UNION INTERPARLEMENTAIRE

INTER-PARLIAMENTARY UNION

Constitutional & Parliamentary Information

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ASSOCIATION DES SECRETAIRES GENERAUX DES PARLEMENTS

UNION INTERPARLEMENTAIRE

ASSOCIATION OF SECRETARIES-GENERAL OF PARLIAMENTS

INTER-PARLIAMENTARY UNION

MINUTES OF THE SPRING SESSION

GENEVA

26 – 28 MARCH 2018

INTER-PARLIAMENTARY UNION

Aims

The Inter-Parliamentary Union, whose international Statute is outlined in a Headquarters Agreement drawn up with the Swiss federal authorities, is the only world-wide organisation of Parliaments.

The aim of the Inter-Parliamentary Union is to promote personal contacts between members of all Parliaments and to unite them in common action to secure and maintain the full participation of their respective States in the firm establishment and development of representative institutions and in the advancement of the work of international peace and cooperation, particularly by supporting the objectives of the United Nations.

In pursuance of this objective, the Union makes known its views on all international problems suitable for settlement by parliamentary action and puts forward suggestions for the development of parliamentary assemblies so as to improve the working of those institutions and increase their prestige.

Membership of the Union

Please refer to IPU site (http://www.ipu.org).

Structure

The organs of the Union are:

1. The Inter-Parliamentary Conference, which meets twice a year;
2. The Inter-Parliamentary Council, composed of two members of each affiliated Group;
3. The Executive Committee, composed of twelve members elected by the Conference, as well as of the Council President acting as *ex officio* President;
4. Secretariat of the Union, which is the international secretariat of the Organisation, the headquarters being located at:

Inter-Parliamentary Union
5, chemin du Pommier
Case postale 330
CH-1218 Le Grand Saconnex
Genève (Suisse)

Official Publication

The Union's official organ is the *Inter-Parliamentary Bulletin*, which appears quarterly in both English and French. The publication is indispensable in keeping posted on the activities of the Organisation. Subscription can be placed with the Union's secretariat in Geneva.

ASSOCIATION OF SECRETARIES GENERAL OF PARLIAMENTS

Minutes of the Spring Session 2018

Geneva
26-28 October 2018

List of attendance

MEMBERS PRESENT

NAME	COUNTRY
Mr Khudai Nazar NASRAT	Afghanistan
Mr Temor Shah QAWIM	Afghanistan
Mr Bachir SLIMANI	Algeria
Mr Juan Pedro TUNESSI	Argentina
Dr Juan de Dios CINCUNEGUI	Argentina
Mr Ara SAGHATELYAN	Armenia
Mr Abdulla ALDOSERI	Bahrain
Dr Md. Abdur Rob HOWLADER	Bangladesh
Mr Gert van der BIESEN	Belgium
Mr Sangay DUBA	Bhutan
Mr Chencho TSHERING	Bhutan
Mrs Emma ZOBILMA MANTORO	Burkina Faso
Mr Renovat NIYONZIMA	Burundi
Mr Marc RWABAHUNGU	Burundi

Mr OUM Sarith	Cambodia
Mr SRUN Dara	Cambodia
Mr Charles ROBERT	Canada
Mr Mario LABBE	Chile
Mr Miguel LANDEROS PERKIC	Chile
Mr Gilbert KIKUDI KONGOLO NDJIBU	Congo (Democratic Republic of)
Mr Jean NGUVULU KHOJI	Congo (Democratic Republic of)
Mr Antonio AYALES ESNA	Costa Rica
Mr Socrates SOCRATOUS	Cyprus
Mr Jiři UKLEIN	Czech Republic
Mr Claus DETHLEFSEN	Denmark
Mr Victorino Nka OBIANG MAYE	Equatorial Guinea
Mr Kayima KEBEDE	Ethiopia
Mr Negus LEMMA GEBRE	Ethiopia
Mr Girard SCHROEDT-GIRARD	France
Mr Christophe PALLEZ	France
Mr Givi MIKANADZE	Georgia
Dr Horst RISSE	Germany
Dr Ulrich SCHÖLER	Germany
Dr Georg KLEEMANN	Germany
Mr Emmanuel ANYIMADU	Ghana
Mr Konstantinos ATHANASIOU	Greece
Dr György SUCH	Hungary

Mr Helgi BERNÓDUSSON	Iceland
Mrs Damayanti HARRIS	Indonesia
Mr Salaheldeen AL ZANGANA	Iraq
Mr Peter FINNEGAN	Ireland
Mrs Yardena MELLER-HOROVITZ	Israel
Mr Firas ADWAN	Jordan
Mr Jeremiah M. NYEGENYE	Kenya
Mr KIM Sung Gon	Korea (Republic of)
Mr Allam Ali Jaafer AL-KANDARI	Kuwait
Ms Lelde RAFELDE	Latvia
Mr Adnan DAHER	Lebanon
Ms Cvetanka IVANOVA	Macedonia (Former Yugoslav Republic of)
Mrs Fiona KALEMBA	Malawi
M Modibo SIDIBE	Mali
Mr Tsedev TSOLMON	Mongolia
Mr Najib EL KHADI	Morocco
Mr Kyaw SOE	Myanmar
Mrs Lydia KANDETU	Namibia
Mrs Juliet Undjee MUPURUA	Namibia
Mr Geert Jan A. HAMILTON	Netherlands
Mr Nelson AYEWOH	Nigeria
Mr Mohammed Ataba SANI-OMOLORI	Nigeria
Mr Olayide ADELAMI	Nigeria

Mr Abdulkadir ADAMU	Nigeria
Dr Khalid Salim AL-SAIDI	Oman
Mr Amjed Pervez MALIK	Pakistan
Mr Ibrahim KHRISHI	Palestine
Mr Lutgardo B. BARBO	Philippines
Mr Cesar PAREJA	Philippines
Ms Agnieszka KACZMARSKA	Poland
Mr Jakub KOWALSKI	Poland
Mr José Manuel ARAÚJO	Portugal
Mr Fahad ALKHAYAREEN	Qatar
Mr Mihaita CALIMENTE	Romania
Mr Sergey MARTYNOV	Russian Federation
Mr Domingos José TRINDADE BOA MORTE	Sao Tomé and Principe
Mr Masibulele XASO	South Africa
Mr Manuel CAVERO	Spain
Mr Carlos GUTIÉRREZ VICÉN	Spain
Mr Abdelgadir ABDALLA KHALAFALLA	Sudan
Mr Dhammika DASANAYAKE	Sri Lanka
Mr Philippe SCHWAB	Switzerland
Mrs La-Or PUTORNJAI	Thailand
Mrs Pornpith PHETCHAREON	Thailand
Mr Mateus XIMENES BELO	Timor Leste
Mr Fademba M. WAGUENA	Togo

Mr Mehmet Ali KUMBUZOĞLU	Turkey
Ms Jane LUBOWA KIBIRIGE	Uganda
Mr Paul GAMUSI WABWIRE	Uganda
Mr Ahmed Shabeeb AL DHAHERI	United Arab Emirates
Mr Simon BURTON	United Kingdom
Mr Pedro BODNAR	Ukraine
Dr José Pedro MONTERO	Uruguay
Mrs Cecilia MBEWE	Zambia

ASSOCIATE MEMBERS

Mr Wojciech SAWICKI	Council of Europe
Mr Said MOKADEM	Maghreb Consultative Council

SUBSTITUTES

(for Mr/s)	
Mr Christopher S. NFILA (for Mrs Barbara DITHAPO)	Botswana
Mr Mauro Limeira Mena BARRETO (for Mr Mr Lúcio Henrique XAVIER LOPES)	Brazil
Mr João Pedro de Souza Lobo Caetano (for Mr Luiz Fernando BANDEIRA DE MELLO)	Brazil
Ms Hrizantema NIKOLOVA (for Ms Stefana KARASLAVOVA)	Bulgaria
Mr Hrvoje SADARIC (for Mr Davor ORLOVIC)	Croatia
Ms Lorella DI GIAMBATTISTA (for Mr Federico TONIATO)	Italy

Mr Kazufumi MATSUSHITA (for Mr Satoru GOHARA)	Japan
Ms Marija MIRJACIC (for Aleksandar JOVICEVIC)	Montenegro
Mr Liam LAURENCE SMYTH (for Mr David NATZLER)	United Kingdom
Ms Supadcharee RUEANGSITTICHAI (for Mr Nut PHASUK)	Thailand
Mr LE Bo Linh (for NGUYEN Hanh Phuc)	Vietnam
Ms Elizabeth BARINDA (for Mr Kenneth MADETE)	East African Legislative Assembly (EALA)

ALSO PRESENT

Mr Aissa BOUREGHA	Algeria
Mrs Reinhilde DEBOUTTE	Belgium
Mr Márcio Tancredi	Brazil
Mr HOK Bunly	Cambodia
Mr PHAL Bonbouddhis	Cambodia
Ms Kalo TAKAPE	Fiji
P.C. KOUL	India
Mr Setyduta NUGRALTA	Indonesia
Mr Restu PRAMOJO	Indonesia
Mr Gholamreza NOURI GHEZELJEH	Iran
Mr Kazuhiro MIZUTANI	Japan
Mrs Irena MIJANOVIC	Montenegro

Mr José Gil CHUQUELA	Mozambique
Mr César BONIFACIO	Mozambique
Ms Agata KARWOWSKA-SOKOŁOWSKA	Poland
Ms Adriana BADEA	Romania
Mr Russdy KHANTANIT	Thailand
Ms Idalina GITORRES	Timor Leste
Mr Bruno DE LENCASTRE	Timor Leste
Ms Yuliya PACHESYUK	Ukraine
Mr Ndamuka MARINO	Zimbabwe
Mr Jassim ALNUSIF	Arab ASGP
Mr Ali YILDIZ	TURKPA

APOLOGIES

Ms Claressa SURTEES	Australia
Ms Ilana TROMBKA	Brazil
Mr Jean-Charles ANDRÉ	France
Mr Desh Deepak VERMA	India
Mr Shinji MUKO-ONO	Japan
Mr Takashi OKAMURA	Japan
Mrs Ruth DE WINDT	Suriname
Mr Nut PHASUK	Thailand

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FIRST SITTING

Monday 26 March 2018 (morning)

Mr Philippe SCHWAB, President, was in the Chair

The sitting was opened at 11.03 am

1. Opening of the session

Mr Philippe SCHWAB, President, opened the session. He thanked the staff and interpreters for their assistance and proposed to begin work immediately. Before doing this, he announced the channels for the interpretation.

He apologised for the absence of Mr Najib EL-KHADI, who had been needed in Morocco as a matter of urgency but had passed on his best wishes.

2. Members

Mr Philippe SCHWAB, President, said that the secretariat had received requests for membership which had been put before the Executive Committee and agreed to, as follows:

For membership:

Dr Juan de Dios CINCUNEGUI	Deputy Secretary General of the Chamber of Deputies, Argentina
Mr Ara SAGHATELYAN	Secretary General of the National Assembly, Armenia
Mr Mauro LIMEIRA MENA BARRETO	Deputy Director General of the Chamber of Deputies, Brazil
Mr Richard DENIS	Clerk of the Senate, Canada
Mr Socrates SOCRATOUS	Secretary General of the House of Representatives, Cyprus
Mr Givi MIKANADZE	Secretary General of Parliament, Georgia
Mr Guy Gérard GEORGES	Secretary General of the House of Deputies, Haiti
Mrs Snehlata SHRIVASTAVA	Secretary General of the Lok Sabha, India

Ms Bridget DOODY	Clerk Assistant of the Seanad Eireann, Ireland
Mr Martin GROVES	Clerk of the Seanad Eireann, Ireland
Ms Elaine GUNN	Clerk Assistant of the Dáil Eireann, Ireland
Mr Federico Silvio TONIATO	Deputy Secretary General of the Senate, Italy
Mr Tahir HUSSAIN	Secretary General of the National Assembly, Pakistan
Mr Mihaita CALIMENTE	Deputy Secretary General of the Senate, Romania
Mr Mohamed Dakhel ALMETAIRI	Secretary General of the Shura Council, Saudi Arabia

For associate membership:

Mr Altynbek MAMAIUSUPOV	Secretary General of TURKPA

The new members were agreed to.

Mr Philippe SCHWAB, President, said that the Executive Committee had agreed to put forward the following ex-members of the Association for honorary membership:

Mr Marc BOSC, Canada
Mr Geert Jan HAMILTON, Netherlands
Ms Doris K. K. MWINGA, Zambia
Mr Shumsher SHERIFF, India

The honorary members were agreed to.

3. Orders of the day

Mr Philippe SCHWAB, President, read the proposed orders of the day as follows:

Monday 26 March (morning)

9.30 am

Meeting of the Executive Committee

11 am

Opening of the session

Orders of the day of the Conference

New members

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Theme : In the news

- *Communication by Dr Georg KLEEMANN, Deputy Secretary General of the Bundesrat, Germany, and Dr Horst RISSE, Secretary General of the Bundestag, Germany: "The impact of Brexit as felt by other parliaments in the European Union"*

- *Communication by Mr Peter FINNEGAN, Clerk of the Dáil and Secretary General, Houses of the Oireachtas Service, Ireland: "The impact of Brexit as felt by other parliaments in the European Union"*

- *Communication by Mr Manuel CAVERO, Secretary General of the Senate of Spain: "The procedure followed in the Senate for the application of Section 155.1 of the Spanish Constitution in relation to the self-governing community of Catalonia"*

- *Communication from Mr Mehmet Ali KUMBUZOĞLU, Secretary General of the Grand National Assembly, Turkey: "The presidential system to be implemented in Turkey in 2019".*

Monday 26 March (afternoon)

2.30 pm

- Presentation by Mr Andy RICHARDSON of the IPU on the subject of the proposed Centre for Parliamentary Innovation

Theme: Parliament and Government

- *Communication by Mr Geert Jan A. HAMILTON, Clerk of the Senate of the States General of the Netherlands: "The formation of a government in a multi-party democracy"*

General debate with informal discussion groups: The relationship between Parliament and Government

Themes for informal discussion groups
Theme 1: Collaboration between Parliament and the government in the planning and organisation of parliamentary work
Theme 2: Anti-parliamentary sentiment and ethical considerations in the civil service
Theme 3: The role of Parliament in the composition and establishment of the government
Theme 4: Scrutiny of the government by Parliament

Moderator: Ms. Jane LUBOWA KIBIRIGE, Clerk to the Parliament of Uganda

4 pm: Deadline for nominations for the post of Vice-President of the ASGP

Tuesday 27 March (morning)

9.30 am

Meeting of the Executive Committee

***

10.00 am

General debate with informal discussion groups: The relationship between Parliament and Government

Rapporteurs to report back to the plenary, and general debate.

Theme : Developments in procedure and practice

- *Communication by Mr Masibulele XASO, Secretary to the National Assembly of the Republic of South Africa: "The Standing Rules and Reforms in the National Assembly: Parliament of the Republic of South Africa"*

11 am: Election to the post of Vice-President of the ASGP

Tuesday 27 March (afternoon)

2.30 pm

Theme: Parliament and society

- *Communication by Mr Abdullah ALDOSERI, the Secretary General of Bahrain's Council of Representatives: "The Parliament of Bahrain's Experiment in Communication with Community"*

- *Communication by Mr Mauro Limeira Mena BARRETO, Deputy Director General of the Brazilian Chamber of Deputies: "Participation of society in the innovation process in parliaments"*

- *Communication by Mr Antonio AYALES ESNA, Executive Director of the National Assembly of the Republic of Costa Rica: "Parliament and society in Costa Rica"*

- *Communication by Mr Ali YILDIZ, Secretary General of the Parliamentary Assembly of Turkic-speaking countries: "The participation of society in the innovation process in parliaments"*

4 pm: Deadline for nominations for the posts of ordinary member of the Executive Committee

Wednesday 28 March (morning)

9.30 am

Meeting of the Executive Committee

***

10.30 am

Theme: Privilege

- *Communication by Mr Charles ROBERT, Clerk of the House of Commons of Canada: "Free speech and parliamentary privilege in plenary sittings"*

General debate: Judicial scrutiny over internal parliamentary affairs

Moderator: Mr José Manuel ARAÚJO, Deputy Secretary General of the Assembly of the Republic of Portugal

11 am: Election to posts of ordinary member of the Executive Committee

Wednesday 28 March (afternoon)

2.30 pm

- *Presentation on recent developments in the IPU*
- *Administrative questions*
- *Draft agenda for the next meeting in Geneva (Switzerland), October 2018*

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The agenda for the Session was agreed to.

Mr Philippe SCHWAB, President, reminded members of the usual time limits, and asked everyone making a communication to respect them. If necessary, changes would be made to the timings on the agenda.

He asked members to start thinking about topics for the next session in Geneva.

4. Election to the Executive Committee

Mr Philippe SCHWAB, President, noted that a single post of Vice-President was available. It was preferable that this went to an experienced member of the Executive Committee. The deadline for the receipt of nominations would fall at 4pm that day, and any election, if necessary, would take place at 11am the following day.

The Executive Committee had decided to make two posts of ordinary member of the Executive Committee available during the current session, although there were three posts available in total. He reminded members of the need to ensure sufficient linguistic, gender and regional diversity on the Executive Committee.

5. Collaboration with the IPU

Mr Philippe SCHWAB, President, noted that Andy RICHARDSON from the IPU would appear before the ASGP that afternoon to explain the Centre for Innovation in Parliaments, and wanted to invite interested members to a working lunch the following day. Members wishing to participate should let the staff know.

6. Financial matters

Mr Philippe SCHWAB, President, reminded members of the stringent measures then in place in relation to members who had not paid their subscription fees for a number of years.

7. Official languages

Mr Philippe SCHWAB, President, reminded members that the two official working languages of the Association were English and French. Supplementary interpretation was available in Arabic, thanks to the Association of Secretaries General of Arab Parliaments. He said that he was delighted that other delegations were able to provide interpretation into their languages but reminded members of the need to inform the staff sufficiently in advance of their desire to do this.

8. Communication by Dr Georg KLEEMANN, Deputy Secretary General of the Bundesrat, Germany, and Dr Horst RISSE, Secretary General of the Bundestag, Germany: "The impact of Brexit as felt by other parliaments in the European Union"

Mr Philippe SCHWAB, President, invited Dr Georg KLEEMANN, Deputy Secretary General of the Bundesrat, Germany, and Dr Horst RISSE, Secretary General of the Bundestag, Germany, to give their presentation.

Dr Horst RISSE and Dr Georg Kleemann (Germany) spoke as follows:

Part A: Bundestag involvement in matters relating to Brexit

I. Introduction

'Brexit' is a catchword. It suggests that withdrawal from the EU is a single legal process. That, however, is not true. Sailing under the Brexit flag are three entirely separate legal processes, namely:

1. the agreement on the withdrawal of the Member State;
2. the agreement on future relations with the exiting state;
3. the adjustment, resulting from the withdrawal, of the EU Treaties that bind the remaining Member States.

The exit agreement and the agreement on future relations in particular are burning issues for the remaining Member States. In many cases, the withdrawal threatens people's livelihoods and the survival of businesses in other Member States. It might therefore be imagined that the EU Treaties would stipulate that exit agreements and agreements on future relations should be subject to ratification by the Member States. As a rule, ratification would mean that national parliaments must consent to the agreements. That, however is not the case, for the EU Treaties exclude national parliaments from any involvement in the two Brexit agreements, that is to say the

withdrawal agreement and the agreement on future relations with the exiting state. The agreements are not subject to ratification.
This raises the question whether national constitutions provide for Member States' parliaments to assent to exit agreements. I shall now present the legal position as it applies to the Bundestag.

II. The withdrawal agreement

Let me begin with the withdrawal agreement. The Council of the European Union proceeds from the assumption that the agreement on the British withdrawal is a bilateral agreement between the European Union and the United Kingdom. That is evident from the negotiating guidelines of 22 May 2017. It therefore amounts to what is known as an 'EU only' agreement. The Member States are not parties to that agreement.
From the perspective of the German Constitution, the Basic Law, this makes it a general EU affair. The Basic Law, in the first sentence of Article 23(2), prescribes that the Bundestag is to participate in matters concerning the European Union.
'Participate' means:

- The Federal Government must inform the Bundestag comprehensively and at the earliest possible time of matters concerning the European Union (second sentence of Article 23(2) of the Basic Law). A law lays down the details of this notification.
- The Federal Government must also inform the Bundestag continuously of negotiations in the EU framework. This also includes the state of negotiations in the Council's preparatory bodies, particularly the Brexit working party (the Ad hoc Working Party on Article 50).
- The Bundestag can state its position before the Federal Government takes part in decision- making processes of EU institutions. In its opinion of 27 April 2017, the Bundestag welcomed the European Council's guidelines for the negotiation of the exit agreement. The opinion included a request to the Federal Government to notify the Bundestag in good time should any national legislative requirement arise with regard to the withdrawal agreement.
- The Federal Government must take the position of the Bundestag into account. It is under no obligation, however, to comply with the wishes of the Bundestag in its actions within the European institutions.

