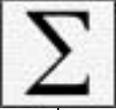


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**RELATIONS BETWEEN SUPREME AUDIT INSTITUTIONS AND PARLIAMENTARY  
COMMITTEES**

**SIGMA PAPERS: No. 33**

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## THE SIGMA PROGRAMME

SIGMA - Support for Improvement in Governance and Management in central and eastern European countries - is a joint initiative of the OECD and the European Community created in 1992. The initiative supports public administration reform efforts in 15 countries in transition - ten candidate countries and five in the Western Balkans - and is principally financed by the European Community.

The Organisation for Economic Co-operation and Development is an intergovernmental organisation of 30 democracies with advanced market economies. Its Centre for Co-operation with Non-Members channels the Organisation's advice and assistance over a wide range of economic issues to reforming countries in Central and Eastern Europe and the former Soviet Union. The European Community provides grant financing to support its partner countries in Central and Eastern Europe to the stage where they are ready to assume the obligations of membership of the European Union.

SIGMA works within the OECD's Public Governance and Territorial Development Directorate (GOV). GOV provides information and expert analysis on public management to policy-makers and facilitates contact and exchange of experience among public sector managers from OECD Member countries. SIGMA offers to beneficiary countries access to a network of experienced public administrators, comparative information, and technical knowledge, drawing on the networks and outputs of GOV.

- SIGMA's prime role is to assist reforms and to do this it deploys a range of technical assistance methods. It works in partnership with beneficiary countries with the aim to:
  - Assess reform needs and identify priorities against baselines and a methodology agreed with the appropriate Commission services which reflect good European practice and the *acquis communautaire*.
  - Assist decision-makers and administrations to set up organisations and procedures which meet European standards and good practice and promote adherence of public sector staff to democratic values, ethics and respect of the rule of law.
  - Assist assistance to beneficiary countries and contribute to co-ordination of donor activities by helping design projects and provide complementary support, including bridging, definition of ToRs, participation on evaluation committees, and providing parallel inputs or additional comparative perspectives.

SIGMA had invested in communication tools for its work, mainly in the form of publications and a website of comparative knowledge to promote a sense of professional community and to spread good ideas. However, since 2000, this has been maintained at minimum level. As from March 2002, SIGMA has produced a quarterly Newsletter of the Working Groups of the Presidents of the State Audit Institutions (SAIs) of EU Candidate Countries, Albania, Croatia and the European Court of Auditors. Both the Newsletter and all publications can be freely downloaded from the SIGMA Website.

Throughout its work, SIGMA places high priority on facilitating co-operation among governments. This practice includes providing logistical support to the formation of networks of public administration

practitioners in Central and Eastern Europe, and between these practitioners and their counterparts in other democracies.

Candidates: In September 2002, the European Commission and the OECD agreed the terms of reference for a further extension of the SIGMA Programme until end-2004. A SIGMA team of experts is continuing to work with ten candidates for membership of the European Union (Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia). Activities are focused on preparing the candidate country administrations for entry into the EU and include financial control, external audit, civil service and administrative reform, with an emphasis on ensuring the sound management of the EU's pre-accession funds and aimed at complementing the EU's Twinning Programme. In addition, for Bulgaria and Romania, the focus is broader to respond to the special needs of these two countries.

Western Balkans: In 2001, the European Community agreed the terms of reference for the SIGMA Programme to set up a second team of experts to work until end-2003 with five countries in the Western Balkans - Albania, Bosnia-Herzegovina, Croatia, the former Yugoslav Republic of Macedonia and the Federal Republic of Yugoslavia. Particular emphasis is given to civil service and administrative reform, strengthening policy capacities, public expenditure management, financial control/external audit, public procurement and concessions. In addition, the Commission has requested SIGMA to service tax administration and international trade. These activities are carried out in collaboration with the OECD Tax Centre and Trade Directorate.

The Western Balkans contract is particularly designed to allow these countries to benefit from candidate country experience via the networks of public administration practitioners in Central and Eastern Europe, established by SIGMA over the last decade.

Turkey: SIGMA is now providing assistance, under separate EC grants, to the Turkish Ministry of Finance on Public Financial Management and Internal Financial Control and the development of the public procurement system.

