rarely used because they required the agreement of all political parties. It was impossible to place a limit on the

right of Members of Parliament to put down amendments as a result of the declarations of the Constitutional Council.

In France there was currently a search for new procedures to concentrate Parliamentary debate and to improve the content of discussion, which was the only way to avoid a dash towards delegated legislation.

Mr Michael POWNALL(United Kingdom) said that in the House of Lords, unlike the House of Commons, there was no political majority or programming of work, no "guillotine" or limitation on amendments**.**

Since the system was very liberal, the House sometimes experienced difficulties in examining Bills as it should, when the Government imposed a workload which was particularly heavy.

The solutions which had been found consisted of sending various Bills to a "Grand Committee", but also in drastically reducing time taken to print and publish drafts of Bills.

It seemed desirable that there should be some minimum delay between the different stages of a Bill.

Mr Yogendra NARAIN (India) thought that the appropriate length of time examining and agreeing a draft Bill crucially depended on the quality of the work which had been carried out by the Government beforehand: a Bill which was well prepared was one which was well thought through, and a well thought through Bill only required a short debate.

In India, in the upper House there was a consultative committee which met on average once a week and which decided on the allocation of available time for debate. In particular, it fixed the time limit for the responsible Committee to report.

In case of absolute urgency, the Government could make subordinate legislation by way of Order, which nonetheless had to be ratified by Parliament within six weeks.

Mr Brissi LUCAS GUEHI (Ivory Coast) said that the National Assembly of the Ivory Coast examined Bills placed before it in two sessions of three months each, to which might be added extra sessions.

In order to use best the time available, the Speakers' Conference met at the start of the session and divided up the work.

The process of examining Bills was delayed by various factors:

— Examination of Bills by political parties;
— Participation in debate by Members of Parliament who were not members of the Committee which was chiefly responsible;
— Repeats in plenary session of debates already held in Committee. Although in theory each Member of Parliament had five minutes to speak, the rule was never applied in practice, since the Bills which

were examined were often politically sensitive and each one wished to defend his or her point of view.

Finally, more or less speed in examination of Bills largely depended on the existence of political will — in other words that of the Government.

Mr Robert MYTTENAERE (Belgium) thought that the debate showed that the problem was universal: laws were becoming longer, Bills were becoming more and more complex, and Parliament had to work within shorter and shorter periods of time. The solutions were probably of various kinds:

— To open meetings of Standing Committees to the public and to draft substantive reports;
— To fix a limit in Standing Orders on speaking time;
— To allow within the framework settled by the Speakers' Conference a global speaking time for each political party;
— To examine certain Bills under special shortened procedure.

Mr Roger SANDS (United Kingdom) in concluding the debate mentioned further aspects of the British system, where there was no Speakers' Conference:

— The working practices had no solution to offer to the blockage of work: it only provided a framework, which depended on how it was used;
— The procedure for programming Bills in the United Kingdom had been functioning in a satisfaction way for about a year. After a few months, the Opposition had stopped working with it and the system had failed – which showed that any system, however clever it might be, could be perverted;
— As far us public participation in Parliamentary procedures was concerned, the British Government had started publishing documents which were not yet finalised, in order to provoke a reaction from interested parties. Bills arising from such documents were not examined in Parliament until the following Session.

Mr Ian HARRIS, President, *thanked Mr Roger SANDS and all those who took part in the debate.*