Following the referendum in the United Kingdom, the Members of the Bundestag needed to obtain a great deal of information about the implications of Brexit. The parliamentary administration therefore set up a working group in the Directorate for European Affairs. The working group began by drawing up a summary of the policy areas affected by Brexit and the new legislation that would be required after the British withdrawal. It also publishes a monthly digest on the state of negotiations.

III. The agreement on future relations

I now come to the second point, the agreement on future relations with the exiting state. The latter, after its withdrawal, will be a non-EU state or 'third country'. The agreement is therefore a treaty between the European Union and a third country. The relevant provision in such cases is Article 218 of the Treaty on the Functioning of the European Union (TFEU). If the agreement affects the spheres of competence of the Member States, the following two options may be considered:

- The Member States are included as parties to the agreement; this is known as a mixed agreement.

- The other conceivable choice is a division into an 'EU only' agreement and other international agreements between the remaining Member States and the United Kingdom.

Whichever option is adopted, the same basic principle applies. An 'EU only' agreement is subject to the participation of the Bundestag in matters concerning the European Union. Like the exit agreement described in the previous section, the treaty on future relations falls into that category. The Bundestag would therefore have to be continuously informed and could state its position on any matter. Agreements between Germany and the United Kingdom under international law, on the other hand, require the consent of the Bundestag in the form of a law (first sentence of Article 59(2) of the Basic Law).

In practice, the 'EU only' aspect of future relations and the bilateral aspect of Britain's relations with individual Member States are not easily kept apart. Each can influence the other. It is therefore likely that the two aspects will be part of a mixed agreement. The constitutional requirements are certainly fulfilled if the Bundestag participates in such a mixed agreement as prescribed by Article 23 of the Basic Law for matters concerning the EU as a whole as well as giving its consent under Article 59 to bilateral provisions.

IV. Treaty adjustments resulting from withdrawal

I now come to the third point. When a Member State leaves the Union, it is necessary to adapt the EU Treaties. For example, the definition of the territorial scope of the EU Treaties, as set out in Article 52 TEU and Article 355 TFEU, must be adjusted. The general rules governing the regular and simplified procedures for amending the Treaties (Article 48 TEU) apply to such changes. Under Article 23(1) of the Basic law, amendments to the EU Treaties require the consent of the Bundestag and Bundesrat in the form of a law.

V. Recapitulation and conclusion

To sum up, German constitutional law does not give the Bundestag and the Bundesrat any rights that apply specifically to withdrawals from the EU. The applicable rules are those governing participation in matters concerning the EU and the conclusion of international treaties. It is fair to say that the legislature took the accession of additional states to be the norm when it first undertook the constitutional regulation of participation by the Bundestag and Bundesrat in matters concerning the EU in 1992. The possibility of a withdrawal no doubt seemed extremely remote at that time. It was not until 17 years later, in 2009, that Article 50 was inserted into the TEU by the Treaty of Lisbon.

Part B: The Bundesrat and Brexit – Participation in the Ongoing Negotiation Process

I. Introduction

The questions facing the Bundestag concerning ratification and adaptation of legislation, as outlined by Professor Risse, are almost identical for the Bundesrat. When an agreement is to be ratified, the Bundesrat is likewise involved in this process as Germany's second legislative body.

I should like now however to focus on certain particularities that arise as a result of the federal states' strong constitutional position within the German federal system. These points once again shed led light on the role played by the Bundesrat as the body representing the federal states at the Federation level.

II. The Bundesrat and European Union affairs

Our constitution stipulates that the 16 federal states shall, through the Bundesrat, also participate in decisions on matters pertaining to the European Union. The prerequisite for such participation is that the Bundesrat would be involved in deliberations on the corresponding domestic legislation or that the federal states hold responsibility for the policy area in question.

The German federal states' activities in relation to European Union policy are however not limited to this formal participation through the Bundesrat. In particular, coordination of the various interests of the federal states on general European Union issues frequently occurs in the first instance outside the Bundesrat's relatively constrained structures, through the Conference of Federal State Ministers for European Affairs and its various fora. The results of this coordination are however often incorporated into subsequent decisions by the Bundesrat – in part because the politicians making up this body are largely also members of the Bundesrat's Committee on European Union Questions. I mention this here as the Bundesrat's formal involvement in deliberations on Brexit is also complemented by this form of coordination between the federal states on European Union policy outside the context of the actual Bundesrat procedure.

Provisions on formal participation through the Bundesrat are stipulated in concrete terms in the Act on Cooperation between the Federation and the Federal States in European Union Affairs (EUZBLG). This legislation does not however comprise any specific provisions on withdrawal of a Member State from the European Union, although provisions on accession of new Member States are incorporated. It seems fair to assume that the withdrawal scenario was not considered when the legislation was adopted, and that there is therefore a legislative gap, which can be remedied by applying, mutatis mutandis, the provisions pertaining to accession; this at least is the argument put forward by the Bundesrat.

III. The question of the Bundesrat participation in the negotiation process

If these provisions are applied mutatis mutandis to the withdrawal scenario, the following obligations arise for the federal government:

- the Bundesrat must be informed,
- the Bundesrat's Opinions must be taken into account to the customary extent,
- the Bundesrat must participate in preparatory working groups at the national level and in the Council working groups at the European level.

The general rule concerning such rights of participation also applies in this context; such rights are accorded solely for subject-matter for which the federal states hold exclusive legislative competence or in cases that fundamentally affect the interests of the federal states.

In its Resolution of 31st March 2017 the Bundesrat requested that these rights be respected. The Bundesrat pointed out that withdrawal of the United Kingdom and provisions pertaining to its future relationship with the European Union impinge on numerous areas in which Bundesrat participation would be required at the national level. In concrete terms, the Bundesrat insisted in this Resolution on Bundesrat participation in deliberations to determine the federal government's negotiating position. In addition, the Bundesrat requested participation of two Bundesrat representatives in the Council "Brexit" Working Group, a working group at the European level made up of two representatives of each Member State's government.

The federal government initially rejected these requests. It argued that the interests of the federal states would in all likelihood not be affected at all by the agreement on UK withdrawal, and that the status agreement would at most probably affect these interests only in individual cases.
In subsequent months however the federal states managed to reach a consensus with the federal government on a solution. Essentially, this agreement comprises the following components:

- Comprehensive information to the Bundesrat on all Brexit-related proceedings and transmission to the Bundesrat of all Brexit-related documents,
- Participation of Bundesrat representatives in the Council "Brexit" Working Group,
- Establishment of an informal Federation-Federal States Working Group on Brexit.

IV. Participation in practice

This cooperation and Bundesrat participation largely work well in practice. The informal working group on national level has to date met on five occasions, discussing a wide range of topics such as judicial cooperation, the customs regime, citizens' rights and the impact on certain industrial sectors. At the initiative of the federal states, a system for legislative screening has been established and the need for adaptation of Federation and federal state legislation has been ascertained.
It has proved more difficult to ensure real participation of the Bundesrat representatives in the Council "Brexit" Working Group. Difficulties with seating capacity in the negotiating room often give rise to disagreements concerning whether particular discussions are tackling subject-matter that makes participation of the Bundesrat representatives essential. With its Decision of 15th December 2017, the Bundesrat explicitly called once again for greater involvement of the Bundesrat representatives and for even closer coordination in cases where the interests of the federal states are affected.
At the same time, in this Decision the Bundesrat also presented its position on the substantive issues for the first time and reserved the right to make further statements on particular aspects of the negotiations.
The Bundesrat has thus to date adopted three Decisions on Brexit since the exit process was initiated almost exactly one year ago. The Bundesrat, and the federal states, accord great importance to this process.

Mr Philippe SCHWAB, President, thanked Mr KLEEMANN and Dr RISSE for their communications.

9. Communication by Mr Peter FINNEGAN, Clerk of the Dáil and Secretary General, Houses of the Oireachtas Service, Ireland: "The impact of Brexit as felt by other parliaments in the European Union"

Mr Philippe SCHWAB, President, invited Mr Peter FINNEGAN, Clerk of the Dáil and Secretary General, Houses of the Oireachtas Service, Ireland, to make his communication.

Mr Peter FINNEGAN (Ireland) spoke as follows:

The position:

Within Ireland, Brexit is regarded as the biggest foreign policy challenge since the creation of the (Irish) State;
the National Parliament has a key role in responding to this policy challenge;
the Parliamentary Agenda has been and will continue to be dominated by this policy challenge.

The context:

Why is Brexit dominating the Agenda to this extent? There are any number of reasons and when viewed through certain lenses the nature and the extent of the policy challenge becomes clearer.

Politically- in recent years, British- Irish relations have never been better. Brexit negotiations have placed a strain on these relations not least, because the re-instatement of a border between Ireland and Northern Ireland is, for many Irish people, unthinkable and regarded as dismantling much of the progress made in the last 20 years under the Good Friday Agreement. Peace in Northern Ireland has been hard won and is regarded by many as paramount.

Economically- the high intensity of trade with the UK makes Ireland uniquely exposed to Brexit. 15% of Ireland's goods and services exports are to the UK while larger member states such as Germany and France only have half this exposure.

Geographically- Ireland is on the periphery of Europe. Ireland shares a land Border with the UK which is 500 km long with over 200 border crossings. Given that 18,000 workers and 5,200 students are estimated to cross every day, any restriction on the free movement enjoyed at present is viewed as impractical and, for many, unacceptable. Additionally, the UK Landbridge is key for Irish trade with the rest of the EU and, indeed, the rest of the world. By this we mean that a significant level of Irish exports are transported, as freight, through the UK and onward to their final destination. While Ireland regards itself as very much at the heart of Europe, it is physically very much on the periphery and geographically removed from that heart of Europe.

Societally and culturally- there is intense interest in Brexit across Ireland and across all age groups. Irish people have a personal and emotional connection with the UK as everyone in Ireland has family or friends -or both-living in the UK. This also means that an estimated 6.7 million UK citizens who do not already hold an Irish passport may well be entitled to one. In context, the population of Ireland is only 4.8 million. More locally, in the Border Regions access to health, education and other services is determined -not by citizenship- but by personal choice and proximity. By way of example, it is not at all unusual for children in Ireland to attend school in Northern Ireland and vice versa. Notwithstanding these strong cultural connections

and in direct contrast to the position in the UK, there is little evidence to suggest that there is any sign of Eurosceptic sentiment taking hold in Ireland.

Legislative- dismantling existing all-island arrangements may well be unthinkable and may never come to pass. While a political agreement may well be secured, an alternative legislative framework will, nevertheless, be required to ensure continuity of service. Equally, the new relationship with the UK, post-Brexit, will require legislative underpinning.

It is fair to say that all of these issues have created uncertainty and, among certain cohorts of citizens, a sense of fear and anxiety. This fear and anxiety has been clearly communicated to the members of the national parliament who, as parliamentarians are legislators, scrutineers and public representatives.

The role of the National Parliament and the challenge for the Parliamentary Service
From my own perspective, as Secretary General, a challenge for Parliament is a challenge for the Parliamentary Service and how the Parliamentary Service responds to this challenge will be a key measure of success in the coming years.

The legislative role for parliament is clear- making provision for existing arrangements and future relationships will take time and resources to ensure the legislative underpinning is complete and robust.

In holding Government to account, the focus has been on preparations for the commencement of the negotiation process and communicating anticipated policy issues, through the policy Committees and Plenary debates, to the Government. In this regard, all policy Committees of the Parliament and not just the Committee on European Affairs, have taken an active role in considering, in some detail, the policy issues within their remit.

In reflecting on the impact in Ireland, the national Parliament has also maintained a strong external focus. Inter-parliamentary activity has increased with bilateral visits featuring prominently for the Speakers and in the work of all Committees. Moreover, European Commissioners and key figures such as Michel Barnier and Guy Verhofstadt, MEP, have taken the time to visit Ireland and to address the Houses and their Committees. This has certainly been well-received by the members and engagement has been constructive and outcome orientated.

The challenge for members, the Houses and their Committees have, obviously, a direct impact on service provision for the Parliamentary Service and I do speak to you today as a Secretary General. It will not be surprising to hear that our shorter-term objective is to provide all the necessary services and supports to our members to allow them move seamlessly between the different spheres of parliamentary activity required of them including-

- as public representatives (communicating concerns of the people they represent)
- as scrutineers of the negotiation process (and the role of Government in that process) and preparations for outcome of the process

- as legislators giving effect to the new reality (whatever shape it takes)
- as influencers and promoters of Ireland recalibrating existing relationships and strengthening newer relationships.

In anticipation of this increase in demand for services, I have secured additional resources for key functions such as-

- Communications
- Legal Services
- Research and
- Inter-parliamentary Services.

There is no doubt that this speaks to the more prosaic dimension of Brexit and its impact on the Irish Parliament but enabling members to deliver on their mandate has, in turn, required me to quickly build additional capacity and expertise within the Parliamentary Service.

Challenges, Risks and Benefits

Setting aside capacity issues and moving to more conceptual issues, we have observed some interesting developments arising from debate and consideration, in particular, by parliamentary Committees. As mentioned earlier, all Committees are actively considering the impact of Brexit and there have been some risks or disadvantages to this approach. There can be some overlap and inefficiency. However, on the plus side of the equation, there is greater collaboration and shared ownership of both the challenges and the potential solutions.

In addition, the Brexit negotiations and preparations for the new reality have been timely as they have coincided very neatly with the debate on the Future of the European Union.

As An Taoiseach, Leo Varadkar, TD, stated in his address to the European Parliament in January-

The values of solidarity, partnership, cooperation, which are central to the European project, have brought Ireland from a position of being one of the least developed Member States when we joined, to one of the most prosperous today.
For us, Europe enabled our transformation from being a country on the periphery, to an island at the centre of the world, at the heart of the common European home that we helped to build.

The promise of Europe unlocked the potential of Ireland. It allowed us to take our place among the nations of the World.

So, along with other member states who have benefitted so much from the EU, we have a particular responsibility now to lead on the future of Europe debate. We have much to offer and much to give and believe firmly in that responsibility and relish the opportunity.

Within Parliament, previously, there has been a tendency (in Ireland) to recognise the debate on the Future of the European Union as the preserve of the Committee on European Union Affairs. However, on this occasion and with the publication by the European Commission of the Reflection Papers, there has been debate across the Committees and, indeed, across Civil Society in Ireland on the Future of the EU and Ireland's role in shaping that future.

Brexit has added impetus to the debate and there is some synergy between issues emerging in the debate on Brexit and the debate on the Future of the European Union. These largely reflect the political, economic and geographic issues enumerated earlier. However, in summary, if security issues are central to the agenda for Member States to the East of the European Union and migration and refugee crises are central to the agenda for Member States to the South of the European Union, it is fair to say that debate in the Irish Parliament reflects Ireland's position as a very small, very open and neutral Member State on the very western fringe of the European Union.

Mr Philippe SCHWAB, President, thanked Mr FINNEGAN for his communication.

Mr Jiři UKLEIN(Czech Republic) said that his country had a turbulent history, with independence, then occupation, then communist rule, and, from 1989 democracy, though eventually with a separation between the Czech Republic and Slovakia. That divorce had been an amicable one, based on the wish of the people. Therefore the Czech Republic respected the democratic decision of the people of the United Kingdom to leave the European Union. It was felt to be unacceptable to punish the United Kingdom for Brexit as it had resulted from a sovereign democratic decision.

Mr Simon BURTON (United Kingdom) said that there was much one could say but perhaps should not. When parliaments were scrutinising an invisible moving target, it was hard for them to engage. They had to develop and adapt new formal procedures in order to play an effective part. He had some questions for another term. He asked what European parliamentarians would think of UK parliamentarians after Brexit; and what relationships there might be between parliamentarians after the divorce had taken place.

Mr FINNEGAN noted that Ireland would be the UK's strongest advocate within the European Union. Ireland would appreciate the need for a fair financial settlement, within the constraints of the pre-existing settlement and would not seek to punish the UK. From an Irish point of view, there were excellent relationships between Irish and British parliamentarians, including joint associations and projects. The very first female member of the British parliament had been Irish: she had never taken her seat because of the political situation. Ireland would present a portrait of her that would be hung in the House of Commons. He had no doubt that the means would be found for the two parliaments to engage one another post-Brexit.

Dr KLEEMANN said that in Germany, the situation was the same as for Ireland. He agreed that Germany did not think that the United Kingdom should be punished, but said that Germany had a perfect right not to like the decision.

Dr RISSE said that it was true that Brexit was considered to be a tragedy in Germany. It had been a decision taken in a democratic referendum, and was therefore a fact of life. The British system was considered within Europe and around the world to be one of the most important parliamentary models in the world.

10. Communication from Mr Mehmet Ali KUMBUZOĞLU, Secretary General of the Grand National Assembly, Turkey: "The presidential system to be implemented in Turkey in 2019".

Mr Philippe SCHWAB, President, invited Mr Mehmet Ali KUMBUZOĞLU, Secretary General of the Grand National Assembly, Turkey, to make his communication.

Mr Mehmet Ali KUMBUZOĞLU (Turkey) spoke as follows:

Turkey has a long-standing parliamentary system experience going back as far as the final period of the Ottoman State, to the declaration of constitutional monarchy in 1876. This system was interrupted by military coups in 1960 and 1980, and intra-system instabilities had consequences directly threatening democratic life. This long-term parliamentary system experience has made *political stability* one of the main problem areas of the system. Historically considering the period from 1923 to the present day, it is observed that among the 64 governments of the Republic before the current 65th Government of the Republic assumed office, 33 were in office for less than one year and 47 less than two years, that the number of governments which were in office for more than three years is eleven, and that the number of governments which remained in office for more than four years is only three. The average term of office for all the governments until the 65th Government is only 1 year, 5 months and 14 days.[1]

The main causes of the political instability in question were disagreements experienced at the stage of founding a government and the fact that reluctantly founded coalition governments tended to disintegrate over time because the foundation of a government depended on a parliamentary vote of confidence. With the transition to the presidential system of government, this basis of political instability which resulted in military coups will come to an end, and the executive will assume office following election directly by the people. In this way, the principle of stability in administration will not be affected by changes in the composition of parliament.

In addition, the amendments recently made to the electoral legislation in the scope of alignment with the constitutional amendment enable political parties to

[1] Halit TUNÇKAŞIK, "Terms of Office of the Governments Founded in the History of the Republic", Information Note, TGNA Research Services Department, 25.03.2017.

enter the parliamentary elections by forming alliances among them. It is considered that these new arrangements will reinforce the representative power of our parliament and will strengthen its pluralistic character by allowing the representation of many political parties. A pluralistic parliament means a strong parliament that can effectively mobilize public supervision.

Without doubt, the parliament that will become politically stronger will also carry out a new leap forward in institution-building at the administrative level. With the executive going outside of legislative activities under the new system, law proposals made by members of parliament will become the only source of laws. Offering effective specialist support through a strong legislative organization for the drafting of law proposals and strengthening the specialist infrastructure of the legislative committees are the main pillars of our vision at the administrative level in relation to the new period. Preparations in this direction are under way and, as the first step, a process of recruitment of new personnel to offer specialist services in the legislative area has been started.

In the 26th Legislative Term of the Turkish Grand National Assembly, which started on 1 November 2015, a total of 449 laws have been adopted including 362 that concern the ratification of international agreements; and 2,176 law proposals made by members of parliament and 929 law drafts (bills) submitted by the Council of Ministers have been taken into processing so far. In the scope of supervisory activities, a total of 1,423 oral questions, 26,818 written questions, 33 motions for general debate, 2,816 motions for parliamentary investigations, and 22 motions for censure have been taken into processing, and 8 parliamentary investigation committees founded. Following the transition to the presidential system of government, these activities are expected to develop in terms of both quantity and quality as the Assembly concentrates on its principal functions, and the administrative organization will be restructured to address these needs.