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## FOREWORD

The SIGMA Paper is drawn from a report on relations between Supreme Audit Institutions and parliamentary committees, prepared for the network of Presidents of the Supreme Audit Institutions of Central and Eastern Countries, Cyprus, Malta and the European Court of Auditors, as part of their efforts to prepare candidate countries for eventual membership of the European Union. It was written primarily for use by those organisations but SIGMA does believe it also has wider interest. The principal contributors of this paper were the Supreme Chamber of Control of Poland and the National Audit Office of Malta, represented by Jacek Mazur and Brian Vella respectively; supported by Jan Pieter Lingen and Chris Kok from the European Court of Auditors; SIGMA expert Harry Havens; former SIGMA staffer Bo Sandberg; and SIGMA staffer Nick Treen. Participating in the work of the liaison officers were the Supreme Audit Institutions of Albania, Bulgaria, Croatia, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, the Slovak Republic and Slovenia who all supplied valuable data to provide the basis of the report. In addition, the report incorporated material prepared by the Supreme Audit Institutions of Canada, Denmark, Ireland, Israel, the Netherlands, Norway, Portugal, UK, the European Court of Auditors; and SIGMA.

SIGMA is publishing this paper in the belief that the information it contains should be of broad interest to those involved in or concerned about this important set of relationships. The work of an SAI, and its relations with parliament are key factors in a strong chain of accountability and the effectiveness of public sector governance.

SIGMA thanks the many contributors and participating institutions for the effort that went into assembling the data supporting the original report, analysing it, reaching useful conclusions and preparing the report, as well as for permission to make the results available to a wider audience.

This document has been produced with the financial assistance of the European Community. The views expressed herein are those of SIGMA and can therefore in no way be taken to reflect the official opinion of the European Community or of the OECD.

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This and other SIGMA Papers are available at the SIGMA Website: [www.oecd.org/sigma](http://www.oecd.org/sigma)

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## EXECUTIVE SUMMARY

### Background

The report<sup>1</sup> from which this SIGMA paper was drawn, was prepared with the co-operation of the Supreme Audit Institutions (SAIs) of the Central and Eastern European Countries, Cyprus, Malta and the European Court of Auditors by the SAIs of Malta and Poland, supported by SIGMA. It is a product of the collaborative activities that have taken place within the network of the presidents of these SAIs. The objective was to examine relations between the participating SAIs and their respective parliaments -- especially the Audit Committees of those parliaments - and to suggest ways in which those relations could be improved to their mutual benefit.

Information about the current situation was gathered by questionnaires from the participating SAIs. The responses showed considerable diversity (See chapter 2). Data was also gathered about other countries (see Annexes 1-11) in order to identify good practices that might be usefully applied (see Chapter 3).

The Presidents of these SAIs resolved (during their annual meeting held in 2001 in Limassol, Cyprus), to widely publish the results of this work, and SIGMA has prepared this paper in support of this aim.

### Good Practices

The report contains two sets of recognisable good practices, appearing in Chapter 3, based on the analysis of information that was gathered. The first set is directed towards SAIs and is intended to enhance their overall effectiveness and to assure that they are fully prepared to work with parliament and its committees. These include the following:

- Set and adopt appropriate auditing policies and standards, and assure that they are implemented.
- Write audit reports in a clear and concise, fair and factual manner, avoiding political statements.
- Adopt and enforce appropriate ethical standards.
- Give appropriate - but not exclusive - consideration to parliamentary concerns in setting audit priorities.
- Be selective in deciding which audit reports to submit to parliament by sending it only those reports which clearly merit parliamentary attention and which include a clear statement of why the report is being sent to parliament.

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1 . The full version of the report is available at [www.nik.gov.pl](http://www.nik.gov.pl)

- Consider the establishment of a separate unit or person to co-ordinate the SAI's contacts with parliament to facilitate communications and help assure SAI awareness of parliamentary needs and interests.
- Follow-up actively and methodically on previous audit findings and inform parliament of any patterns of inaction on important problems.
- Avoid commenting directly on government policies but recognise that disclosure of implementation problems may raise questions about the underlying policies.