The presidential system of government, separating the legislative and executive bodies from each other, will ensure stability in administration, on the one hand, and increase the representative power of both, on the other. The executive body will rest on the votes of more than half the electors while the parliament with its pluralistic character will have a greater weight in the system.

As a system that ensures both stability in administration and justice in representation, the presidential system of government will strengthen the rapid development and structural reform efforts of Turkey, a leading power in its region, and will also provide a strong support for its effective fight against the threat of terrorism which has taken a regional and international dimension.

WHAT DOES THE PRESIDENTIAL GOVERNMENT SYSTEM BRING?

As a result of the constitutional amendment referendum held on April 16, 2017, Turkey has decided to take the Presidential System in 2019.

1. The age of election of deputies fell from 25 to 18.

• Political field has been opened for young people and the conditions which youth aspect reflected to politics have been prepared.

• Those who are eligible to elect have become eligible to be elected.
• Young people may have political experience at an early age.

2. The number of deputies increases from 550 to 600.
• Politics will provide more representation; the number of members will increase in line with increasing population and representation will be strengthened.

3. The Assembly will be strengthened; the proposals of the law will not be submitted by the government but by the deputies.
• The executive organ will no longer be able to submit proposals for legislation other than budget law.
• Parliament will be in the forefront in making the law; the whole of the law-making process will be removed from the government's determination and will be taken to the initiative of the parliamentarians and the Grand National Assembly of Turkey (GNAT).
• Parliament's ways of obtaining information and scrutiny are protected. The parliamentary inquiry, general debate, parliamentary investigation and written question methods will continue to be valid.
• The verbal questioning facility-which expresses that parliamentarians have asked questions in written form and ministers have responded the questions orally from the rostrum- is removed. This regulation, which is the natural consequence of the separation of the rigid powers envisaged by the new system, will not limit the legislative body's ability to acquire information and scrutiny. Because, the application of the written question will continue. In addition, written answers to the question within 15 days have been guaranteed in the Constitution.
• Censure has been removed from the institution. Since the executive organ is directly elected by the people, the ministers are not deputies and they are not responsible to the Grand National Assembly of Turkey in terms of politics, there is no need for censure in the new system. However, criminal investigations of ministers' duties will continue to be conducted by the Parliament.

4. The presidential and parliamentary elections will be held together.
• Parliamentary general elections will be held on the same day every 5 years instead of 4 years.
• A two-round direct electoral system will be implemented in the presidential election.
• The possibility of instability in the formation of the executive organ is abolished and coalitions are not needed, so that five-year periods of uninterrupted stabilization are foreseen for legislative and executive bodies.
• The probability of early selection will be reduced, and the public will not be engaged in continuous elections on the agenda.
• The President and three-fifth majority of the total members of the Assembly may take an election decision. If the President wants an early election, he will also shorten his time, if the Assembly wants to renew Presidential elections, elections of the Assembly will also be renewed.
• The joint election of the legislative and executive bodies will result in supporting cooperation and solidarity among the powers and will cause encouraging results.

5. The President can become a political party member.

• It is incompatible with the fact that the intervention of the President of the Republic, which has been elected as an elected party and selected in various political promises, is interrupted by the party.
• It is envisaged that the party boards and channels will facilitate the presidential office to communicate with the public and to formulate policies with common reason.
• With the nation's direct election of the President, the position of the President, who is the head of the State and represents the unity of the nation, gains a new meaning. In this framework, the dualism takes off and the political responsibility of the President becomes clear with the admiration of the President.

6. The President is given the authority to issue decrees.
• Political rights and duties with fundamental rights, personal rights and duties will not be regulated by Presidential decree.
• The Presidential decree cannot be enacted in the Constitution foreseen by the law or in cases clearly set forth in its law.
• In case of conflict between the Presidential decree and the laws, the provisions of the law shall apply; The Presidential decree will become null and void if the Assembly issues the same law.
• Decisions of the Presidential Decree shall be subject to Constitutional Court inspection.

7. Senior public officials shall be appointed by the President.
• The newly elected President will have the opportunity to start an action quickly by creating his own team.
• The bureaucratic delays in the appointments will cease to exist; performance-based task changes can be made quickly.

8. The administrative arrangements with respect to institutions shall be made by the Presidential Decree; The Assembly will not waste any time with regulatory bureaucratic arrangements.
• Structural transformations of institutions, the unification of similar units or institutions will facilitate.
• Institutions that are required by new technologies and applications can quickly be activated.
• The Assembly, which does not deal with institutional arrangements, will be able to allocate more time to legislative issues and legislation on key issues.
• Regulations can be made with the Presidential Decrees on the central administration, but the regulations on the local administrations cannot be made and the management principle will be maintained.

9. The transmission to the political responsibility of the President is realized.
• The political irresponsibility of the President is lifted, and the President comes out of being "competent but irresponsible".
• According to the current provision of the Constitution, while the President is impeached, only because of treason upon the proposal of at least one third of total number of members of the Grand National Assembly of Turkey and the decision of at least three-fourths of the total number of members, criminal responsibility field during the new period is clarified. According to the new regulation, the President

may be investigated from a criminal offense by a motion of absolute majority of the total number of members of the Assembly, and the Assembly may debate on the motion within one month and decide by secret balloting of three thirds of total number of members to open an investigation.
• The President, who has been investigated, will not receive an early election decision.
• While the actions taken by the President alone in the current system are not subject to judicial review, all operations and transactions of the President in the new system will be opened to judicial review.

10. The authority to prepare and present the budget shall belong to the President.
• If the proposal of the budget law to be prepared by the President is not approved in the Assembly, a provisional budget will first be prepared; if the temporary budget is not accepted, the budget for the previous year shall be increased by the revaluation rate and put into effect. Thus, measures are taken against the possibility that public services are negatively affected by political disputes and that public services are stopped.
• The ultimate decision-making authority on the budget continues to belong to the Parliament.

11. The martial law is abolished and the State of Emergency is being regulated.
• The implementation of martial law, which is the state of emergency in which the military administration is based, is history.

12. The independence of the judiciary is supported by the principle of impartiality.

13. Judgment is civilian.
• The adoption of the amendment of the Constitution in the referendum completely abolished the military judiciary.
• The principle of unity is being passed on to the judiciary, and the distinction between military and civil judiciary is being abolished. Thus, an application that complies with the EU acquis and raises democratic standards has been passed on.

14. The Council of Judges and Prosecutors (HSK) has been reorganized.
• Four members of the HSK are elected by the President as they are in the current situation; The 7 members who constitute the majority of the board are elected by the Assembly for the first time with qualified majority.
• Constitutional regulation giving the election of members of the parliament strengthens democratic legitimacy.
• In the new period, selective competition and grouping among members of the judicial institutions ceased and the Assembly became a priority.

Mr Philippe SCHWAB, President, thanked Mr KUMBUZOĞLU for his presentation.

Mr Bachir SLIMANI (Algeria) said that the communication had given rise to many questions of principle. He wanted to know that the proposed separation of powers would be a real separation of powers. He asked whether the Government would no longer be able to present legislation or to put difficult questions to parliament. He

wanted to know whether Ministers would be subject to hearings and the Government subject to parliamentary scrutiny. If the parliament adopted the laws and the Government implemented them without right to question what was happening, how would it function.

Mr KUMBUZOĞLU said that the Government would no longer exist. There would be the President and ministers. If a minister wanted to enact a law, he would need to convince the MPs, which would require the maintenance of strong relationships. This would mean that dialogue between the two institutions would be strengthened. The minister and the President could be prosecuted for crimes, and it would be the MPs who decided what to do. Motions could be brought up to initiate parliamentary investigations.

11. Concluding remarks

Mr Philippe SCHWAB, President, closed the sitting.

The sitting ended at 12.57 pm.

SECOND SITTING

Monday 26 March 2018 (afternoon)

Mr Philippe SCHWAB, President, was in the Chair

The sitting was opened at 2.37 pm

1. Introductory remarks

Mr Philippe SCHWAB, President, opened the sitting.

2. Presentation by Mr Andy RICHARDSON of the IPU on the subject of the proposed Centre for Parliamentary Innovation

Mr Philippe SCHWAB, President, invited Mr Andy RICHARDSON of the IPU, to make his presentation.

Mr Andy RICHARDSON (IPU) introduced two of his colleagues, Avinash Bikha and Tom Mboya, then spoke as follows:

Overview

Identification: A partnership between the IPU and parliaments to support parliamentary innovation through improved use of digital tools. Based in Geneva with parliamentary hubs distributed virtually and globally.

Vision: Digitally-enabled parliaments are necessary institutions for the modern world. The Centre aims to support the following technology vision for parliaments: "An e-parliament places technologies, knowledge and standards at the heart of its business processes, and embodies the values of collaboration, inclusiveness, participation and openness to the people."

Objectives: The Centre focuses on maximising the potential that parliaments can derive from the use of digital tools in their business processes, communication and citizen engagement. Through research, capacity-building and networking, the Centre supports parliaments to become ever more transparent, accountable and effective institutions. By mobilizing the skills and expertise available in the parliamentary community, it delivers direct and tangible value to parliaments by:

1) creating and sharing good practices on the innovative use of digital tools and services in parliaments;
2) producing practical guides for parliaments;
3) provide expert advice and access to networks of expertise.

Participants: The Centre's participants are parliaments and organisations that support parliamentary development. It is highly relevant to parliaments at all levels of technology adoption, but places a strong focus on those parliaments that need the most support to adapt to the digital era.

Work areas: The Centre provides a platform for parliaments to develop and share good practices in digital implementation strategies, and practical methods for building capacity in areas such as:

- Strategic planning of digital tools and services
- Parliamentary openness, open standards and open data
- Citizen engagement in the work of parliament
- Internet and social media
- Electronic document and records management
- Digital library and research services

Outputs: are likely to include:

- Practical guides related to good practices in parliaments in the digital era
- Timely expert advice to parliaments on the cost-effective deployment and use of digital tools in order to improve their strategic and operational capabilities
- Peer to peer exchange of experience, strategies and good practice
- Interactive debates on 'Parliaments in the digital era'

Expected outcomes

- Increased capacity and skills within parliaments to make innovative use of digital tools
- Improved networking, knowledge sharing and peer learning between parliaments and the wider network of parliamentary development practitioners and civil society organizations
- Improved capacity building support to parliaments
- Greater opportunities for parliamentary exchange and inter-parliamentary cooperation
- Enhanced links and exchange between parliaments and citizens

Project implementation

The Geneva-based **secretariat**, located within the IPU, coordinates the work of the hubs and facilitates the flow of information between parliaments, experts, partners and other relevant organizations.
To support the scale and reach necessary for impact, the Centre intends to develop and grow several **regional and specialist hubs**, providing project-based resources and supporting the active projects within the Centre. These hubs are being established with the support of sponsoring and supportive parliaments or other organisations. They are typically resourced through in-kind contributions and staffed by the secondment of permanent staff from the host or other supporting parliaments.

Each hub has an explicit regional or specialist focus. The Secretariat will take steps to ensure a high level of coordination between hubs, building synergies and avoiding duplication of effort.
A **Steering Committee** provides strategic advice to the Centre and helps to evaluate the results achieved. Its active contribution to the governance of the Centre ensures that the full range of perspectives from parliaments is taken into account in the Centre's activities. The Steering Committee is composed of parliaments and organizations that have the status of "Keystone Partners" to the Centre, as well as the IPU and the Association of Secretaries General of Parliament (ASGP).
Budget: The general budget for the Centre and its Secretariat for the period 2018 to 2021 is CHF 2,288,520. The budget for the Centre's regional and specialist hubs is managed by the hubs, and will depend on the activities and organization of each hub.
Monitoring and evaluation: The World e-Parliament Report, which has been published since 2008, is the primary means of monitoring progress in the baseline for parliamentary use of technology. Key Performance Indicators (KPIs) will be developed for the Centre and for its hubs.
Accountability for the Centre will be ensured by the Steering Committee and the IPU's governing bodies. Regular reporting will take place in the context of monitoring progress on Strategic Objective 1 of the IPU Strategy 2017-2021 (Build strong, democratic parliaments) as well as Sustainable Development Goal 16 and its targets relating to effective, transparent and accountable institutions (Target 16.6) and responsive, inclusive, participatory and representative decision-making (Target 16.7).

Mr Liam LAURENCE-SMYTH (United Kingdrom) asked about how the project related to the World e-parliament.

Mr RICHARDSON said that there was a strong organic connection between the Centre for Innovation in Parliaments and other IPU projects. The World e-parliament project tracked information which would subsequently be used as a resource by the Centre for Innovation.

Mr Amjed Pervez MALIK (Pakistan) asked about the parts of the world that were not already represented.

Mr RICHARDSON said that the IPU was ready to receive proposals from those regions that were not represented.

Mr Philippe SCHWAB, President, thanked Mr RICHARDSON for his presentation. He reminded members that they could sign up for a working lunch on the project.

3. Communication by Mr Manuel CAVERO, Secretary General of the Senate of Spain: "The procedure followed in the Senate for the application of Section 155.1 of the Spanish Constitution in relation to the self-governing community of Catalonia"

Mr Philippe SCHWAB, President, invited Mr Manuel CAVERO, Secretary General of the Senate of Spain, to make his communication.

Mr Manuel CAVERO (Spain) spoke as follows:

I. Introduction.
Section 155.1 of the Spanish Constitution establishes the possibility for the national government to adopt such measures as may be necessary:
- to compel a Self-Governing Community to comply with the obligations imposed on it by the Constitution or legislation in the event of a breach, or
- to protect the general interests of Spain where these have been severely compromised by the contrary actions of a Self-Governing Community.

This coercion clause, which is most closely inspired by section 37 of the Basic Law for the Federal Republic of Germany, is a last resort available to the State for use in exceptional circumstances for the defence of constitutional law and order within Spain's territorial power distribution system, known as the State of the Autonomies.
Its application has two procedural requirements:
- a prior formal request by the Government to the president of the Self-Governing Community to cease and desist from the breach of obligations or the action contrary to Spain's general interests. And, if this petition is not heeded,
- the authorization by the Senate, with an absolute majority, for the implementation of coercive measures.

This precept gives the Senate a very significant constitutional power which, in addition, it exercises without any participation by the Congress of Deputies. It was triggered in October, 2017, as a result of the decisions adopted in the Self-Governing Community of Catalonia by its Regional Government and Regional Parliament.
There is only one precedent for this situation, dating back to 1989: on that occasion, the formal request by the Government to the Self-Governing Community to cease in its behaviour was sufficient and, in consequence, it was not necessary for the Senate to intervene.
These present remarks will be limited to the processing of the authorization for the Government by the Senate, without going into any political evaluation of the decision.
II. The request by the Spanish Government.
At its meeting held on October 21st, 2017, the Spanish Government resolved to request the adoption by the Senate of a series of measures proposed within the context of section 155 of the Constitution.
The documentation submitted by the Government to the Senate contained the following items:
1. The documents necessary to confirm that the Spanish Government had made the prior formal request to the President of Catalonia and that this request had not been heeded.

2. The description of the actions taken by the Regional Parliament and Government of the Self-Governing Community of Catalonia that, in the opinion of the Government, implied both a breach of constitutional and legal obligations as well as the performance of actions seriously contrary to Spain's general interests. These can be summed up as follows *"... The implementation of a process for the secession of the said Self-Governing Community from the Spanish State, with rebellious, systematic and deliberate disobedience of the repeated pronouncements and requirements expressed by the Constitutional Court ..."* thus clearly contravening sections 1.2 and 2 of the Constitution and, in addition, it affects *"... The model of constitutional co-existence, the rights of Spaniards as a whole ...," generating "... Harm already visible due to the political instability generated and undermining the economic and social well-being of all Catalans."*

3. According to the Government, the aim of the measures proposed was fourfold: (1) to restore the legal system under the Constitution and the Statute of Catalonia; (2) to ensure institutional neutrality; (3) to maintain social well-being and economic growth; and (4) to ensure the rights and freedoms of all Catalans.

4. The specific measures, subject to adaptation in case of changing circumstances, can be grouped into a number of categories, the most significant of which are as follows:

A. Measures affecting the President, Vice President and members of the Regional Government of Catalonia: these authorized the dismissal of all of the office-holders indicated and their replacement by such bodies or authorities as the Government of Spain may designate. In particular, the President of the Spanish Government was attributed the powers of the President of the Catalan Government for the calling of elections to the Parliament of the Self-Governing Community.

B. Measures affecting the Administration of the Self-Governing Community: this Administration was subjected to the guidelines of the bodies and authorities designated by the Government of Spain.

C. One-off administrative measures affecting, among other sectors, the regional police force; the economic, taxation and budget management of the region; and electronic and audio-visual communications and telecommunications. This included a specific clause on the Self-Governing Community's publicly-funded television and radio service, whereby the bodies or authorities designated by the Government of Spain would guarantee *"the transmission of truthful, objective and balanced information, respecting political, social and cultural plurality, and also the territorial balance."*

D. Measures affecting the Parliament of Catalonia: these prevented the Parliament from voting-in a President of the Self-Governing Community until the elections mentioned in part A had been held, as well as preventing it from politically controlling the activities of the bodies or authorities designated by the Government of Spain, which political scrutiny was entrusted to the body to be designated by the Senate. It would further establish a system of prior checks, by the Government of Spain, of any initiatives by the Catalan Parliament that might be contrary to the measures foreseen in the formal request.

E. Lastly, reference should be made to the planned duration and the scrutiny of the measures to be adopted, as well as accountability relating to them:

- The term of the measures would conclude on the day that the new Government of the Self-Governing Community assumed power. The foregoing notwithstanding, the

Government would be able to suspend application of the measures if the causes that gave rise to their adoption disappeared.
- In extraordinary cases where this became essential or imperative, the Spanish Government could propose to the Senate amendments or updates to the measures initially authorized.
- The Spanish Government would report to the Senate on the status of the application and enforcement of the measures contained in the resolution every two months.
- The measures authorized by the Senate would come into effect from the moment of the publication of the adoption of the resolution in the Official State Gazette.
This resolution by the Government was notified to the Senate on the same date it was adopted, i.e. October 21st, 2017.

III. Provisions foreseen in the Senate Standing Orders for application of section 155 of the Constitution.
Section 189 of the Senate Standing Orders (SSO) is the only rule directly regulating the application of section 155 of the Spanish Constitution (SC). That section contains explicit or implicit references to other rules contained in the Standing Orders.
It can be said that such regulation is too limited in order to cope with a constitutional function as important as the application of section 155 of the SC. For this reason, it was essential for the Bureau of the Senate to develop that provisions while adopting decisions on the proceedings.
Section 189 provides as follows:
1. Should the Government, in those cases contemplated in section 155.1 of the Constitution, request the Senate's approval to adopt the measures referred to therein, a brief must be submitted to the Speaker of the House setting out the content and scope of the measures proposed, as well as the evidence accrediting that the corresponding formal request has been issued to the President of the Self-Governing Community and that the latter has not complied.
2. The Bureau of the Senate shall send this brief and any attached documentation to the General Committee for Self-Governing Communities, or else will proceed to establish a Joint Committee in accordance with the terms foreseen in section 58 of the present Standing Orders.
3. Without prejudice to the provisions contained in section 67, the Committee, through the Speaker of the Senate, will issue a formal request to the President of the Self-Governing Community for any and all background information, data, and arguments considered pertinent to be sent within the deadline stipulated and to designate, if deemed appropriate, a person to hold powers of representation for these purposes.
4. The Committee will draw up a reasoned proposal on whether or not it is appropriate to grant the approval requested by the Government, with such constraints or modifications as may be pertinent in each case with respect to the proposed measures.
5. The Plenary Sitting of the House will debate the said proposal, with two turns in favour and two against, for 20 minutes each, plus the speeches of the Spokespersons of the Parliamentary Groups requesting the floor, also for the same time. Once the debate is over, the Senate will proceed to vote on the proposal submitted and, for the resolution to be approved, it will be necessary for it to obtain the votes in favour of an absolute majority of Senators.

IV. The Senate's proceedings on the resolution adopted by the Government.

4.1. The resolutions adopted by the Bureau of the Senate.

The Bureau of the Senate met on that same day, October 21st, in order to legally assess and accept for consideration the Government's resolution, as well as to adopt a series of resolutions required for the proceedings.