The second set of suggestions involves actions that parliament could take to enhance its working relations with the SAI and its oversight of government activities. In discussing these matters with members of parliament, SAIs are cautioned to scrupulously avoid any appearance of instructing parliament on how to carry out its constitutional responsibilities. These suggestions include the following:

- Assure in the state audit legislation that the SAI is independent of both the government and parliament.
- Appoint the SAI Head in a way that assures broad confidence and support in parliament.
- Designate a parliamentary committee (PC) to oversee SAI finances (without interference from government) and to review - but not direct - its performance. Parliament should ensure that the SAI itself is independently audited to the same standards that are applied by the SAIs to its auditees.
- Specify clearly the types of audit reports to be presented to parliament, but be selective and leave the task to the discretion of the SAI, where possible.
- Inform the SAI of parliamentary interests, including suggested audit topics, but leave final decisions on audit priorities to the SAI.
- Require that all audit reports, unless restricted for specified reasons, be made public within a reasonable period of time.
- Because of the important role of parliamentary committees in using the SAI's work and in overseeing the government, establish rules for the operation of parliamentary committees (see the SIGMA practical checklist in Annex 1, Appendix B) and provide them with adequate staff support.
- Ensure that the appropriate parliamentary committee takes prompt cognizance of SAI audit reports.
- Parliamentary committee meetings can be important vehicle for drawing attention to problems revealed in SAI audit reports. PC meetings should be open to the public and media (unless restricted for specified reasons), and should be attended by officials from the SAI and the auditee, in order to maximise their effectiveness. PC members should prepare for such meetings by developing questions to be asked and obtaining additional information, as deemed necessary.

- At the conclusion of parliamentary committee meetings or otherwise, a PC may deem it appropriate to initiate its own actions in response to an SAI audit report. Such actions should, if possible, reflect unanimous agreement among PC members, as this would maximise their effectiveness. Technical assistance should be sought from the SAI, if deemed useful. The government should be required to respond to reports and other actions taken by the PCs and the SAI, and the PCs and the SAI should follow-up on the government's actions.

These recommendations to the SAIs and suggestions for parliaments grow out of a recognition that, ideally, there is a symbiotic relationship between an SAI and the parliament to which it reports. These two important, but separate, institutions have mutually supporting roles in assuring effective governance. Parliament can perform its vital oversight functions most effectively when it uses, and can rely upon, the auditing work of the SAI. Similarly, an SAI can be much more effective when parliament and its committees provide both a forum, for the presentation and discussion of the SAI's important audit results, and, a potential ally in taking or strongly encouraging others to take appropriate corrective actions.

## CHAPTER 1: INTRODUCTION

1. The Presidents of the Supreme Audit Institutions (SAIs) of the Central and Eastern European Countries, Cyprus and Malta and the European Court of Auditors, at their meeting in Sofia on 7 and 8 December 2000, requested the Supreme Chamber of Control of Poland and the National Audit Office of Malta (Brian Vella, Malta, and Jacek Mazur, Poland were appointed to act as co-rapporteurs), to prepare a report on relations between Supreme Audit Institutions and parliamentary committees. The report would be presented to the next meeting of the Presidents taking place in Cyprus in November 2001.

### **Importance of Relations between SAI and Parliament/Parliamentary Committees (PCs)**

2. Accountability, transparency and value for money, in the use of public funds, are essential elements of democratic government. The Executive Government is expected to account for its stewardship of taxpayers' money to the elected representatives in parliament and to the public in general. SAIs can make a very important contribution to this stewardship process by providing an independent review, information, assurance and advice on the accounts presented by the Executive, as well as on the execution of the programmes, projects, initiatives and other activities embarked upon by government.

3. SAIs in democratic countries all over the world therefore endeavour to ensure that they report freely and independently and that their audit findings and recommendations are given due attention and are acted upon. Ideally SAIs and parliaments are both elements of a balanced system of accountability of government. Government is accountable for the way it executes the state budget as approved by parliament.

4. As a part of its control and scrutiny task, a parliament examines the execution of the State budget, and either formally (as in the case of a discharge procedure) or informally (implicitly) gives a political opinion on the way government has executed the budget. The SAI contributes to this role of parliament by delivering the results of its audits.

5. A central objective of this accountability system, in which the SAI is to play a decisive role as a professional and independent organisation, is to guarantee that public funds are spent in a regular and efficient way, and that possible deficiencies are remedied in a timely and effective manner. Political attention from parliament helps to put adequate pressure on government, if necessary, and contributes to a favourable environment for a follow-up on audit observations.

6. The relationships between SAIs and parliaments vary widely among countries around the world. The SAI may be part of either the legislative branch or the executive branch, or independent of both. The wide variations reflect historic, cultural, political or other factors or influences. Virtually all SAIs, regardless of the organisational structure and formal location in the state structure, recognise the importance of assuring their independence, while at the same time ensuring that they gain appropriate parliamentary attention to audit results as an essential step in obtaining corrective action on problems revealed during the audit process.

7. Section 16 (1) of the *Lima Declaration of Guidelines on Auditing Precepts* states that:

The Supreme Audit Institution shall be empowered and required by the Constitution to report its findings annually and independently to parliament or any other responsible public body; this report shall be published. This will ensure extensive distribution and discussion and enhance opportunities for enforcing the findings of the Supreme Audit Institution

8. This concept is developed further in Sections 56 to 63 of the *INTOSAI Auditing Standards*, which concern relations between SAI and Parliament/Parliamentary Committees.

9. Recommendation five of the report: *Recommendations concerning the Functioning of Supreme Audit Institutions in the Context of European Integration* (adopted in the Prague Meeting of Presidents in October 1999) provides that:

Supreme Audit Institutions must be able to report freely and without restriction on the results of their work. Reports may be submitted to parliament and be made public

10. The importance of relations between SAI and parliament/parliamentary committees is also emphasised in government auditing theory.

11. Parliamentary committees that have contacts with SAIs have been set up in a number of countries. Their main purpose, *vis-à-vis* SAIs, is to examine in detail the audit reports by considering the SAI's observations, findings and recommendations and presenting their own comments and recommendations to parliament on government activities examined by the SAI. PCs are often viewed as a means of improving public accountability and strengthening the role of SAIs.

This report is based on the above-mentioned concepts.

### **Scope and Objectives of the Report**

12. The report concerns 14 candidate/participant countries which are currently involved in the EU accession process. They are participating in meetings of presidents of SAIs and related liaison officers and working group meetings that are regularly organised for the SAIs of these countries. The countries involved are Albania, Bulgaria, Croatia, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, the Slovak Republic and Slovenia.

13. The objective of this report is to:

- Provide an overview on the state of affairs that exists between SAIs and parliamentary committees that make regular use of/discuss SAI audit reports and/or other SAI related matters. The following areas were chosen for the study:
- Make recommendations for best practices in relations between SAIs and parliamentary committees.

- Present case studies of Supreme Audit Institution and parliamentary committee relations from a number of EU and other countries with advanced SAI/PC systems, including SIGMA papers on this subject. These are meant to act as reference point to countries wishing to review their system of SAI/PC relations.

## **Methodology**

14. A questionnaire, to gather data on the current situation, was sent to all participating SAIs, together with a letter explaining the background and objectives of the study. All SAIs duly completed and submitted the questionnaire replies. A summary of responses appears in Chapter 2.

15. The European Court of Auditors and SAIs, of countries that are considered to have a tradition of a strong SAI and good working relations with parliament and its committees, were asked to provide a short report on the relations between the SAI and parliamentary committees within their country to be used as case studies in this report. Nearly all of these SAIs responded. SIGMA contributed to this study through contributions of its own work on SAIs with an advanced SAI/PC tradition. The contributions received from the SAIs and SIGMA are found in the annexes.

16. The study, including the recommendations and suggestions of good practices appearing in Chapter 3, is largely based on SIGMA contributions, an analysis of the completed questionnaires, and country papers. Reference was also made to INTOSAI and EUROSAI papers and other literature.