Bearing in mind that sections 155 SC and 189 SSO constituted the only regulation for an exceptional situation and that there was no precedent for its application, the Bureau, pursuant to section 36.1.c SSO, adopted a number of resolutions (1) in which it applied the aforesaid precepts on their own terms but with the inclusion of mechanisms inherent to other parliamentary procedures, (2) thus establishing a procedure that complemented the scant rules contained in the House's Standing Orders, (3) with full guarantees for the actions of all parties involved: the Spanish Government, the Government of the Self-Governing Community affected and, obviously, the Senators.

4.1.1. The Bureau checked the fulfilment of the requirements demanded in part 1 of section 189 SSO: the formal verification that the resolution submitted by the Government of Spain included (1) the scope and contents of the measures the Senate was being asked to authorize, as well as (2) the evidence accrediting that the formal request had been made to the Self-Governing Community and the lack of an appropriate response.

4.1.2. The Bureau ordered the creation of a Joint Committee made up of the General Committee for Self-Governing Communities and the Constitutional Committee. Although the text of section 189.2 SSO, as the most natural resolution, seemed to lead the attribution of powers for the preparation of the House's decision to the General Committee for Self-Governing Communities, the Bureau decided, in the exercise of its discretion, to create a Joint Committee.

This decision also had a significant consequence: as the Joint Committee was a different body from the General Committee for Self-Governing Communities, it would not be possible to apply to the Joint Committee the special rules contemplated by the Senate Standing Orders for that Committee, namely sections 56, 56 bis 1, 56 bis 4, 56 bis 5 and 56 bis 9.

4.1.3. The Bureau adopted other supplementary decisions for the processing of the resolution, as well as a calendar, that would enable to draw up in greater detail the procedure to be followed, i.e.:

a) It established the creation of a Reporting Body within the Joint Committee, not foreseen in the Standing Orders, which would have to provide the text of the proposal (with its reasoning) to be submitted by the Joint Committee to the Plenary Sitting, as stated in section 189.4 SSO. The Reporting Body would draw up the draft proposal on the formal request submitted by the Government, since the Senate (1) had to provide the rationale behind its decision (hence the proposal must be accompanied by its reasoning) and (2) in addition, it could not limit itself just to accepting or rejecting the Government's formal request as it had the power to introduce into the same the "constraints or modifications as may be pertinent in each case with respect to the proposed measures," as foreseen in section 189.4 SSO.

b) It opened up the possibility that the draft proposal from the Reporting Body could be amended by the Joint Committee, and the Joint Committee's proposal, in turn, could be amended by the Plenary Sitting, aspects not foreseen by the Standing Orders. To achieve this goal, (1) it considered that, as happens in the legislative

process of the Senate, the Reporting Body would remain "alive" during the debate in the Committee and that, as a consequence of this debate, the Reporting Body might amend its proposal before it was voted on by the Committee, an aspect that was subsequently decided by the Bureau of the Joint Committee. And (2) it established the possibility that the Senators and the Parliamentary Groups could present dissenting opinions to the proposal approved by the Joint Committee with the inclusion of amendments or constraints altering the said proposal. The initial deadline foreseen for its presentation concluded before the start of the Plenary Sitting but the Bureau of the Senate subsequently extended this to the moment prior to the voting of the proposal by the Plenary Sitting of the House, in order to guarantee that the Plenary Sitting could adopt a decision on the formal request with all of the elements required for a definitive judgement, including those events that simultaneously were taking place in the Self-Governing Community of Catalonia.

With this second decision, faced with the imperative that the Plenary Sitting "*will proceed to vote on the proposal submitted*" as stated in section 189.5 SSO, which would mean, if applied literally, that the Joint Committee's proposal could not be amended by the Plenary Sitting, the Bureau opted for a wider interpretation so as to extend the parliamentary rights of Senators and to recognize a greater capacity of the House's main body. To this end, it accepted the submission of the equivalent to partial amendments (i.e. amendments to sections) inherent to the legislative procedure but did not allow motions for dismissal of the entire proposal.

This is the aspect that triggered the greatest controversy in the subsequent processing of the resolution, as several Parliamentary Groups insisted, both orally and in the form of appeals to the Bureau and the office of the Speaker of the Senate, that they wanted to be allowed to submit proposals for the global rejection of the Government's formal request in order to have them put to the vote, as in fact they did, although these appeals were not accepted for consideration. In the view of these Groups, that decision was limiting their right to political representation.

The reason for this resolution by the Bureau lay in avoiding potential contradictory decisions by the Plenary Sitting of the Senate. Since the Senate's approval of the Government's request requires an absolute majority of Senators, the use of opportunities to speak against authorization and to vote against the same was the constitutional and parliamentary way to manifesting that total opposition. The possibility that, together with the votes demanded by the Constitution and the Standing Orders, there might be other unforeseen votes that could give rise to a result contrary to that of the vote required by the said norms is the reason that led the Bureau to refuse consideration of the motions for dismissal of the entire proposal.

c) It set a calendar that included all of the processing in a particularly short period of time: less than one week. The exceptional situation implied by the application of section 155 SC seemed to demand that steps be taken promptly. Without prejudice to this, the calendar fully covered the guarantees for the participation of all parties involved in the procedure: Senators from the various political forces, the Self-Governing Community and the State Government.

4.2. <u>The phases of the Reporting Body, the Committee and the Plenary Sitting</u>.

4.2.1. Prior to an analysis of the sessions that were held by the bodies who had to adopt the final decision on the Government's request, it is appropriate here to highlight, due to its great relevance, the separate decisions taken by the Committee of Spokespersons of the Senate and by the Bureau of the Joint Committee, to give the

floor to the President of the Self-Governing Community in the debates of the Committee and the Plenary Sitting. This was a matter not foreseen in section 189 SSO but, together with the written arguments submitted, it guaranteed the best defence of the position of the Self-Governing Community by the person with the maximum responsibility for its actions, at the same time as it allowed the greatest possible amount of information to be made available to the Senators who were to adopt the resolution.

The President of the Self-Governing Community did not make use of this possibility, formally notified by the Speaker of the Senate. And the Bureau of the Joint Committee ruled out the chance for the representative that the President of the Self-Governing Community had designated for the purposes of the provisions contained in section 189.3 SSO (namely the Governmental Delegate of the Self-Governing Community in Madrid) to speak at the Committee's sessions, which was also not foreseen in the Standing Orders.

4.2.2. The Reporting Body met at the end of the morning on October 26th and approved, by a majority vote, a Proposal in which, after verifying (1) "*the extraordinary severity of the breaches of constitutional obligations and the execution of actions severely contrary to the general interest by the Institutions of the Regional Government of Catalonia*" as well as (2) "*that the Prime Minister had lodged a formal request with the President of the Regional Government of Catalonia to proceed with the fulfilment of its constitutional obligations and the cessation of the actions severely contrary to the general interest, and that the said formal requests had been disregarded by the President of the Regional Government of Catalonia,*" it declared the suitability of approving the measures included in the resolution adopted by the Council of Ministers on October 21st, 2017, although it introduced certain constraints and amendments to these measures: in addition to certain technical clarifications in parts (a) E1, on the jurisdictional review of the act and provisions adopted by delegation in the exercise of powers; (b) E4, on the exercise of the functions of the Regional Government of Catalonia; and (c) E8 on the exercise of the powers to impose disciplinary measures, the most significant inclusion was the addition of the following paragraph: (d) "*Without prejudice to the provisions established in section 66.2 of the Constitution, the powers for monitoring and oversight of the measures contained in the Resolution are attributed to the Joint Committee of the General Committee for Self-Governing Communities and the Constitutional Committee.*"

4.2.3. The meeting of the Joint Committee took place on the afternoon of October 26th, chaired by the Speaker of the Senate.

Following the presentation of the Proposal by the Reporting Body, the Vice President and Minister for the Cabinet Office and Public Administrations took the floor. This was followed by a single accumulated round of speeches in favour, followed by another also accumulated single round against, and the subsequent speeches by the Spokespersons of the Parliamentary Groups.

The meeting was adjourned temporarily prior to the vote, so that the Reporting Body (still "alive" as had been foreseen) could meet and amend its Proposal to include a section (e) in the following terms:

"*With respect to part E.9, duration and review of measures. This section contemplates the possibility of putting forward modifications or updates of the measures, as well as bringing forward their cessation if the reasons for their implementation disappear. In addition, the Government, having regard for how*

events develop and the severity of the situation, will carry out a proportionate and responsible use of the measures approved by the Senate, modulating their application if changes arise in the situation or other circumstances make this advisable."

At the Joint Committee, votes were cast via an individual public call of members and the Proposal was approved by 22 votes in favour and 5 against, with no abstentions.

4.2.4. The Plenary Sitting took place on the morning of October 27th.

The speeches were conducted in a way similar to the Committee, although on this occasion the speaker on behalf of the Government of Spain was the President. There was also a speech by the representative of the Catalan territorial group of the "Unidos Podemos" Parliamentary Group.

In the same way, there were speeches in favour and against including the nine dissenting opinions accepted for consideration. Prior to this, another five dissenting opinions submitted had been declared inadmissible as they represented a global opposition to the Proposal approved by the Joint Committee and not an amendment or constraint for the same, in breach of the provisions contained in the agreements adopted by the Bureau of the Senate.

At the Plenary Sitting, the voting led to approval by simple majority of three of the dissenting opinions: partially, one by the Nationalist Parliamentary Group (at the initiative of the Senators from Canary Islands Coalition) along with those of the Socialist and Popular Parliamentary Groups. Being included this way in the Proposal submitted by the Joint Committee, this was then put to the vote and approved by 214 votes in favour, 47 against and one abstention. Four Senators were absent. The absolute majority being 134 Senators (out of a total of 266), the requirement established in section 155.1 SC was met.

5. The final resolution adopted by the Senate.

The text finally approved by the Senate was the combination of the initial Proposal from the Reporting Body plus the modifications added at the Committee stage and in the Plenary Sitting as explained above. It is available (in Spanish) at:
http://www.senado.es/legis12/publicaciones/pdf/senado/bocg/BOCG_D_12_166_1382.PDF

The Senate authorized the measures suggested by the Government, although it introduced amendments or constraints, among which the following should be highlighted:

- the elimination of the provisions with respect to the exercise by the Government of Spain of the powers of the Regional Government of Catalonia in the area of the regional publicly-owned audio-visual communication services.
- the elimination of the referral to a state-level governmental authority of the initiatives taken by the Regional Parliament of Catalonia that might be contrary to the Constitution.
- the attribution, without prejudice to the provisions contained in section 66.2 of the Constitution, of the powers for monitoring and oversight of the measures contained in the Resolution to the Joint Committee of the General Committee for Self-Governing Communities and the Constitutional Committee of the Senate.
- the establishment of the obligation on the part of the Government, having regard for how events develop and the severity of the situation, to carry out a proportionate and responsible use of the measures approved by the Senate, modulating their

application if changes arise in the situation or other circumstances make this advisable.
On that same date, October 27th, 2017, the Official State Gazette published the following resolutions:
- Resolution dated October 27th, 2017, from the office of the Speaker of the Senate for the publication of the resolution adopted by the Senate Plenary Sitting approving the measures requested by the Government pursuant to section 155 of the Constitution.
- Ministerial Order PRA/1034/2017, dated October 27th, 2017, publishing the Resolution of the Council of Ministers adopted on October 21st, 2017, deeming, by application of the provisions contained in section 155 of the Constitution, the failure to comply with the formal request made to the Most Honourable President of the Regional Government of Catalonia for the Regional Government of Catalonia to proceed with the fulfilment of its constitutional obligations and the cessation of its actions severely contrary to general interests, and submitting to the Senate for approval the measures necessary to ensure fulfilment of the constitutional obligations and the protection of the aforesaid general interests.

6. Events subsequent to authorization by the Senate.
6.1. The same day on which the Senate approved its authorization for the Government, the Council of Ministers met and adopted a series of resolutions that were subsequently published in the Official State Gazette the following day. The following are noteworthy:
- Royal Decree 942 dated October 27th, 2017, pursuant to the measures authorized on October 27th, 2017, by the Plenary Sitting of the Senate with respect to the Regional Government of Catalonia in application of section 155 of the Constitution, ordering the removal of the Most Honourable President of the Regional Government of Catalonia, Mr. Carles Puigdemont i Casamajó.
- Royal Decree 943 dated October 27th, 2017, pursuant to the measures authorized on October 27th, 2017, by the Plenary Sitting of the Senate with respect to the Regional Government of Catalonia in application of section 155 of the Constitution, ordering the removal of the Vice President of the Regional Government of Catalonia and the Councillors making up the Governing Council of the Regional Government of Catalonia.
- Royal Decree 944 dated October 27th, 2017, designating the bodies and authorities in charge of fulfilling the measures affecting the Government and the Administration of the Regional Government of Catalonia, authorized by a resolution adopted by the Plenary Sitting of the Senate on October 27th, 2017, approving the measures requested by the Government pursuant to section 155 of the Constitution.
- Royal Decree 945 dated October 27th, 2017, pursuant to the measures authorized on October 27th, 2017, by the Plenary Sitting of the Senate with respect to the Regional Government of Catalonia in application of section 155 of the Constitution, ordering the adoption of various measures regarding the organization of the Regional Government of Catalonia, and the removal of various senior members of the Regional Government of Catalonia.
- Royal Decree 946 dated October 27th, 2017, calling for elections to the Regional Parliament of Catalonia and its dissolution.
Subsequently, additional provisions adopted by the Government of Spain have been published in the Official State Gazette for the application of specific measures.

6.2. Since the approval of the Government's request on October 27th, 2017, the Joint Committee has gathered on two occasions to hold two hearings of the Spanish Government, one from the Secretary of State for the Public Administrations on December 4th and the other by the Vice President on December 18th. The purpose of these reports was to inform the Joint Committee about the development and enforcement of the measures approved by the Senate pursuant to section 155 of the Constitution.
6.3. The Constitutional Court will examine the application of section 155 SC to the Self-Governing Community of Catalonia as it has accepted for consideration two appeals, one lodged by more than fifty Deputies from the "Unidos Podemos" Parliamentary Group and the other by the Regional Parliament of Catalonia as a consequence of a resolution adopted by its Permanent Deputation, in the understanding that a petition for the declaration of unconstitutionality is possible against the resolution adopted by the Senate because this resolution is considered to be susceptible to a check on its constitutionality as it is an act with the force of law.
With regard to the procedure followed by the Senate, both these appeals challenge the same two specific aspects:
- that the Bureau of the Senate failed in the first instance to reject the request by the Government in the understanding that the requirements stipulated in section 155.1 of the Constitution and section 189.1 of the Standing Orders of the Senate had not been complied with.
- that the participation of the representative designated by the President of the Regional Government of Catalonia, namely the Governmental Delegate of the Self-Governing Community in Madrid, was not allowed in the form of an address to the session of the Joint Committee held on Thursday, October 26th.
6.4. As of today's date, the application of the resolution adopted by the Senate continues in force as the event that would bring its application to an end, namely the swearing-in of the new Regional Government of the Self-Governing Community following the elections held on December 21st, 2017, has not yet taken place.

Mr José Manuel ARAÚJO (Portugal) said that Portugal was showing a neighbourly interest in the situation. He asked about the joint committee, for which two further hearings were outstanding, and about whether it felt the need to meet more frequently. He also asked how it was decided which staff members from the Spanish Senate to send to the joint committee.

Mr Charles ROBERT (Canada) said that a process had been described which allowed the central government to intervene in the regional government, and the role of the Spanish Senate in determining the extent of that intervention. He noted that the Catalonian independence movement remained strong, and asked what the next steps would be, given that recent elections had returned a strongly pro-independence government. In Canada, a similar experience had been managed by the government without any intervention by parliament. He asked what the future role of the parliament would be.

Mr CAVERO said that the establishment of the joint committee had been a political decision. There had previously been a committee which had been obliged to hear from regional representatives on regional precedents, which was time-consuming. Thus a joint committee had been established. It was the place where the government

had to go to explain what it was doing in Catalonia. Where the government needed to take additional measures, it had to seek the joint committee's view. The three hearings to date had been very political in nature, particularly when pro-independence members had been involved.

He noted that he was difficult to predict the future. Catalonian society was extremely divided and this was unlikely to change in the short-term. Whether or not regions wanted to be independent, they had to follow the correct procedures. These procedures had not been followed to date. It would remain a difficult situation for years to come.

Mr Philippe SCHWAB, President, thanked Mr CAVERO for his presentation.

4. Communication by Mr Geert Jan A. HAMILTON, Clerk of the Senate of the States General of the Netherlands: "The formation of a government in a multi-party democracy"

Mr Philippe SCHWAB, President, invited Mr Geert Jan A. HAMILTON, Clerk of the Senate of the States General of the Netherlands, to make his communication.

Mr Geert Jan A. HAMILTON (Netherlands) spoke as follows:

Forming a new government after parliamentary elections often is a delicate process in parliamentary democracies. The more political parties involved, the more complicated the process may be and the longer it can take. In recent years formations in Belgium (2010-2011), Spain (2015-2016) and Germany (2017-2018) took considerable time.

In the Netherlands elections for the House of Representatives (Tweede Kamer der Staten-Generaal) were held on 15 March 2017. It took until 26 October 2017 until a new cabinet was constituted, i.e. 225 days, a new record in the duration of the formation of a new government in the Netherlands. The Third Rutte cabinet was formed by a coalition of the political parties People's Party for Freedom and Democracy (VVD), Christian Democratic Appeal (CDA), Democrats 66 (D66) and Christian Union (CU).

The questions this paper goes into are:

- What has made the Netherlands a multi-party democracy?
- What is the constitutional, legal, procedural framework for the formation of a new cabinet in the Netherlands?
- Why did it take so long to form a new government and what consecutive steps were taken in the process?
- How was the country governed during the formation process?
- What are some of characteristics of the 2017 formation process?

The Netherlands: a multi-party democracy

At the national level legislative power in the Netherlands is invested in the States General (*Staten-Generaal*), which is bicameral. The House of Representative (*Tweede Kamer*) has 150 members, elected for a four-year term. The elections for the Senate *(Eerste Kamer*), which has 75 members, are indirect. The members of the Senate are elected for a four-year term by provincial councillors after national elections have been held in the provinces on the basis of proportional representation at the provincial elections.

The Netherlands has an electoral system based on proportional representation (PR). PR characterizes electoral systems by which divisions in an electorate are reflected proportionately in the elected body. If *x*% of the electorate support a particular political party, then roughly *x*% of seats will be won by that party. The essence of such systems is that all votes contribute to the result: not just a plurality, or a bare majority, of them.

In the Netherlands parties make lists of candidates to be elected, and seats get distributed to each party in proportion to the number of votes the party receives. Voters vote for a candidate on a particular list. The vote total of all candidates on a list will pool to the party.

The Netherlands has a multi-party system, with numerous parties, in which usually no one party ever secures an overall majority of vote. The threshold for a party to be in parliament is 1/150th of the total number of valid votes.

In a multi-party system multiple political parties across the political spectrum run for national election, and all have the capacity to gain control of government offices, separately or in coalition.

There are a multitude of political parties in the Netherlands. Never in Dutch parliamentary history has a single party obtained more than 50% of the votes. A record highth was 32% of the popular vote for one party. Consequently, parties must cooperate and form a coalition government. Parties that are not included in the coalition constitute the opposition. All the Dutch cabinets since 1918 have been coalition cabinets, supported by two or more political groups, which together have had a majority in the House of Representatives. A minority cabinet can also gain "passive" support to get a majority in the House. One or more parliamentary groups promise they will support the cabinet. In principle these groups support the decisions made by the cabinet, but they do not have any ministers or state secretaries in the Government. From 2010 to 2012 this situation existed in the Netherlands.

In the 20th century the political landscape was based on pillars: the main currents were christian democratic, social-democratic and liberal. Voters at elections used to remain in the domain of their own pillar. In recent decades the traditional pillars have lost ground. Voters have become more volatile. New parties were created and shifts among voters can be substantial.

Since the elections for the House of Representatives in 2017 there are 13 parties represented in the House. In the Senate there are 12 parties. The growth in the number of parties has been the result of the original parties from the 'pillarized' era loosing ground, the creation of new parties and the low treshold for being elected in parliament.

The constitutional, legal, procedural framework for the formation of a new cabinet.

The Dutch constitution states in article 42 the main principles of Dutch government: that it is formed by King and ministers (Subarticle 1) and that "the King is inviolate; the ministers are responsible" (Subarticle 2). This means that the King cannot act in a public capacity without ministerial approval: externally the governmental policy is always represented by the responsible minister who is also accountable towards parliament.