## **Acknowledgements**

17. The co-rapporteurs from the Malta and Poland SAIs thanked all SAIs of the candidate/participant countries for submitting replies to the questionnaire and for their useful inputs in this study and the SAIs of Canada, Denmark, Ireland, Israel, the Netherlands, Norway, Portugal, UK and the European Court of Auditors for their contributions. Written contributions, support and advice was provided by SIGMA that especially included the executive summary and the chapter on good practices, papers on SAI/PC relations in Australia and USA, as well as papers on other countries and general sound expert advice and detailed recommendations on this theme.

18. Specific thanks go to: Jan Pieter Lingen and Chris Kok from the ECA; SIGMA, in particular Nick Treen, Esther Bright, Bo Sandberg and Harry Havens; and Iain Johnston representing the EU Contact Committee Working Group for Co-operation with Candidate Countries. Their support, advice and assistance is greatly appreciated. The co-rapporteurs also thank all colleagues from the SAIs of Malta and Poland, who helped with this paper, and especially Elżbieta Sikorska and Włodzimierz Krzynówek.

## CHAPTER 2: SITUATION IN CANDIDATE/PARTICIPANT COUNTRIES

19. This chapter summarises the current exchange of experiences reported by the SAIs of the EU candidate and other participant countries in relations with parliament.

### **Role of Parliament and Parliamentary Committees in relation to the SAI**

#### *Relations between SAI and Parliament in general*

20. Worldwide, the way the relationship to Parliament is established can be reflected in various forms, as far as the general status of the SAI is concerned:

- Some SAIs formally belong to the Executive branch, but the bulk of their work is directed to the Parliament.
- A large number of SAIs are considered as being independent from both parliament and government. This is probably the most common model, at least in Europe. Such a model does not preclude the fact that the work done is, sometimes to a significant extent, also directed to the parliament.
- Other SAIs are clearly part of the Legislative. Some of these SAIs were initially created within the executive sphere, but were subsequently transferred to the Legislative.

21. The relations between the SAI and Parliament in several countries have become significantly stronger during the past two or three decades. Previously such relations were merely an infrequent occurrence; they often just concerned the presentation of an annual report (frequently overdue) and possibly occasional detailed audit reports. In recent years, however, these relations have become of a more substantial and sometimes even day-to-day character. This change has led to a broadening of knowledge in audit related matters by members of parliament. It has also helped parliament to perform its supervisory functions over the Executive more efficiently and effectively.

22. In most EU candidate/participant countries, SAIs have close relations with the respective parliaments. Relations may be connected with the appointment/dismissal of the head of the SAI, review of audit reports, review of draft legislation (particularly in areas of financial control), review of the SAI's annual audit programme and activities, requests for audits of particular subject areas, adoption of the SAI budget, review of bills related to the SAI, etc. Relations may be directly with parliament or with the parliamentary committees.

*Parliamentary committees that have regular contacts with the SAI*

23. Current relations between SAIs and parliaments largely concern the review of annual audit programmes and activities, and the review and possibly follow-up of audit findings. These functions are primarily performed by the parliamentary committees.

24. SAIs of the candidate/participant countries co-operate with the following parliamentary committees<sup>2</sup>:

- Committees that are in charge of various branches of administration and economy, *i.e.* the committees having specific scope of responsibility such as committees on economy, transport, agriculture and health care (called branch committees). The main function of those parliamentary committees is to examine and prepare issues that are currently the object of parliament's debate and to deliver opinions on matters that have been referred to them by parliament or its speaker. Within the range determined by the Constitution and statutes, the committees also work as bodies of parliamentary review in specific areas of government activities.
- Committees responsible, exclusively or mainly, for state audit-related matters (called audit committees), can be divided into two types:
  - Public Accounts Committees, responsible mainly for inquiring into all matters related to public accounts provided for in the Constitution or referred to them by the parliament, a minister or Head of SAI (Cyprus, Malta).
  - State Audit Committees that on behalf of parliament review the operations of the Supreme Audit Institution. They provide opinions on annual audit programmes and activities, evaluate SAIs performance on a day-to-day basis, review some of the audit reports and attempt to co-ordinate SAIs relations with other parliamentary committees. Sometimes they are also responsible for the review of the functioning of all the country's other inspection and control bodies, as well as for the co-operation of these bodies with the SAI (the State Audit Committee in Hungary, the State Control Committee in Poland). A partly similar solution is the establishment of a standing audit subcommittee within a budgetary committee for the purpose of resolving questions related to the audit system, especially to activities and status of the SAI (the Czech Republic).
- Committees specifically responsible mainly for SAIs' budget related matters: the approval of the SAIs' budget, the appointment of outside auditors to audit SAI and the review of the audited accounts (the National Audit Office Accounts Committee in Malta; a similar committee in Romania).