The Prime Minister and the ministers are appointed and dismissed by Royal Decree (Article 43). Such decrees are also signed by the Prime Minister, who signs his own appointment and those of the others (Article 48).

The cabinet of the Netherlands is the executive body of the Dutch government. It consists of ministers and junior ministers (state secretaries). The cabinet requires support from both chambers of the Dutch parliament to pass laws. Thus to form a stable government sufficient, and preferably majority support in both chambers is required.

As mentioned, since the adoption of the current proportional representation system (in 1918) no party has even come close to the number of seats needed for a majority in its own right. To gain sufficient support in both chambers it is therefore necessary to reach an agreement of two or more parties to form a government with majority support. The negotiations leading to this agreement are the 'cabinet formation' period in the Netherlands.

Cabinet formation is engaged in, in two situations. After general elections the House of Representatives is renewed; and ministers are discharged. The cabinet will be a caretaker cabinet (also called demissionary cabinet) until a new cabinet is formed. Due to changing party representations in the House where the political primate lies, a new cabinet has to be negotiated. Even if the same parties continue, the agreement has to be renegotiated to fit election promises and shift in powers. Another reason for cabinet formation can be the fall of a cabinet, i.e. those cases where the agreement between parties breaks down. In the latter case (in principle) a new cabinet can be formed without general elections, although in practice the House of Representatives is almost always disbanded and early general elections are called.

The formation of a Dutch cabinet is the process of negotiating an agreement that will get majority support in parliament for the appointment of the council of ministers and gives sufficient confidence that agreed policies will be supported by parliament. Dutch cabinet formations tend to be a time consuming process, and is for the most part not codified in the constitution.

Until 2012 the Head of State took the lead in the formation of a new cabinet. He (from 1898 until 2013 in practice *She*, as we had Queens) used to consult with the leaders of the political groups represented in the House of Representatives. On the basis of these consultations the King would appoint a skilled negotiator, either as *informateur* or as *formateur*, to negotiate the formation of a majority government in consultation with the political leaders. These negotiations used to involve the parliamentary groups which in principle were ready to conclude a coalition

agreement and form a government. The negotiations on a coalition agreement usually were led by an informateur. The informateur often was a relative outsider and a veteran politician who had retired from active politics: a member of the Senate, Council of State or a minister of state. He generally had a background in the largest party in the House of Representatives. It was also possible to appoint multiple informateurs, with backgrounds in other prospective partners. The informateur was given a specific task, often to 'seek a coalition of parties with coalition agreement and a majority in parliament.' The informateur had meetings with individual chairs of parliamentary parties, and chaired sessions of negotiations between them. During these negotiations the parties tried to find compromises on the policies of the future government and draft a coalition agreement. Once the coalition agreement had gained support from the majority in parliament, the King appointed a formateur to compose the cabinet and attract ministers and secretaries of state for this. Usually the formateur was the the intended prime minister.

A remarkable change in the procedure was carried through in 2012, when the House of Representatives decided to take away the initiating role from the King and from then on self set the framework for coalition agreements and appoint informateurs and formateurs.

The House decided to insert in its Rules of Procedure the following paragraph on the formation of a Cabinet:

CHAPTER XIA. CABINET (IN)FORMATION

Section 139a. Designation of cabinet (in)formateur(s)

1. Immediately after the installation of a newly elected House of Representatives, but no later than one week after installation, the House shall have a plenary debate on the election result. The aim of the debate is to designate one or more informateurs or formateurs and to draft the assignment to be carried out by them. If that aim can not be achieved in the same sitting, the House shall decide on the matter in a next sitting, as soon as possible.

2. After completion of an information assignment the House shall draft a formation assignment, in principle within one week thereafter, and shall designate one or more formateurs to carry out the assignment.

3. If the designated informateurs or formateurs terminate their assignment *(without result)*, the House shall draft a new assignment, in principle within one week thereafter, and shall designate one or more informateurs or formateurs to carry out the assignment.

4. If the Cabinet falls before the end of its term of office the House can discuss the desirability and the direction of a new Cabinet formation. Subsections 1 to and including 3 shall apply mutatis mutandis.

5. The designation of an informateur or formateur shall take place in accordance with Sections 69 up to and including 73.

Section 139b. Asking for information from the cabinet (in)formateurs

During the carrying out or following the conclusion of a(n) (in)formation assignment, the House may decide to invite a formateur or an informateur c.q. formateurs or informateurs to give information about the course of the cabinet (in)formation process.

The formation of the Cabinet in 2012 and in 2017

In 2012 11 parties were elected into the House of Representatives. The two major parties (the People's Party for Freedom and Democracy and the Labour Party) together received a majority in the House of Representatives (79 seats out of 150). In spite of major political differences the two parties felt compelled by the election result to form a government. It only took them 54 days to form a coalition government.

In 2017 the election result was much more complicated. It immediately was clear that at least four parties were needed to get a majority in the House of Representatives.

Party		Party leader / top candidate in 2017	Seats in 2012 out of 150			Seats in 2017 out of 150	+ / - in 2017
People's Party for Freedom and Democracy	VVD	Mark Rutte	**41**			**33**	−8
Labour Party	PvdA	Lodewijk Asscher	**38**			9	**−29**
Party for Freedom	PVV	Geert Wilders	15			20	+5
Christian Democratic Appeal	CDA	Sybrand Buma	13			**19**	+6

	Democrats 66	D66	Alexander Pechtold	12			**19**	+7
	GroenLinks	GL	Jesse Klaver	4			14	+10
	Socialist Party	SP	Emile Roemer	15			14	−1
	Christian Union	CU	Gert-Jan Segers	5			**5**	+0
	Party for the Animals	PvdD	Marianne Thieme	2			5	+3
	50PLUS	50+	Henk Krol	2			4	+2
	Reformed Political Party	SGP	Kees van der Staaij	3			3	+0
	Denk	DENK	Tunahan Kuzu	-			3	+3
	Forum for Democracy	FvD	Thierry Baudet	-			2	+2

Coalition in 2012: People's Party for Freedom and Democracy (41 seats) and Labour Party (38 seats); together 79 seats in a House of 150
Coalition in 2017: People's Party for Freedom and Democracy (33 seats), Christian Democratic Appeal (19 seats), Democrats 66 (19 seats) and Christian Union (5 seats); together 76 seats in a House of 76

On 16 March the leaders of all the elected parties met with the Speaker of the House of Representatives to appoint a 'scout'. The outcome was that the minister of Health, Mrs. Edith Schippers, was asked to act as scout and have preliminary talks with the party leaders. After consultations with all of them she advised to open negotiations between the liberal party VVD, the christian democratic party CDA, the social liberal party D66, and the green left party GL.

Information phase

Informateur Schippers

Based on this advice, the House of Representatives on 17 March appointed Mrs. Schippers to formally start the negotiations for a new cabinet among the four

mentioned parties. The informateur started meetings with the individual chairs of the four parliamentary parties, and chaired sessions of negotiations between them. During these negotiations the parties tried to find compromises on the policies of the future government and draft a coalition agreement.

The negotiations between VVD, CDA, D66 and GL lasted until 16 May. Mrs. Schippers reported to the House that the negotiations had failed, particularly because of disagreements on the issue of migration and asylum. After a debate in the House Schippers was appointed informateur again to explore what other option(s) for a coalition were conceivable. On 29 May she reported that after consultations with all party leaders, due to mutual exclusions and due to severe political differences of opinion on certain issues, she did not see a viable coalition lying ahead. She advised the House to appoint another informateur, as 'Any variant of a majority coalition that has been raised so far has met with objections from at least one of the political groups concerned.' She suggested to appoint Mr. Herman Tjeenk Willink, a minister of State and a former vice-president of the Council of State, (the most important advisory body of State of which the King is the formal president).

Informateur Tjeenk Willink

On 30 May the House discussed the deadlock. Different parties blamed each other for blocking the formation of a coalition and declared themselves ready to enter new negotiations. Nearly all parties expressed confidence in Mr. Tjeenk Willink, so he was appointed informateur. He was assigned to investigate the possibility for a majority or minority cabinet that could count on sufficient support in the parliament. A day later Tjeenk Willink indicated that he would focus on a majority cabinet that could count on sufficient support in the Senate and the House of Representatives and 'that would tackle major issues'. From the beginning he focused on a cabinet of which in any case VVD, CDA and D66 would be part of. In the Dutch media these three received the term 'engine block'. In his final report he concluded that, in spite of important differences between D66 and CU on medical-ethical questions, a cabinet of the three parties mentioned and the Christian party CU was the only possibility and the four parties were ready to negotiate further.

Informateur Zalm

Following Mr. Tjeenk Willink's advise the House appointed Mr. Gerrit Zalm, former minister of Finances, the next informateur on 28 June. It was his assignment to investigate the formation of a majority cabinet of VVD, CDA, D66 and CU that would seek wide support in parliament. Periodically the public was informed that agreements had been reached on important topics. Negotiations continued until 9 October. Then the four party leaders presented their draft coalition agreement named: 'Confidence in the future'. The day after the informateur handed his final report to the Speaker of the House, concluding that the four political groups supported the coalition agreement.

Formateur Rutte

On 12 October the House of Representatives appointed Mr. Mark Rutte, leader of the liberal party VVD (and Prime Minister since 2010) formateur with the assignment to

form a coalition exisiting of VVD, CDA, D66 and CU. He indicated that the would seek the swearing in of the new cabinet on 26 October. On 25 October the ministers attracted (6 VVD, 4 CDA, 4 D66 and 2 CU, with deputy prime minister posts for three ministers from CDA, D66 and CU) held their 'constituting deliberations'. Afterwards the Prime Minister-to-be handed his final report to the Speaker of the House of Representatives. The King appointed the new ministers and state secretaries by Royal Decree on 26 October. He swore them in in his palace in the Hague. This finished the formation procedure.

Demissionary government from 15 March to 26 October.

After the dissolution of parliament and before the appointment of a new cabinet, the incumbent cabinet of VVD and PvdA stayed on as a demissionary cabinet. After they formally had presented their resignation to the King, the King asked them to continue to do everything that is necessary in the interest of the country. Although it is customary for a demissionary cabinet to limit itself to urgent and pressing matters and not to take any controversial decisions, the Senate allowed the cabinet to finish off its legislative agenda. No laws pending in the Senate were declared controversial. While the groups in the House of Representatives, particularly the groups that were involved in the cabinet formation, were seized by the progress in the negotiations for a new government agreement, the Senate, by tradition not directly involved in the formation of a new cabinet, could continue its legislative program and finish the treatment of bills already accepted by the House of Representative.

Some characteristics of the 2017 cabinet formation

In the first months of 2017 the Netherlands were under the spell of a very vivid elections campaign. The predictions were that there could be a head-to-head struggle between the prime minister's party VVD and the Wilders party PVV on which one would become the biggest party. There were expectations that the two coalition parties of the Rutte II cabinet would loose seats. The outcome of the elections was that the VVD indeed lost seats but remained by far the biggest party in parliament. Coalition party PvdA (Labour) suffered the largest election defeat in its history (from 38 seats back to 9). The PvdA did not want to play a role in the formation of a new cabinet. A new combination had to be found, which finally was the combination of two christian parties (CDA and CU) and two liberal parties (VVD and D66).

People vote for parties in the Netherlands, but with the great variety of parties in parliament they have to await which government they get and how the coalition agreement compares to the political program of the party they voted for. A coalition agreement in this landscape necessarily is a compromise.

A critical point of the process was that it took place outside the public eye. Citizens simply had to await what coalition and what coalition program their voting behavior in March would lead to. The length of process has been criticized publicly. Nevertheless its is acknowledged a negotiating process in a shredded political landscape takes time. Thanks to the good economic situation in the Netherlands, the long duration of the cabinet formation in 2017 did not damage the continuity in government of the country. The demissionary government did its duty while the way

was paved for a new coalition. A constant factor in Dutch politics remained prime minister Rutte who formed his third cabinet in a different political composition.

From a procedural point of view one can note that the rules laid down in the Rules of Procedure of the House of Representatives have been observed without fail. There sometimes is debate whether the formation of a new cabinet should be regulated at a higher level of legislation (in the Constitution or by law). At the request of both houses of parliament a State Committee was installed in 2017 which is reviewing the functioning of parliamentary system as whole. This Committee might also come up with new proposals on the formation of a government in the Netherlands. The final report of this State Committee is expected by the end of 2018.

Mr Charles ROBERT (Canada) asked how it was possible to pass legislation after an election had taken place as if nothing had happened. In the British-style system, parliament was dissolved before an election was called, and it was only reconstituted once a speech had been made from the throne, which presupposed the existence of a government.

Mr HAMILTON responded that the government was always in place. Before the appointment of a new government, the old ministers remained in post. There was also a list of pending legislation, which had to be dispensed with. Laws declared controversial were removed from the agenda but otherwise parliament continued to proceed through the list. In the present case, the government had not had a majority and had been required to fight for its legislation in any case.

Mr ROBERT asked for confirmation that the parliament met a certain number of days after an election had taken place. In the British system it could not meet until a government had been appointed.

Mr HAMILTON confirmed that this was the case. He observed that a new government, once appointed, could amend any budget that had been agreed.

Mr José Manuel ARAÚJO (Portugal) asked about the role of the Speaker.

Mr HAMILTON said that the Speaker had a neutral, procedural, role and did not interfere in party politics, although she convened group leaders trying to form a government.

Mr Lutgardo B. BARBO (Philippines) asked about the compromises the government would make with the opposition. The usual relationship was one of enmity. This demonstrated that in politics there was no such thing as a permanent friend. Interests were permanent, but friends were temporary. He asked about the terminology of left versus right. In developing countries, the left was associated with change and reform whereas the right was associated with the established order. Often the left took up arms and fought against the government.

Mr HAMILTON said that the terms right and left were somewhat outdated. In the Netherlands there were 13 parties, but they were not opposed to one another on every issue. There were clusters of parties, which could be broadly categorised in

terms of left and right. However, on neither side was there a clear majority. Every interest group needed to find sufficient friends to get a deal.

Mr Philippe SCHWAB thanked Mr HAMILTON for his communication.

5. General debate with informal discussion groups: The relationship between Parliament and Government

Mr Philippe SCHWAB, President, invited Ms Jane LUBOWA KIBIRIGE, Clerk to the Parliament of Uganda, to moderate the general debate.

Ms Jane LUBOWA KIBIRIGE (Uganda) noted that the Association would divide itself into four informal, linguistically-based, discussion groups, on the following themes:

- Group one – English-speaking: Collaboration between Parliament and the government in the planning and organisation of parliamentary work

- Group two – French-speaking: Anti-parliamentary sentiment and ethical considerations in the civil service

- Group three – Spanish- and Portuguese speaking: The role of Parliament in the composition and establishment of the government

- Group four – Arabic-speaking: Scrutiny of the government by Parliament

Mr Philippe SCHWAB, President, announced that, it being then 4pm, he could declare **Mr José Manuel ARAÚJO** of Portugal elected Vice-President by acclamation.

The sitting ended at 4.00 pm.

THIRD SITTING

Tuesday 27 March 2018 (morning)

Mr Philippe SCHWAB, President, was in the Chair

The sitting was opened at 10.05 am

1. Introductory remarks

Mr Philippe SCHWAB, President, welcomed everyone back and introduced Tom Mboya of the IPU to provide information about the working lunch due to take place at 12.45 that day.

Mr Tom MBOYA (IPU) said that the working lunch to discuss the Centre for Innovation in Parliaments would be held at 12.45 pm that day, on the ground floor behind the cafeteria. Any members still wishing to sign up should do so as soon as possible.

2. Orders of the day

Mr Philippe SCHWAB, President, noted that there were no modifications to the orders of the day.

The orders of the day were agreed to.

3. Members

Mr Philippe SCHWAB, President, said that the secretariat had received requests for membership which had been put before the Executive Committee and agreed to, as follows:

For membership:

Mr Kayima KEBEDE	Secretary General of the House of the Federation, Ethiopia
Ms Hajer SAHRAOUI	Secretary General of the House of Representatives, Tunisia

The new members were agreed to.

4. Elections

Mr Philippe SCHWAB, President, noted that the deadline for the receipt of nominations for the two available posts of ordinary member of the Executive Committee would fall at 4pm that day. In the event that more than two candidates

put themselves forward, there would be an election the following day at 11am. He reminded the Association that any members with arrears of two years or more in their subscription payments would not be entitled to vote.

5. General debate with informal discussion groups: The relationship between Parliament and Government

Mr Philippe SCHWAB, Vice-President, invited Ms Jane LUBOWA KIBIRIGE, Clerk to the Parliament of Uganda, to moderate the general debate. He also invited the four rapporteurs from the linguistic groups to give their reports from the previous day, starting with that of Mr José Manuel ARAÚJO from the Spanish- and Portuguese speaking group.

Mr José Manuel ARAÚJO (Portugal) said that the group had looked at the topic entitled "the role of Parliament in the composition and establishment of the government". It was a very diverse group, and this had been evident in the variety of responses it had made to the questions it had tackled, including: whether Parliament determined the composition of the government; whether the government was overseen by the Parliament or by the Prime Minister alone; and whether the government was invested in front of the Parliament or the Head of State.

The group had concluded that the reliance of governments on Parliament was a constant across the entire group, as was the importance of parliamentary scrutiny to effective democracy. The composition of Parliament would, ultimately, determine the composition of government, from the ranks of which the Prime Minister and President would, eventually, be designated following an election. On the other hand, the choice of secretaries of state and ministers was not subject to a parliamentary veto, giving the Prime Minister or President free rein. He underlined that Spain had nonetheless instituted a procedure which allowed for the scrutiny of a minister.

It was the norm in presidential countries for the government to be invested by the Parliament. In East Timor and Portugal the government was invested by the head of state, rather than in front of Parliament. The composition of the government issued, thus, from Parliament, but investiture from the head of state.

There was no general rule for whether or not the government had to present its programme before Parliament. In some countries, the government had a period of ten days within which to do so, failing which the process of appointing a government had to begin again.

The head of government thus had the power to nominate ministers, but Parliament retained the option of voting against the government.

Ms Jane LUBOWA KIBIRIGE (Uganda) said that her group had looked at collaboration in the enactment of legislation, where government presented a selective agenda, and private members were able to come up with their own initiatives. There was also collaboration through representation, whereby MPs worked with ministers.

She called the rapporteur of the English-speaking group, Mr Simon BURTON, to the podium.

Mr Simon BURTON (United Kingdom) said that his group had looked at the topic: "Collaboration between Parliament and the government in the planning and organisation of parliamentary work". He said the English-speaking group was extremely diverse, representing a wide range of parliamentary systems. The group had nonetheless distilled the topic down into six separate issues.

In terms of the Executive's input into parliament, sometimes it presented draft bills, and sometimes it provided money. The Executive often had a strong role in managing parliamentary business, and sometimes contributed its people to parliament in the form of ministers.

The input of the Executive could be crucial to the smooth-running of parliament, and indeed wider society. Sharing the process of policy-making with parliament could lead to more evidence-based policy. Early Executive input into parliament also tended to avoid later conflict.

In answering the question of whether Executive input compromised parliament, the group decided that it depended on the circumstances. Often if the Executive had a parliamentary majority, it depended to have good control. Parliaments had a range of mechanisms to moderate the control of the Executive, and indeed to force Executive input in circumstances where it did not materialize on its own.

He asked how parliaments in fact ensured the collaboration of the Executive. Sometimes this occurred via formal collaboration meetings; select committees played a very important role; naming and shaming proved to be effective; and party colleagues could also put pressure on ministers.

The Executive tended to be motivated to collaborate through a desire for fairness. In many systems they had to use the available systems. Elections and the need to deliver both also provided an impetus to the Executive.

Three factors had emerged from the group discussion. One was the extent to which the Executive sat within parliament; the second was the proactivity of parliament; and the third was the issue of whether the parliament was unicameral or bicameral. There was a wide range of available models.

Mr Hrvoje SADARIČ (Croatia) said that questions of the Executive's motivations for collaboration were valid, but in Croatia, the question was how to make the parliamentary system more efficient because it had diverged significantly from the original intended model. The Executive did not need to be motivated to collaborate with parliament, but was obliged to do so. Parliament should always be considered to be the authority. The people were not electing leaders but representatives.

Mr BURTON said that there were a range of answers, one of which was the formal mechanism requiring ministers to attend, for example Prime Minister's Questions in the UK House of Commons. It sounded as if in Croatia, members needed to convince

that it was worth ministers' while to attend parliament: it was classic behavioural economics, and it tended to work well.

Mr Geert Jan HAMILTON (Netherlands) said that one motivational factor in the Netherlands was that the parliament was the supreme authority in the country. The government was only there by the grace of the parliament. The key phrase was ministerial responsibility. This meant that when the minister or the government lost the confidence of parliament, the government was lost. This was the ultimate threat and a strong weapon in parliament's armory. Lying to parliament was a mortal sin under such a system.

Ms LUBOWA KIBIRIGE said that, because parliament appropriated the budget, ministers had an obligation to attend in order to obtain more money. If ministers did not have a good relationship with parliament, they were in trouble. In addition, parliament was able to impeach ministers.

Mr BURTON (said that the answers offered a good balance between the good cop and the bad cop. He said that recently a minister in the House of Lords had been late by accident. He was so embarrassed that he had resigned on the spot, but his resignation had been rejected. This illustrated the sense of honour which worked well when it was in operation.

Mr ARAÚJO wished to return to the idea that Parliament was the supreme authority. The original idea was that the government should have parliamentary support when it was formed. Parliamentary scrutiny and the legislative function were the two principal functions of a Parliament, and this work began on the very first day.

In Portugal the constitution stated that the President of the Republic had to invite the head of the party which had won the elections to form a government. In 2015, this party did not have an absolute majority, with three MPs too few for that. The head of state thus invited the head of the winning party to form a government, but when the government presented its programme to Parliament, it had been voted down, so that the President then had to invite the head of the second party in order for there to be a majority. This showed that, without parliamentary support from the outset, a government could not function. The relationship between the Parliament and the government were thus tested from the beginning.

Mr Bachir SLIMANI (Algeria) asked about the appointment of a government. In Algeria there was no link between the appointment of a government and the parliament, except in that the President asked the majority leader in a parliament where there was no single party in majority, to appoint the prime minister and the main ministers of the government. The prime minister was able to appoint deputies. Appointment to a ministerial position meant resignation from parliament. The government then presented its programme for discussion and deliberation. The parliament could impeach the government if the programme went against the common good. Parliament's power thus lay in deliberation and the ability to impeach.

Mr ARAÚJO said that the most important thing was that Parliament should be able to check the government should that become necessary.

Mr Liam LAURENCE SMYTH (United Kingdom) said that it was important in the United Kingdom for there to be some time that elapsed between the election and the appointment of the parliament. In the House of Commons there were no seats, only benches, and this could be confusing for members, meaning that, in a practical sense, time was needed to familiarize members with the building they found themselves in.

In the UK in 2017, the date that parliament was convened had to be delayed because of the very close result, which necessitated some negotiation. This was a new experience in the country, which had always before had a clear majority. It was for this reason that the ASGP was a useful forum because it enabled countries to learn from each other about the challenges they faced.

Mr Charles ROBERT (Canada) said there was a distinction between theory and practice. Where theory spoke about collaboration, practice spoke about control. The discipline of the caucus over members allowed the government in power to exert a high degree of control, which in turn tended to mean less scrutiny. There were nonetheless pro-forma exercises which had to be carried out, but the government was in control of these too. In Canada, the amount of the budget that could be voted upon was shrinking. The leaders of parties signed the nomination papers for elections, therefore if members did not behave they might find themselves running as an independent. This exercised a high degree of control.

Mrs Lydia KANDETU (Namibia) said that in Namibia there was a bicameral parliament, with the Executive derived from the National Assembly. Ministers could also be appointed from the National Council. In terms of oversight, the spending committees of both Houses oversaw the government. Members had to take the lead of their party caucus. There was a thin line between collaboration and control when ministers were also members of the parties.

Mr BURTON said that different systems could exist between two chambers. In the UK House of Commons, the government had a very slim majority, which had led to greater independence from government members, particularly on European unions. The control dynamic was tested in the event of a small majority.

Mr Philippe SCHWAB, President recalled the terms employed by Mr Robert: collaboration is the theory, and control the practice, and suggested that a coffee break was a necessity.

** Coffee break between 11.05 and 11.30 **

Mr Philippe SCHWAB, President called the final two rapporteurs to the platform to present the work of their groups.

Ms Hajer SAHRAOUI (Tunisia) said that the Arabic-speaking group had looked at the following topic: “Scrutiny of the government by Parliament” It had concluded

that there were three authorities: one made the law, one debated it, and one implemented it.

The supervisory function was very important in modern parliaments, and was a sign of good governance. In addition to its legislative powers, the parliament could help balance out the other two authorities. In all democratic systems, parliament had the power to supervise the government using a number of tools and mechanism.

The question discussed by the group was the objectives of parliament in scrutinizing the government. Scrutiny was achieved by means of mechanisms established by the various parliaments.

In all the Arab parliaments there were written and oral questions. Written questions were directed towards the government, which had to answer within a specific time frame. Oral questions took place at certain specified times.

Parliaments also carried out scrutiny by means of committees, which had a significant role. There were broadly two types of committees: private committees that scrutinized particular sectors, and investigative committees, established for the exploration of a specific issue. Some parliaments in the Arab world also had an accounting assembly, which had responsibility for scrutinizing the government budget.

The question remained of how Arab parliaments could improve their scrutiny. They could develop their constitutions; they could improve the internal systems and powers of parliaments and parliamentary bodies.

She concluded that, in order to improve scrutiny, all MPs needed to be given the protection to do their work freely and transparently.

Mr Christophe PALLEZ (France) said that his group had discussed the following topic: “Anti-parliamentary sentiment and ethical considerations in the civil service”.

The group had decided that of whether the behavior of public servants was unlikely to be the source of anti-parliamentary sentiment. Even though in some countries it seemed that civil servants expressed used social networks to criticize parliaments or leak information, this type of behavior had not been experienced amongst the French-speaking countries in the group.

The group had considered two types of anti-parliamentary sentiment. The first was traditional, and consisted of public mistrust and criticism of the privileges of parliamentarians and, sometimes, their lack of effectiveness. Absenteeism was one aspect that was criticized, for example in France. Parliamentary administrations had a role to play in informing the public about Parliament, and casting its work in a positive light.

A new aspect of anti-parliamentary feeling came from parliamentarians themselves, who arrived in Parliament with the express intention of criticizing it from within. These parliamentarians, from parties at the margins of the system, used the

administration for the purpose of destroying the parliamentary system. The administration found itself, in such cases, in a difficult position, because its code of ethics required it to treat all parliamentarians equally. They were caught between the desire to defend the institution and the requirement to be fair and impartial in their treatment of the individual in question.

This was an issue in different ways across the parliaments represented in the group. Some faced extreme difficulties, with MPs refusing to learn how Parliament worked once they had been elected. Some felt that the administration had nothing to teach them.

Faced with such behavior and parliamentarians who did not respect the ethical code, civil servants were required to play the role of guardian, reminding parliamentarians of the law, and sometimes of morals.

The conclusion of the group was that it was necessary to have a strong, stable and solid administration, which had support and could thus express itself when it observed a gap between what was required and was was occurring, or when there was unacceptable behaviour that encouraged anti-parliamentary sentiment.

The administration had, thus, a role to play because the institution had an ethical code, and public servants had to ensure that it was adhered to. This task was difficult, and the administration could play this role better if the political authorities were themselves determined to enforce ethical standards.

Mr Manuel CAVERO (Spain) said that everyone spoke about parliament as a single body whereas in fact parliament was not monolithic, but was dynamic, and composed of parties with very differing views. In his opinion, scrutiny was the function of the minority. In Spanish Senate, the government had an absolute majority, and scrutiny was exercised with soft mechanisms. The government could also control the way that scrutiny was exercised. In the Chamber of Deputies, no party had an absolute majority, the oversight function was more robust.

Ms SAHRAOUI said that the issue of oversight over the government was a constitutional matter. Constitutions had to be established which gave parliament its oversight function. Oversight was not a punishment of the government, but rather an assessment. She said that she did not agree that oversight differed between each parliament.

Mr Dhammika DASANAYAKE (Sri Lanka) said that he agreed that proper mechanisms and procedures should be put in place to make parliamentary oversight effective. However, if the government had no will, and the opposition had no enthusiasm, the systems could still fail.

Ms SAHRAOUI said that she did not understand the issue of enthusiasm. Oversight was not a punishment but an assessment.

Mr DASANAYAKE said that mechanisms and procedures did help to ensure effectiveness, but that the rules could be easily derailed where the government lacked the political will.

Ms SAHRAOUI said that some parliaments gave the role of scrutinizing the budget to the opposition. The opposition could be given an important role, or not.

Mr Philippe SCHWAB, President, thanked everyone for their hard work and their participation in the debate.

6. Communication by Mr Masibulele XASO, Secretary to the National Assembly of the Republic of South Africa: "The Standing Rules and Reforms in the National Assembly: Parliament of the Republic of South Africa"

Mr Philippe SCHWAB, President, invited Mr Masibulele XASO, Secretary to the National Assembly of the Republic of South Africa, to make his communication.

Mr Masibulele XASO (Republic of South Africa) spoke as follows:

INTRODUCTION

This paper is an overview of the Standing Rules of the National Assembly in the South African Parliament. In particular, it outlines the founding provisions of the Constitution and its values; Parliament's powers to determine and control internal arrangements; and the changing legislative environment. It also reflects on the recent reforms in respect of the rules with a focus on the role and powers of the Speaker; mini-plenaries; parliamentary privilege and free speech; the legislative process on non-executive bills; and enhancing oversight over the executive.

FOUNDING PROVISIONS OF THE CONSTITUTION

The struggle for freedom in South Africa, freedom from oppression, colonialism and apartheid, was long and difficult and for many years, seemed without hope. Yet the people of South Africa at last came together to chart a new course and to commit to a new democratic order. This order was to find expression in the adoption of the Constitution, signed into law on 10 December 1996 – some twenty years ago. The founding provisions of the Constitution declared that –

South Africa is one, sovereign, democratic state founded on the following values:
Human dignity, the achievement of equality and the advancement of human rights and freedoms,
Non-racialism and non-sexism,
The supremacy of the Constitution, and
Universal adult suffrage, regular elections and a multi-party system of government.

To give effect to its values and principles, and advance and safeguard human liberties, the Constitution established a range of institutions, including both national and provincial legislatures. At the national level, the Constitution created a bi-cameral Parliament, comprised of the National Assembly and the National Council of Provinces, each with specific functions and responsibilities. The National Assembly was, for its part, designed as the principal vehicle of public representation – it would be the voice of the people and their diverse interests. The Constitutionally mandated task of the Assembly, as a collective, is to –

...ensure government by the people under the Constitution. It does this by choosing the President, by providing a national forum for public consideration of issues, by passing legislation and by scrutinising and overseeing executive action.

POWERS TO DETERMINE AND CONTROL INTERNAL ARRANGEMENTS IN THE OPERATIONS OF THE HOUSE

Section 57 of the Constitution stipulates that the Assembly can determine and control its own internal arrangements, and make Rules and Orders concerning its business with due regard to representative and participatory democracy, accountability, transparency and public involvement. In short, the Assembly is empowered, within the prescripts of the law, to decide how best to arrange its affairs and lay down the procedures and parameters of debate, party and public participation and decision-making.

With the adoption of the Constitution, the First Assembly duly set about revising its Rules, although this revision focused mostly on the Committee System, Questions to the Executive and the Legislative Process. Other Rules including, for example, those related to plenary sessions and order in debate were not amended.

THE CHANGING LEGISLATIVE ENVIRONMENT

Over the next twenty years, however, it became increasingly apparent that, with the evolution of democracy and the changing legislative environment, the Rules required a comprehensive rethink and revision. Accordingly, in 2012, the Assembly Rules Committee initiated a comprehensive review of its procedures and practices. The review of the Rules was a time-consuming undertaking and involved protracted consultation between parties, experts and public organisations. Parties also commissioned a considerable amount of research on comparative political systems and practices in other Parliaments, all of which served to inform and guide deliberations. The new Rules (the 9th Edition) was finally adopted in 2016; four years after the review began.

The new Rules put in place a number of reforms intended to strengthen the legislature and enable it to fulfil its constitutional functions more effectively. For a start, the Assembly had experienced a relatively high turnover of members over the past twenty years. This meant that much institutional knowledge was lost. The new Rules therefore codified many of the conventions and practices developed since 1996; making the procedures easier to access, understand and implement. At the same time, however, it was felt that these developments must be balanced against the

undesirability of over-regulation or frustrating the political management of Parliament.

One issue that was discussed at length during the review was the status of the Rules themselves as well as the enforceability of conventions and practice. With reference to the former, it was recognised that the Rules should not be amended simply as a matter of convenience and, to prevent such occurrences, it was decided to raise the quorum requirement and the majority needed for the House to amend or adopt new Rules. With regard to conventions and practices, the new Rules proclaimed that they should only guide proceedings and not be enforceable, although the Presiding Officers could request compliance when necessary.

THE ROLE AND POWERS OF THE SPEAKER

Another matter that received attention was the role and powers of the Speaker. Since the inception of the First Democratic Parliament in 1994, the understanding and practice has been that the Speaker and other Presiding Officers only regulate or facilitate the proceedings in the House and adjudicate on questions of procedure. Notwithstanding this, the Courts have found that the Speaker has both the power to schedule certain types of motions, namely those arising from Constitutional prerogatives, and that she may determine the voting procedure involved in deciding a question before the House. Pursuant to these court findings, the Speaker determined that a motion of no confidence in the President would be by secret ballot. This was quite significant because previous motions of this nature were not decided through secret ballot. Some of these powers have since been built into the Rules, while others must still be incorporated.

MINI-PLENARIES

In terms of the Assembly's core responsibilities, the review sought to augment and reinforce the ability of the House to discuss and respond to matters of public interest. This was achieved, *inter alia*, through the introduction of mini-plenaries, special substructures of the House. These structures were not designed to take decisions, all decisions being deferred to the plenary, but instead to allow more opportunity for debate, especially debates on reports and motions, many of which have not, in the past, always received due consideration.

PARLIAMENTARY PRIVILEGE AND RULES OF DEBATE

As mentioned, the revision of the Rules in 1996 did not address those procedures governing debate, decorum and order in the House – these being carried over from the pre-democratic era. Consequently, the recent review spent considerable time deliberating on and refining these matters. With regard to parliamentary privilege and free speech, South Africa's Constitution stipulates in section 58 that Members of the Assembly:

Have freedom of speech in the Assembly and its committees, subject to its rules and orders... and are not liable to civil or criminal proceedings, arrest, imprisonment or

damages for anything that they have said in, produced before or submitted to the Assembly or any of its committees.

The Rules Committee affirmed that this power was fundamental to democracy and that the Rules should, in principle, provide for and be interpreted in a manner as to place the fewest limitations on free expression. Concurrently, however, there was also agreement that the Rules must facilitate the functioning of the House and preserve its decorum and dignity. As a result, the new Rules prohibit any *offensive, abusive, insulting, disrespectful or unbecoming* language such language being regarded as unparliamentary. Derived from a previous Standing Order, another Rule was added to the effect that a Member may not make accusations or impute improper motives to another Member except by way of a properly formulated and substantiated motion, which could be duly considered by the House.

Over the past several years, the Assembly has experienced instances where the House was so disrupted that it could not conduct its business. To address this matter, the new Rules made specific provision for the removal of members from a sitting who persisted in disrupting proceedings, or in defying the Chair. Specialised staff with appropriate skills and capabilities were then appointed who, on the instruction of the Speaker, could remove those Members involved in the disturbance. By agreement, the Rules also established a committee to inquire into the circumstances leading to the removal of a Member and whether the requisite procedures were followed in each case.

Another matter of concern that the review sought to address related to the confusion and, at times, misuse of points of order. A practice had developed whereby some Members would raise a point of order solely for the purpose of interrupting proceedings. To resolve this, the new Rules clarified that a point of order must be confined to a question of procedure and that a Member raising such a question must commence by stating the Rule, which, in their view, was contravened. Moreover, a ruling by a Presiding Officer on a point of order would be final and binding. A member who felt aggrieved by a Presiding Officer's ruling on a point of order could subsequently in writing to the Speaker request that the principle or subject matter of the ruling be referred to the Rules Committee. The Rules Committee could deal with the referral as it deemed fit, provided that it needed to confine itself to the principle or subject matter of the ruling, and could not in any manner consider the specific ruling which was final and binding. In the event a Member persisted with interjections, the Rules also made provision for a Presiding Officer to deactivate that Member's microphone and thereby prevent him or her from continuing.

THE LEGISLATIVE PROCESS ON NON-EXECUTIVE BILLS AND ENHANCING OVERSIGHT OVER THE EXECUTIVE

With respect to the legislative process, the Rules entrenched the practice of holding first reading debates on Bills. In addition, the Rules regularised the passage of bills and confirmed that both Government and Private Members' Bills (i.e. non-Executive Bills) must be dealt with in the same manner. Of note is the fact that the House recently approved a Member's Bill for the first time.

Finally, the review of the Rules sought to foster and enable greater parliamentary oversight over the Executive. In this regard, they provided that oral questions to Ministers – which take place every Wednesday during sessions – would be three hours as opposed to two, as was previously the case. Furthermore, the Rules required that a mechanism be put in place to monitor the timeliness of Executive responses to questions. Later, the Rules Committee resolved that this mechanism would take the form of a committee, mandated to receive reports on any questions endorsed as unanswered and, thereafter, initiate appropriate actions to resolve such occurrences.

CONCLUSION

The 9th Edition of the Assembly Rules have now been in place for just over a year. They have by all accounts improved the operations of the House, not least by igniting a renewed appreciation for parliamentary procedure among the membership. Some of the Rules have, nevertheless, yet to be fully applied or implemented and, as such, must still be tested, and precedents established. What is more, despite the high level of consensus between most parties on many of the Rules, some Rules remained contested. One example of this related to procedures for the removal (impeachment) of the President. In a recent judgment, the Courts found that the National Assembly must put in place rules to regulate this process, a task the House is currently undertaking.

The above factors illustrate the point that Parliament's procedures are not static but living articles and must be continually evaluated to ensure that they serve their purpose and empower the legislature to achieve greater responsiveness and effectiveness in pursuit of a more equitable, just and prosperous nation.

REFERENCES

- The Constitution of the Republic of South Africa, (Act 108 of 1996).
- The Rules of the National Assembly, Parliament, Republic of South Africa, (9th Edition) 2016.
- National Assembly Rules Committee Minutes, 2016.
- National Assembly Subcommittee on the Review of Rules, Reports and Minutes, 2016

Mrs Damayanti HARRIS (Indonesia) asked how support and commitment could be generated from the government for the new rules that had been introduced, particularly when it was used to working within the old mindset.

Mr Dhammika DASANAYAKE (Sri Lanka) asked for a clarification about secret ballots, and whether the procedure for using a secret ballot had been laid down in Standing Orders.

Mr Jean NGUVULU KHOJI (Democratic Republic of the Congo) said that internal rules were not immutable and needed to evolve in light of circumstances. He asked if the Standing Rules of the South African parliament were available in French.

Mr Simon BURTON (United Kingdom) said that the relationship between the parliament and the courts was very complicated under privilege. He thought the South African constitution was a model in many ways and asked how secure it was, and whether it could be changed.

Mr XASO said that before the court judgement, under the constitution a secret ballot could only be used for the election of the Speaker when it was contested. An open ballot was standard, and this is what prompted the court case. The High Court agreed with the parliamentary authorities that a secret ballot had not been envisaged in the case of a motion of no confidence. However, the Constitutional Court then ruled that the Speaker had the discretion to order a secret ballot in certain circumstances. The parliament had subsequently developed a standard operating procedure.

Commitment to the rules could be generated by their firm and consistent application. A forum of party whips sat weekly, and where there was a procedural difficulty anticipated, the Clerk offered to explain it to them. Often, members did not fail to comply out of defiance, but out of a misunderstanding.

The South African parliament had made its rules available in English on its website.

In this opinion, the constitution was relatively secure, and could only be amended by a two thirds majority. The government did not have such a majority and so required the support of other parties. The Constitutional Court was very robust and was always available to defend the constitution.

Mr Lutgardo B. BARBO (Philippines) said he would like to know how parliamentary immunity could be defined, and similarly he wanted a definition of unparliamentary language. For example, if a member stood up and said that the President was becoming a dictator, such a statement did not contain unparliamentary language. He asked whether an MP could be sued for raising such a subject.