25. The SAIs maintain regular relations with one or more parliamentary committees. The following models can be distinguished:

- Co-operation with various branch committees (Croatia, Estonia, Latvia, Lithuania, Romania).
- Co-operation with various branch committees and with a State Audit Committee (Hungary, Poland).

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2 In the case of two-chamber Parliaments, reference is to the chamber which has the right to conduct oversight of the Government.

- Co-operation with one, or mainly with one, branch committee - particularly with the committee that deals with public finance matters (Albania, Bulgaria, the Slovak Republic, Slovenia).
- Co-operation mainly with a public accounts committee (Cyprus, Malta) or a standing audit subcommittee within a budgetary committee (the Czech Republic).

### **Composition and Mode of Operation of Parliamentary Committee(s) that Have Regular Contacts with the SAI**

#### *The composition of parliamentary committees and representation of political parties*

26. Parliamentary committees that have regular contacts with the SAI are established pursuant to general principles, similar to those that govern the establishment of other standing committees. They are composed of members of Parliament (MPs) only. Other persons may participate in PC meetings if invited or requested by the committee. Typically, MPs who are not committee members may participate freely in a PC meeting but have no right to vote.

27. The number of committee members can be fixed (in parliament's Standing Orders or in a separate resolution), or can result from the resolution on their election. In practice, the number of the parliamentary committee members, in the various committees of the different candidate/participant countries varies between 7 and 40 MPs, including a chairperson and one or more vice-chairs.

28. The composition of the parliamentary committee results from the consultation procedures carried out between parliamentary factions and is usually based upon the principle of proportional representation. The appointment of the position of the chair and vice-chair is usually a question of political agreement. In practice, parliamentary factions are also responsible for the appointment of other PC members, although this has to be approved by way of a parliamentary resolution. As a result, the composition of the committees often reflects the political structure of the parliament with the majority of the committee members often representing the governing political party or coalition.

29. The role of parliament and its parliamentary committees is most often of a political nature. However, there are also functions that are not, or should not be, of a political character, such as when the PCs discuss SAI related matters. The following factors assist in ensuring the non-politicisation of SAI related meetings: a) the organisation of the PC's work according to parliament's Standing Orders, b) the participation in PC meetings of officers responsible for the matters being discussed, and other experts, c) the participation in PCs of members from all political parties and the right of all members to be heard, d) the oath each MP takes, which provides for adherence and respect for the Constitution and other legislation, e) in some of the countries the MPs endeavour to avoid politicising PC sittings, when SAI related matters are discussed, f) in case of committees that are, exclusively or mainly, in charge of state audit-related issues, the position of a Chair is sometimes held by a representative of an opposition party (the Czech Republic, Malta, Poland) or a representative of an opposition party holds the position of a vice-chair.

#### *Frequency that Parliamentary Committees meet to discuss SAI related matters*

30. In most of the countries is no tradition of frequent and periodical meetings between SAIs and parliamentary committees. Such meetings take place in the parliaments where there are committees in

charge of, whether exclusively or mainly, issues of state audit (Cyprus, Hungary, Malta), or where there exists an established tradition of reviewing audit reports by most of the parliamentary committees (Poland). The annual number of meetings of the PCs convened to discuss SAI related matters varies from one to three in Albania, Bulgaria, Latvia and Lithuania; several in Croatia, the Czech Republic, Estonia, Romania, the Slovak Republic and Slovenia; about 20 in Hungary and Malta; up to approximately 75 of such meetings held in Cyprus and 70-100 in Poland. It is rare that all of the meetings are devoted to SAI related matters -- most often they constitute just one item on the agenda. The duration of the session depends primarily on the quantity and gravity of the topics under discussion.