Mr Charles ROBERT (Canada) said that there was a discussion to be had about the interference of the courts in parliamentary business. Such meddling suggested that parliament was not only not supreme but subject to the decisions of the court.

Mr Nelson AYEWOH (Nigeria) asked how often the rules could be changed, and, whether rule changes had to be approved by a majority vote.

Mr XASO said there was no universal definition of unparliamentary language. The approach in South Africa was that context should influence any decision. However, the default was to allow as much freedom of speech as possible. Robust political statements should not be regarded as unparliamentary. The guiding framework was whether a statement was offensive, abusive, divisive or unbecoming. South Africa had used examples from other parliaments, such as Kenya, in determining how detailed the rules had to be.

There had been recent examples of court judgements against members, who were still entitled to serve in parliament. The decision had been taken that, if a member had been convicted of fraud, this statement could be made, but that the member could not be called a “fraudster”. This was a line drawn between the factual and the personal.

Whenever the Constitutional Court decided to rule against the Speaker, it always prefaced with a ruling that it should not interfere in the business of parliament, though this is precisely what it did.

On the most recent decision of impeachment, the court had been divided down the middle. The Chief Justice, however, had said that the judgement the Court was about to make constituted interference and tested the doctrine of the separation of powers.

To change the rules, the Rules Committee had to make a decision, then this went to the House, which had to agree the change by a majority of 50 per cent plus one vote. The rules were not amended lightly, however, and often changes could be dealt with by means of sessional order, which gave a degree of flexibility.

Mr Philippe SCHWAB, President, thanked Mr XASO for his communication and for the lively contributions made.

7. Concluding remarks

Mr Philippe SCHWAB, President, closed the sitting.

The sitting ended at 12.32 pm.

FOURTH SITTING

Tuesday 27 March 2018 (afternoon)

Mr Philippe SCHWAB, President, was in the Chair

The sitting was opened at 2.40 pm

1. Introductory remarks

Mr Philippe SCHWAB, President, welcomed everyone back.

2. Communication by Mr Abdullah ALDOSERI, Secretary General of Bahrain's Council of Representatives: "The Parliament of Bahrain's Experiment in Communication with Community"

Mr Philippe SCHWAB, President, invited Mr Abdullah ALDOSERI, Secretary General of Bahrain's Council of Representatives, to make his communication.

Mr Abdullah ALDOSERI (Bahrain) spoke as follows:

The Council of Representatives in the Kingdom of Bahrain, with the beginning of the fourth legislative term from the period from (2014 - 2018), has adopted the project of "Community Outreach" accordingly, the Community outreach Committee of the general secretariat of the council of representatives in February 2015 was formed, consisting in its membership all the department directors, the leaders of the secretariat and under the direct supervision of the H.E. the Speaker and me in person, as the Committee has carried out many initiatives, programs and activities for the citizens and residents, as one of the most important objectives to showcase the role, work and efforts of the legislative authority to the public opinion, under the light of the reform project and the democratic process, led by His Majesty King Hamad bin Isa Al Khalifa, King of the country. As well as, activating the community partnership, effective communication with all categories and sectors of Bahraini society, identifying closely the views, observations and suggestions of citizens, disseminating the parliamentary culture and awareness, developing the relations with the community, discussing all proposals and needs through meetings, forums, and field visits to the governorates, the people's gathering places (Majlis), bodies, associations, centers and educational institutions in schools and universities.

Since the approval of the Council of Representatives Bureau on the establishment of several forums, meetings and visits through the project "Community Outreach", the council is keen to strengthen communication with State institutions, on and off the field, in order to accomplish the community partnership between the representatives of the Bahraini people and the public, this is due to the interest of people's

representatives in the views, observations and demands of citizens and developing cooperation with the institutions of civil society and media channels.

The community outreach project in the parliamentary council, and through community outreach committee of the general secretariat of the Council of Representatives, has worked on the implementation of the ambitious plan that includes a number of activities and programs. It had also adopted a number of occasions and events to communicate with citizens, in addition to the discussion of scientific materials and introductory presentations to various groups and segments to publicize the work of the Council and its achievements and efforts in all fields.

Perhaps the most prominent activities carried out by the Community Outreach Committee are as follows:

1. Parliamentary Forum on Youth, held on February 18th, 2015, the launch of this forum has been under the implementation of the forward-looking vision of H.E. the Speaker of the Council that the council, during the fourth legislative term, to be "a Council of achievement and development for the homeland and citizens", through concerted efforts among all the sons of the nation, in each position or institution, whether it is official or public. Also, through all categories of society, especially the young people, in order to identify the needs and aspirations of the youth category, and that is what the council was keen for it to be the first forum and program for the council, with the belief that youth are the future and what is being legislated by the Council of the Representatives today from laws and proposals, are strong national rules for tomorrow, and for the bright future for the youth in the Kingdom of Bahrain. The Council has dealt with all the recommendations and proposals that emerged from this forum, as priorities for the work of the Committee on Youth and Sports in the Council, and it received most attention from the Council.

2. Parliamentary Forum on Sports: held on February 26th, 2015, with the Council's belief in the importance of the sports sector in the overall development process. This forum was held with the participation of more than 200 athletes and media persons, a number of former and current athletes, officials of the General Organization for Youth and Sports, the Bahrain Olympic Committee, and representatives of the national sports federations and clubs. A number of VIP's who are interested in sports affairs in the Kingdom also participated in this forum, to examine closely the development of the sport movement in the Kingdom of Bahrain and its challenges to come up with the recommendations that would develop Bahraini sports to overcome various challenges and achieve to ambitions, in cooperation with the government.

3. Parliamentary Forum on Fishermen: the council of representatives, community outreach committee organized the Parliamentary Forum on Fishermen, on March 26th, 2015, with the participation of more than 120 Bahraini fishermen participants, representatives of the fishermen's associations, a number of state officials, members of the municipality councils, people specialized in fishing, fisheries and municipality affairs. The results and recommendations of this forum came out with a clear vision to develop the oversight and legislative role to support the fishermen, preserve the fisheries, and to contribute in ensuring the continuation

of the fishing profession and what it represents in the rich history of the Kingdom of Bahrain, in order to maintain the source of income for thousands of Bahraini families.

4. Parliamentary Forum on Labor: coinciding with the celebration of the Kingdom of Bahrain in International Labor Day on May 1st, the Community Outreach Committee in the Council of Representatives organized the Parliamentary Forum concerning labor on April 27th,2015, with the participation of a number of officials from the Ministry of Labor, representatives of the General Federation of Bahrain Trade Unions, the free union of workers of Bahrain, and a number of people concerned with labor affairs, as a contribution from the Council in achieving the aspirations and hopes of the workers and labor union affiliates, by considering them the main pillar in the economic development process, and with their efforts we build the nations and achieve hopes. Also, their suggestions and observations have won the most attention of the Council's represented in the Committee of Services.

5. Parliamentary Forum on Women: on the morning of Thursday, May 21st, 2015, H. E. Mr. Ahmed Bin Ibrahim Al Mulla, Speaker of the Council, has launched, "The Parliamentary Forum on Women", with the participation of representatives of women's associations and committees, a number of official bodies in the state, the Supreme Council for Women, and with the presence of the MPs as a contribution from the Council in support of Bahraini women and to empower them politically and economically, and that is through seeking to incorporate the needs of the Bahraini women and their desires in the discussion of the state budget for the fiscal years 2015 and 2016, just as when the parliament granted confidence to the government and its plan of action for the period (2014-2018).

6. Parliamentary Forum on People with Special Needs: on the basis of the concern of the Council of Representatives on activating the role of people with special needs category and reintegrating them in the Bahraini society since they are holders of rights and duties who should be dealt with all honesty, responsibility, equality and justice, as they have the right to education, housing, work, care, support and services, guaranteed by the constitution and civilization. Coinciding with the discussion of the Council of Representatives of the state budget for the fiscal years 2015 and 2016, community outreach committee held the parliamentary forum for people with special needs on May 28th, 2015. The Forum was attended by more than 170 members from the Associations representatives, centres, working committees in the affairs of persons with disabilities and their guardians, as well as a number of officials from the ministries, organizations and state authorities. This resulted in the findings and recommendations of the forum that dealt with the most prominent needs of the category of persons with special needs that some of them were included in the state budget when it is approved by the Council, and some others came as an image which shows the Council's adaptation to the proposed laws or proposals.

7. Community Outreach Committee visits many Civil Councils: the Community Outreach Committee has done intensive visits to civil councils in all governorates of the kingdom during the period from the year 2015 to 2017. The visits included open public meetings with the citizens and residents with the presence of the MPs each depending on the governorate to which they belong, whereas the

meetings were held by giving a brief summary on the Community Outreach Committee nature of work, followed by a visual presentation on the Council of Representatives nature of work and its most important achievements over the 14 years, and the parliamentary agreements with the government which was agreed upon in the Government's plan submitted to the Council of Representatives. Also, all the needs and observations of the citizens who attended those meetings were documented and some were adopted in the form of proposed laws or proposals that were submitted to the government.

8. Community Outreach Committee meets School Students in the Kingdom of Bahrain: The community outreach committee organized a students' meeting in the presence of a number of MPs, the minister of education, a number of officials in the ministry and hundreds of students from the schools of the Ministry of Education. In this great meeting, the importance of the teaching of national culture in the curricula of the ministry was highlighted, to ensure the delivery of this culture to all of the students, by introducing them to the National Action Charter and the Constitution of the Kingdom of Bahrain, as well as giving the students brief summary about the nature of the parliamentary work in the Council, and the achievements made by the MPs since the beginning of the council until now, especially in the area of education.

In conclusion, after this quick review of the draft community outreach committee and its activities, we can only assure you that the results of this vital and important project had exceeded the limits of expectations, and became one of the important parliamentary norms, which is the expansion of the community and popular participation in decision-making, in addition to the experience the people engaged on this project gained, which we are pleased to offer for those wishing to take advantage from them.

Mr José Manuel ARAÚJO (Portugal) said that he was curious about the reaction of the standing committees of the House. He asked whether there was any conflict of interest or competencies between them and the new committee.

Mr Salaheldeen AL ZANGANA (Iraq) asked who had the authority to establish the committee on community outreach.

Mr Simon BURTON (United Kingdom) said that educational outreach was an extremely important function of parliament. He asked whether teachers were involved in this work.

Mr Jean NGUVULU KHOJI (Democratic Republic of the Congo) wanted to know what status the Committee had within the Assembly, whether it was an internal or an external structure, and how it was composed.

Mr Charles ROBERT (Canada) wanted to know what role the secretaries general and their staff had in promoting outreach. In Canada, running these programmes had fallen to staff, and they had forged partnerships with NGOs to deliver the programmes.

Mr ALDOSERI said that the general secretariat had the function of supporting MPs. This committee had the support of the Speaker of the Assembly. The MPs themselves rarely attended the forums, but they took note of the suggestions that arose there and divided them between matters requiring legislation and those requiring resolutions.

School teachers and university students would eventually be involved in the programme. The Bahrani delegation to the IPU had brought students with it to Geneva.

Mr Philippe SCHWAB, President, thanked Mr ALDOSERI for his communication.

3. Communication by Mr Mauro Limeira Mena BARRETO, Deputy Director General of the Brazilian Chamber of Deputies: "Participation of society in the innovation process in parliaments"

Mr Philippe SCHWAB, President, invited Mr Mauro Limeira Mena BARRETO, Deputy Director General of the Brazilian Chamber of Deputies, to make his communication.

Mr Mauro Limeira Mena BARRETO (Brazil) spoke as follows:

Innovation, which not necessarily involves sophisticated technology, is a key to improve efficiency, openness and political representation of parliaments. The IPU, through its proposal on the establishment of a Centre for Innovation in Parliament, recognizes that "the innovative use of digital tools and services can support parliaments in becoming even more transparent, accountable and effective institutions."[2]

Innovation processes can be stimulated internally through projects and action plans that follow a planning exercise. However, shouldn't we invite citizens, as the main stakeholders, to participate in the innovation process as well? In this sense, the Chamber of Deputies will share with you some initiatives that have been designed with the participation of the Brazilian society.

The first one is "Desafio.leg.br[3]" Portal. It is an invitation to innovation and popular participation promoted by the Chamber of Deputies. The House promotes an open and public competition that invites individual citizens, small groups and companies to create solutions to challenges proposed by the parliament. So far, the competition has awarded the equivalent of more than one hundred thousand US dollars in prizes in different contests.

Two of the challenges that received contributions from the participants are:

[2] *Implementation of the IPU Strategy for 2017-2021,* available at http://archive.ipu.org/cnl-e/200/7(a)-p1.pdf
[3] http://desafio.leg.br

1. Legislative app: each participant was challenged to develop a mobile app about the lawmaking process, using open data provided by the Chamber and to publish it on digital stores such as Google Play and Apple Store. Three different participants awarded.[4]

2. New Chamber of Deputies Portal Architecture: the challenge was to propose a new navigation and information architecture to improve communication with society, offering a more modern website and intuitive information access from the user point of view.

In order to improve citizens' participation, the house staff presented the new portal challenge at the Campus Party event that took place in Brasilia from June 14 to 18, 2017. Some of the outcomes of our presence in the Campus Party were:

- 70,000 visitors attended the event during 5 days;
- 4,800 "campers" stayed in the convention center
- 430 people registered in our Challenge Portal

To rank the best ideas to the new portal, the judging committee considered three main criteria:

- Creative and responsive design: design should be modern and adaptable to mobile devices;
- Interaction and transparency: the Portal should facilitate the data visualization and participation
- Intuitive navigation: the proposed architecture should provide an easy navigation.

Two different participants awarded:[5]

Another experience I want to share with you is the LabHacker Open Planning. LabHacker is an organizational unit dedicated to cultivate a network of Members of Parliament, civil society and parliament staff to promote the collaborative development of innovative citizenship projects related to the Parliament. In order to improve its effectiveness, and establish its priorities, they developed an open planning in witch thirty-three qualified experts from all over the country attended the invitation to participate in the one-day activity. They exchanged ideas on good practices of civic laboratories and public institutions, focused on transparency and the participation of society in the legislative process.

They answered two key questions:

1. What public institutions must do to create an encouraging environment to innovation and collaboration?
2. What public institutions must do to attract and keep citizens' attention to political debate?

[4] http://desafio.leg.br/desafios/app-legislativo/index.html
[5] http://desafio.leg.br/desafios/novo-portal/index.html

As a result, the group agreed on and defined the directions and lines of actions that will drive that organizational unit from now on[6].

Another collaborative way citizens may participate in innovative ways is to improve parliament´s services. This is an example of how citizens' participation helped to redesign an already existing service:

The Interactive hearing [7]application allows citizens to watch the committee hearings online and send questions to Members attending the meeting. After significant contributions from both citizens and committee staff, it was completely re-designed leading to major improvements in usability.

These initiatives illustrate that it is perfectly possible to invite society to participate not only in the political environment, but also in the innovation process of the parliament itself. As a result, we can offer better citizens-oriented products and services, using their own language and expertise.

Mr Christophe PALLEZ (France) asked if the project that had won had subsequently been able to create a new website.

Mr BARRETO said that it had been a manner for society to participate in the creation of the website.

Mr Philippe SCHWAB, President, thanked Mr BARRETO for his communication. He proposed that, as the Association was ahead of its timing, the four candidates for the vacant posts of ordinary members of the Executive Committee should make a short presentation at the end of that day's session.

** Coffee break between 3.17 pm and 3.40pm **

4. Communication by Mr Ali YILDIZ, Secretary General of the Parliamentary Assembly of Turkic-speaking countries: "The participation of society in the innovation process in parliaments"

Mr Philippe SCHWAB, President, invited Mr Ali YILDIZ, Secretary General of the Parliamentary Assembly of Turkic-speaking countries, to make his communication

Mr Ali YILDIZ (TURKPA) spoke as follows:

First of all, I would like to extend my gratitude to Mr. Philippe SCHWAB, President of the Association of Secretaries General of Parliaments (ASGP) for inviting me to

[6] https://medium.com/labhacker/n%C3%B3s-do-lab-colabora%C3%A7%C3%A3o-e-inova%C3%A7%C3%A3o-em-debate-ed8ec973d27

[7] https://edemocracia.camara.leg.br/audiencias/

attend such an august gathering and giving me an opportunity to address such an honorable audience.

Parliamentary Assembly of Turkic Speaking Countries (TURKPA) participates in ASGP Sessions as an Associate Member since 2010. It is the first time I participate in the ASGP Session in my capacity as the TURKPA Deputy Secretary General. With your permission, I would like to inform you shortly on the history and latest developments of TURKPA.

TURKPA is the parliamentary dimension of cooperation among Azerbaijan, Kazakhstan, Kyrgyzstan and Turkey. TURKPA was established upon the Istanbul Agreement signed on 21st of November 2008 at the Dolmabahche Palace by the Heads of Parliaments of the Republic of Azerbaijan, Republic of Kazakhstan, Kyrgyz Republic and the Republic of Turkey. TURKPA acts strictly in line with the United Nations' Charter and acts in a very transparent manner.

TURKPA has an intention to render assistance in further development of political and economic dialogue among the countries bound by ethnic, cultural and historical ties and create favourable condition for elaboration and implementation of different initiatives having the purpose of maintaining regional and global security by means of parliamentary diplomacy as the qualitatively new stage of inter-parliamentary cooperation. One of the main tasks of TURKPA is the establishment of new relations and development of existing ones with other national parliaments and international organizations in the region and all over the world. In this regard, cooperation with ASGP is of utmost importance for us since all TURKPA member parliaments participate in ASGP activities. Such activities represent particular importance for all parliaments and international organisations, as it turns our focus towards the result-oriented approach and achieving practical results stemming from the activities of institutions we represent.

Information and communication technologies (ICT) have three important dimensions: communication, dissemination of information and information management. The dimensions of the new technologies affect all the functions of the parliament and the most important dimension that influences the parliament's representative function is communication. E-mail, web site, web-based forms, message boards, online forums, e-consultants, parliamentary wireless network, internet access to the parliamentary network are some of the most important tools of new technologies used for communication dimension.

Political, administrative and socio-economic structures of countries have been markedly affected by ICT in recent years. Since the parliament itself is a public institution, the information it has created must also belong to the whole society. One of the most effective ways to ensure openness and transparency of parliamentary information is the widespread use of digital technologies in the work of the legislative body.
I would like to mention that TURKPA member countries attach particular importance to innovation process in their respective parliaments with a view to incorporate the dynamics of the society as well. I want to stress that the theme of the last TURKPA Plenary Session which was held on 7-8 December 2017 in Bishkek,

capital of the Kyrgyz Republic was: “Openness and Transparency of the Parliament: New Technologies in Decision-Making”. Fruitful discussions have been held on this very important subject and Speakers of TURKPA Parliaments showed their dedication to ensure the utilization of ICT in parliamentary work by adopting a declaration with important guidelines on this issue.

TURKPA member countries on the other hand have certain important experiences in this field. All TURKPA member parliaments are trying to use new technologies in their websites in a multidimensional way by directly developing democracy, increasing transparency, ensuring citizen participation, making the legislative process faster, more effective and cheaper, developing relations with public institutions, and so on. For the past 10 years audio stereograms are recorded and indexed during the sessions and made immediately available to the public. The experience of several countries, including European countries has been utilized in this process. In addition, electronic protocols of parliamentary sessions are drawn up in a timely manner and the entire process from creation until the moment the law and draft decisions have been adopted is digitalized and put into the intranet network.

I would like to underline that the TURKPA member parliaments have a long way to go as far as the incorporation of the ICT fully in the sphere of parliamentary business is concerned. However the member parliaments are working very hard and achievements so far give us huge optimism in this regard.

Esteemed colleagues,

I once again would like to thank the hosts for their excellent arrangements and cordial hospitality and looking forward meeting you and working together in the future occasions.

Mr Philippe SCHWAB, President, asked whether the members of TURKPA were members of national parliaments, or whether they were elected directly.

Mr YILDIZ said that the members were all MPs in their own countries, and were subject to no further election. There were nine from each country. The plenary sittings were held in each of the countries in rotation.

Mr Charles ROBERT (Canada) asked whether there were benchmarks that TURKPA had identified to assess its contribution.

Mr YILDIZ said that many countries had celebrated their independence in the 1990s after the end of the Cold War. The objective of TURKPA was to bring parliamentarians from some of these countries together, and to give them a platform. It was like a micro-climate to assist parliamentary development.

Mr Christophe PALLEZ (France) wanted to know if TURKPA took an interest in Turkish-speaking minorities living in various countries across the world.

Mr YILDIZ said that TURKPA was seeking to add new members, and hoped that Uzbekistan would become a member in due course. Some countries participated in cultural activities even though they were not yet members. Turkic minorities from Russia and other countries also participated from time to time.

Mr Saïd MOKADEM (Maghreb Consultative Council) wanted to hear more about the legal status of this assembly, notably whether it had a Council that could make recommendations. He asked to whom the committees addressed their recommendations. He also asked whether there was any intention to create a common law between the member countries.

Mr YILDIZ said that staff coordinated the activity of the various committees. Recommendations are sent to any parliaments concerned. They were of course not binding, and the parliament concerned could act as it saw fit. There was also a Council composed of the Speakers of each of the four parliaments. In the plenary, reports and declarations were accepted. The Assembly was also trying to harmonise legislation, for example in the area of combating terrorism.

He invited members of the Association to visit the website at www.turkpa.org. It was in English and the four languages of the parliamentary assembly.

Mr Philippe SCHWAB, President, thanked Mr YILDIZ for his communication.

5. Elections

Mr Philippe SCHWAB, President, announced that four candidacies had been received for the two vacant posts for ordinary members of the Executive Committee.

The first candidate was Mr Charles ROBERT from Canada, the second was Mrs Lydia KANDETU from Namibia, the third was Mr Dhammika DASANAYAKE from Sri Lanka, and the fourth was Mrs Hajer SAHROUI from Tunisia.

Mr Charles ROBERT (Canada) said that he had been a member of the parliamentary staff in Ottawa for 38 years. He had been the Clerk of both the House of Commons and the Senate. In attending as a member of the association he had come to appreciate the opportunity for members to meet one another and to discuss the practices of various countries. The contacts helped to build up the profession. Canada had benefited from its membership of the ASGP and had been inspired by the kind of work developed by it. In Canada some programmes had been developed in direct response to work carried out in the ASGP, and was a way for Canada to give back by helping to develop democracy worldwide.

He would like to bring that type of work to the Executive Committee if elected. He would like to cap his career by bringing to the ASGP his own meaningful contribution.

Mrs Lydia KANDETU (Namibia) said that she had worked for the Namibian government for the last 35 years, and was about five years from retirement. Of the 35

years that she had worked for the government, eight of them had been in the National Assembly. She had two masters degrees, in business administration and public policy.

The Namibian parliament had been hosting many international meetings, She was also a member of the Pan-African Parliament. Recently, Namibia had hosted a team from the IPU to discuss women's issues.

She was delighted to be at the ASGP because she had learned a great deal. In particular she was keen to participate in the Centre for Innovation in Parliaments.

Mr Dhammika DASANAYAKE (Sri Lanka) said that his parliament had 225 members and was unicameral. He was a lawyer by profession, and his first occupation had been with the Attorney General's Department. He had joined parliament in 1994. Since 2012 he had been the Secretary General. He first began to attend the ASGP in 2003, and had attended every meeting since 2012.

His main challenges were administrating the parliament and providing advice to the Speaker. He had been one of the expert members to conduct the needs assessment of the Afghan parliament in 2006 on behalf of the IPU. He had also helped the Laos parliament at the invitation of the UNDP and IPU. He helped the CPA with staff training.

He felt that his institutional knowledge, dating back 24 years, would enable him to make a substantial contribution to the ASGP Executive Committee. He hoped he would have the opportunity to serve.

Mrs Hajer SAHROUI (Tunisia) said that she would make her communication in English and French, and she also spoke Arabic. She felt that it was important that members of the Executive Committee could speak all three of those languages.

She had studied at the ENA in Tunisia, and afterwards in Paris, and had begun her career at the Assembly of Representatives of the People, where she had been Director General of Ways and Means and where, afterwards, she had been nominated Secretary General. When she had been nominated, the secretary general was responsibly only for legislative matters, but she had succeeded in linking the legislative and the administrative functions. This example demonstrated that, even if usually it was necessary to have experience within the ASGP to become a member of the Executive Committee, exceptions could be made for those with broad relevant experience in other contexts.

She wanted to take advantage of the experience of other members to the benefit of her own Assembly. One of her priorities would be to ensure that there were groups and committees on development. Young parliaments needed to be supported. She wanted to implement a system to improve collaboration between parliaments.

Mr Philippe SCHWAB, President, noted that the election would take place the following day at 11am. He invited all members to check the lists. Only full members

could vote, and only if they did not have arrears in subscription payments of two years or more. Proxies also needed checking.

The votes would be counted by the two joint secretaries, observed by the President and two members of the Executive Committee, **Mr José Manuel ARAÚJO** and **Mr Allam Ali Jaafer AL-KANDARI.**

6. Concluding remarks

Mr Philippe SCHWAB, President, announced that the Association would meet the following morning at 10.30 am.

The sitting ended at 4.32 pm.

FIFTH SITTING

Wednesday 28 March 2018 (morning)

Mr Philippe SCHWAB, President, was in the Chair

The sitting was opened at 10.33 am

1. Introductory remarks

Mr Philippe SCHWAB, President, welcomed everyone to the sitting.

2. Orders of the day

Mr Philippe SCHWAB, President, noted that there were no modifications to the orders of the day.

The orders of the day were agreed to.

3. New Member

Mr Philippe SCHWAB, President, said that the secretariat had received one request for membership which had been put before the Executive Committee and agreed to, as follows:

Mr Gholamreza NOURI GHEZELJEH Deputy Secretary General of the Islamic Parliament of Iran

The new member was agreed to.

4. Communication by Mr Charles ROBERT, Clerk of the House of Commons of Canada: "Free speech and parliamentary privilege in plenary sittings"

Mr Philippe SCHWAB, President, invited Mr Charles ROBERT, Clerk of the House of Commons of Canada, to make his communication.

Mr Charles ROBERT (Canada) spoke as follows:

[PowerPoint presentation is available here.]

Mr Geert Jan HAMILTON (Netherlands) asked whether there were many court cases in Canada that concerned matters of slander, and what role the court played in such cases. In the Netherlands, privilege applied to statements made in parliament,

but the Speaker had the power to strike remarks off the record where they were deemed to be slanderous.

Mr Lutgardo B. BARBO (Philippines) said that debate was embedded within a democratic system, and that therefore some derogatory statements were to be expected. He was not of the belief that all derogatory statements should be expunged from the record. It could not be helped that parliaments stood up and said that a president was becoming abusive or corrupt. This was not insulting but in the interests of the electorate. This was a political issue that only the parliament itself could decide.

The Philippines wanted to change its system of government from a presidential to a federal system. He did not believe that the President should have the right to dissolve the Parliament just because of a lack of courtesy to him.

Mr Liam LAURENCE-SMYTH (United Kingdom) said that it was difficult to formulate a question in response to such a complicated topic. The United Kingdom did not have a single, written constitution, nor did New Zealand. New Zealand had decided to pass a statute to codify privilege, but the UK had decided not to.

He asked how to protect the importance of parliament being allowed to discuss and legislate on matters currently before the courts. He also asked about whether the possibility of bringing cases for slander risked creating separate laws for the rich and poor.

Mrs Hajer SAHROUI (Tunisia) asked about the separation of powers of the judiciary and the legislature.

Mr ROBERT said that there was ample scope for further discussion of such a big topic. There had been no cases of slander before the courts, but since 1982 there had been four higher court cases involving privilege. In the lower courts there had been dozens. The rules governing this needed to be updated.

He had used the example of freedom of speech because, if a rule was established about what members could or could not do, they would be able to regulate themselves better than if no limits were placed on what they could do.

Defamation laws tended to be quite narrow. It was possible to make quite robust statements without being defamatory. Canadian members were not allowed to criticize the Queen or judges because they had no capacity to respond.

He said that, in the model that he would advocate, questions of defamation should not be settled by the courts, but resolved internally. Codifying privilege would give parliament the power to regulate its affairs in this regard. It would also avoid the concern about differential treatment of the rich and the poor. The success of such a proposal would rely on privilege becoming codifying.

Mr Philippe SCHWAB, President, thanked Mr ROBERT for his communication.

5. Election for the four vacant posts of ordinary member of the Executive Committee

Mr Philippe SCHWAB, President, invited Mr Allam Ali Jaafer AL-KANDARI to make a short statement.

Mr Allam Ali Jaafer AL-KANDARI (Kuwait) proposed the publication of a short booklet containing information about all ASGP members, for the benefit of the members. This would be carried out at the expense of the National Assembly of Kuwait and with the cooperation of the co-secretaries.

Mr Philippe SCHWAB, President said that this proposal had been agreed by the Executive Committee.

Mr Philippe SCHWAB, President, invited members to cast their vote by secret ballot.

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Voting took place between 11.05am and 11.20m. Counting took place between 11.20am and 11.34am. The election was conducted by Mrs Perrine PREUVOT, Mrs Emily COMMANDER and Mr Daniel MOELLER observed by Mr Philippe SCHWAB, Mr Allam Ali Jaafer AL-KANDARI, and Mr José Manuel ARAÚJO.

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Mr Philippe SCHWAB, President, announced the results of the election, as follows:

Number of ballots cast:	**65**
Number of spoiled ballots:	0
Abstentions:	0
Mr Charles ROBERT (Canada):	**41 votes**
Mrs Lydia KANDETU (Namibia):	**28 votes**
Mr Dhammika DASANAYAKE (Sri Lanka):	**21 votes**
Mrs Hajer SAHRAOUI (Tunisia):	**26 votes**

Dr KIM Sung Gon (Republic of Korea) said that he would like to have a list of all the people present with their contact details, and he would like information on forthcoming events and a resumé of the present meeting.

Mr Philippe SCHWAB, President, said that all this information was available on the website at www.asgp.co.

6. General debate: Judicial scrutiny over internal parliamentary affairs

Mr Philippe SCHWAB, President, invited Mr Jose´ Manuel ARAU´JO, Deputy Secretary General of the Assembly of the Republic of Portugal, to moderate the general debate,

Mr Jose´ Manuel ARAU´JO (Portugal) spoke as follows:

[text of the contribution is not available]

Mrs Hajer SAHRAOUI (Tunisia) underlined the difference between parliamentary administrative acts, which could be subject to judicial review, and legislative acts, which could not. She asked if the decisions taken by the bureau of an assembly could be subject to judicial review even if they were linked to the legislative function.

Mr Mehmet Ali KUMBUZOĞLU (Turkey) asked whether minutes or a verbatim report were kept, and whether any unparliamentary language could be removed from the record.

Mr Manuel CAVERO (Spain) said that, in Spain, there was a constitution, which stated that all bodies, including the parliament, had to comply with the provisions of the constitutional. This meant that legislation and matters of procedure could be examined by the constitutional court. The constitution gave a fundamental right to members to exercise their function with no limits to their rights. If any decision by parliament restricted the right of members to carry out their functions this could be something that was reviewed by the court. A recent decision had gone against the Senate, which had sought to restrict the right of members to form a parliamentary group. In human resources and public tenders, matters could also be taken to the constitutional court.

Mr Geert Jan HAMILTON (Netherlands) said that, in the Netherlands, the situation was totally contrary to that in Spain. There was no constitutional court, which meant that the constitutionality of new laws could not be tested in front of a court. Parliament itself had to examine the constitutionality of any new proposal.

Conflicts amongst parliamentarians or groups about the application of the rules of procedure had to be resolved by parliament itself. There was a college of seniors, or group leaders, which would deal with any conflict, as well as the staff, who were the procedural experts.

Employment matters could, however, go to court. Issues relating to civil servants were resolved by the civil service.

Mr Simon BURTON (United Kingdom) asked about the role of the administrative court in relation to employment matters, and the extent to which privilege would apply if the matter concerned related to a member.

Mr Kennedy Mugove CHOKUDA (Zimbabwe) said that a member had taken parliament to court for a breach in its own rules. Parliament was obliged to follow its own procedures to the letter, and the court would only become involved if it breached its own procedures. All other matters were resolved internally.

Ms Jane LUBOWE KIBIRIGE (Uganda) said that, in Uganda, there were no audit courts, but the Auditor General was an officer of parliament, and also audited the Parliamentary Commission. There was also a constitutional court under the judiciary. Parliament was being sued in the constitutional court about an amendment to the constitution passed the previous year as a result of a private member's bill.

Mr ARAU´JO said that he had no direct response to the questions but that it was clear that there was a conflict between the administrative function and the political system.

In relation to the question posed by the United Kingdom, he said that any decision taken by the parliamentary hierarchy could become subject to appeal to the administrative court.

Parliament was able to resolve problems internally by having recourse to its own rules of procedures. At the last election, a political party had elected a single MP and asked the Speaker to participate in a conference from which he had been barred. The Speaker allowed him to attend as an observer. There were two organs of appeal: the Speaker, and the plenary. However, some issues, such as the lack of respect, could be solved using the constitutional court.

In Portugal oversight of the constitution was conducted by the constitutional court on the basis of demands made by MPs. But the normal courts could also decide on issues of constitutionality. He asked whether there was a similar system in the Netherlands.

Mr Philippe SCHWAB, President, thanked Mr ARAU´JO for his moderation and thanked members for the contributions they had made to the debate.

7. Concluding remarks

Mr Philippe SCHWAB, President, concluded the sitting.

The sitting ended at 12.30 pm.

SIXTH SITTING

Wednesday 28 March 2018 (afternoon)

Mr Philippe SCHWAB, President, was in the Chair

The sitting was opened at 2.33 pm

1. Introductory remarks

Mr Philippe SCHWAB, President, welcomed everyone back.

2. Presentation on recent developments in the IPU

Mr Philippe SCHWAB, President, invited Mr Tom MBOYA from the IPU to provide an update on the working lunch on the Centre for Innovation in Parliament, and Mrs Kareen JABRE, IPU Director, Division of Programmes, to present the recent work of the IPU to the Association.

Mr Tom MBOYA (IPU) thanked members for their attendance at the working lunch. A wide range of countries had participated in the work. The project had been divided up on both a regional and thematic basis.

The main conclusions that arose from the discussions were:

a) There was a need for political support for the project, perhaps initiated by means of a conference of Speakers or a presentation to the IPU General Assembly.

b) The issue of who would bear the cost of the Centre for Innovation in Parliament was a difficult one. There were opportunities for both central and regional fundraising, and these were conversations that needed to be held.

c) The core aim was for hubs to serve as a reference point for all matters on technology and e-parliament, and to act as a knowledge platform. They should be a resource for all parliaments within a particular region.

d) The content generated needed to be able to function at various levels, to accommodate the needs of different parliaments with different levels of experience.

e) It would be necessary to develop a common vocabulary to ensure that the same terminology could be used everywhere in the world.

f) Ease of use was key, and the production of lengthy guidebooks was to be avoided.

g) It was important to digitize records, and ensure wholly paperless working, and to do this it may be necessary to train parliamentarians in the use of the available technology.

h) Information security was a fundamental consideration.

Although the lunch had been organized on a regional basis, some thematic hubs were also in the pipeline. It was clear that there was enthusiasm for the Centre from secretaries general. The IPU was engaged because the Centre would enable the organization to fulfil a key aspect of its core mandate.

The IPU also sought input from the ASGP on the Global Parliamentary Report.

Mr Philippe SCHWAB, President, thanked Mr MBOYA for his presentation and said that the ASGP would look forward to receiving an update from him on the Centre for Innovation in Parliament the following October.

Mrs Kareen JABRE (IPU) talked about the IPU's 2015 study on violence against women in parliament. 55 female MPs had been interviewed across nearly 40 countries. 53 chambers explained what they did to address the issues faced by women in terms of harassment and sexism.

There was a troubling prevalence of violence against women, particularly psychological violence, across all regions. It had been clear that social media was a channel for much of the abuse. 65% of respondents had been subjected to sexist remarks.

Some aggravating factors were identified: young women, opposition MPs, and representatives of minorities were more likely to experience this phenomenon.

The study found some initiatives to address the problem in parliaments, but they were not fully sufficient. Most of the mechanisms available were not specifically targeted at violence against women, but against harassment and violence more generally.

The IPU had begun a campaign to try to address the issue and raise the visibility of it. Two initiatives had begun that would be of relevance to the ASGP. The first was a regional study initiative, which hoped to report by the end of 2018, and the second was the production of guidelines.

The study had been expanded to cover parliamentary staff as well as female MPs. The IPU would return to secretaries general to find out about more about the initiatives that they had place. It was also calling upon men in parliament to give personal accounts of how they tackled the issue.

The IPU also sought help from the ASGP on the development of guidelines, possibly by means of the establishment of a working or consultative group.

Mr Simon BURTON (United Kingdom) asked for copies of the slides to take back to the UK.

Mr Philippe SCHWAB, President, said that the problem of violence, harassment and abuse was widespread and was an issue that it was extremely important to address.

3. Administrative questions

Mr Philippe SCHWAB, President, asked members whether they had any administrative questions to raise.

Mr Liam LAURENCE-SMYTH (United Kingdom) said that the idea of holding informal discussion groups based on linguistic groups was an excellent one, but that the English-speaking group had been relatively unworkable because of its size and the lack of microphones.

Mr Philippe SCHWAB, President, replied that the Executive Committee would try to accommodate this request at the following session.

4. Draft agenda for the next meeting in Geneva (Switzerland), 14 – 17 October 2018

Mr Philippe SCHWAB, President, presented the draft agenda for the next meeting, due to take place in Geneva, Switzerland, from 14 to 17 October 2018, as follows:

- **Possible subjects for general debate**

1. **Collaboration between parliament and the government in the planning and organisation of parliamentary work**

   Moderator: Ms. Jane LUBOWA KIBIRIGE, Clerk to the Parliament of Uganda

2. **Judicial scrutiny over internal parliamentary affairs**

3. **Anti-parliamentary sentiment and ethical considerations in the civil service**

- **Communications**

Theme: In the news

Article 155 of the Spanish constitution in relation to events in Catalonia

Mr Manuel CAVERO, Secretary General of the Senate of Spain

Brexit (title to be confirmed)

Secretaries General of Germany and Ireland (to be confirmed)

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The formation of a government in a multi-party democracy

Mr Geert Jan A. HAMILTON, Clerk of the Senate of the States General of the Netherlands

Free speech and parliamentary privilege in plenary sittings

Mr Charles ROBERT, Clerk of the House of Commons of Canada

The new system for the automatic recording and transmission of minutes in the plenary

Mr Najib EL KHADI, Secretary General of the Chamber of Representatives of Morocco

National Assembly of the Republic of Serbia: committed to openness and transparency

Ms Svetislava BULAJIC, Secretary General of the National Assembly of the Republic of Serbia

Other business

1. Presentation on recent developments in the Inter-Parliamentary Union
2. Administrative questions
3. Draft agenda for the next meeting in October 2018 in Geneva (Switzerland)

Mr Philippe SCHWAB, President noted that any proposals arriving after the deadlines specified in the document would be referred directly to the Executive Committee for decision.

5. Concluding remarks

Mr Philippe SCHWAB, President, said he wanted to congratulate two colleagues on their retirement. The first was Mrs Juliet Undjee MUPURUA from Namibia.

Mrs Juliet Undjee MUPURUA (Namibia) said that she had started working in parliament in 2011. She wished her colleagues the courage to run their parliaments responsibly.

Mr Philippe SCHWAB, President, said he also wished to thank Mr Geert Jan HAMILTON a very happy retirement in the Netherlands. He had been a long-serving and dedicated member of the Association and the Executive Committee.

Mr Geert Jan HAMILTON (Netherlands) said that he had always enjoyed the ASGP, and that it had always been a force of importance in the world. There was no global organization for presidents, prime ministers or speakers, but the ASGP did bring together all the secretaries general. He had always returned home full of new

ideas, and he had tried to contribute himself. It was to the good of democracy and the rule of law, and even to the wellbeing of citizens. He was sure the organization would flourish under the leadership of Mr SCHWAB.

Mr Philippe SCHWAB, President, noted that no parliament would be the same without its staff, and that similarly the ASGP would not be the same without its secretariat, whom he thanked for their hard work.

He also thanked the interpreters, who had worked hard to interpret into and out of the widest yet range of languages.

Finally, he thanked the members of the Executive Committee, and of the wider Association for their hard work and commitment.

He closed the sitting.

The sitting ended at 4.06 pm.