31. There is usually no separate procedure in any of the parliaments to deal with SAI related matters. Audit reports are reviewed pursuant to similar procedures that apply to other documents presented by government or other state authorities. Usually, the provisions of law do not require such reports to be reviewed by parliament, except for those that concern the execution of state budget audit. Under such circumstances only some of the audit reports are reviewed at the parliamentary committees meetings.

#### ***Instances when parliamentary committee decisions are considered as valid***

32. Typically parliamentary committee meetings are valid if the majority of members are present (Albania, Croatia, Cyprus, Hungary, Lithuania, Malta, the Slovak Republic), but sometimes the presence of just one-third of the members of the committee constitutes a quorum (the Czech Republic, Estonia, Poland). For decisions to be taken by the PC the majority of votes of members present is required (Albania, Bulgaria, Croatia, Cyprus, the Czech Republic, Estonia, Hungary, Lithuania, Malta, Poland, Romania, Slovenia). In one instance (Latvia), the qualified majority of members present is required and, in another instance (the Slovak Republic), the absolute majority of all members, not only those present, is necessary.

#### ***Requirement or invitation of SAI Head to attend parliamentary committee SAI related meetings***

33. Heads and other representatives of Supreme Audit Institutions usually attend all meetings of parliamentary committees that review documents presented by SAIs (especially when audit reports are being reviewed). In the majority of countries, it is usual that the Head of SAI personally attends the PC SAI related meetings, although he/she may delegate a deputy or other representative to attend instead. The rank of the SAI representative is normally of a senior level and depends upon the nature of the matter (seriousness or sensitivity of the issue or audit under discussion).

34. The issue of the right, or the duty, to attend is rarely clearly specified and depends upon everyday practice. Most often the parliamentary committee invites the Head of SAI to participate in a meeting. It is presumed that he/she, or a representative, can attend such a meeting accompanied by other SAI employees as he/she may consider appropriate. Under such circumstances, taking the legal perspective into account, the participation of SAI Head or his/her representative is not mandatory. However, the Head of SAI or his/her representative is generally expected to attend such meetings and it is in the SAI's own interest to be represented. Only in some countries is the attendance in SAI related meetings considered as mandatory (Albania, Lithuania, Poland), or mandatory if required by the PC (the Czech Republic).

35. In practice, as specified earlier, in many of the candidate/participant countries parliamentary committees do not review documents presented by SAIs on a regular basis. Therefore, SAIs' representatives do not often participate in committee meetings. Supreme Audit Institution related PC meetings, in some countries, are limited to the review of the annual report on audit activities and the report on the implementation of state budget. More frequent meetings take place in parliaments where there are committees in charge of, whether exclusively or mainly, issues of state audit (Cyprus, Hungary, Malta), or

where there exists an established tradition of reviewing audit reports by most of the PCs (Poland). The situation in Poland is different since the SAI, the Supreme Chamber of Control (SCC), is notified of all PC meetings. Hence, it is the topic of a meeting that determines whether a person has the right or the duty to attend: the SCC President (or an authorised representative of the SCC) is obliged to participate in the SCC-related meetings; as for other issues, the SCC receives an invitation to the meeting (in practice, SCC representatives participate in about 60-70% of all PC meetings).

#### ***Other persons that normally attend SAI related parliamentary committee meetings***

36. In all candidate/participant countries high ranking representatives of appropriate ministries, including the Ministry of Finance, attend almost all SAI related PC meetings. Typically, upon the request of the PC, ministers and heads of other state offices and institutions are obliged to submit reports and provide information. They are obliged to participate in meetings of PCs that would be reviewing matters in their field of operation; in practice, for the most part, they are represented by their deputies. In accordance with general law, the PC has the right to require information in relation to their duties to be given orally or in writing, and there is a requirement for those attending a PC meeting to be truthful, and not refuse or hide any information the PC considers useful on issues it examines. The ministers and heads of other state bodies are requested to discuss audit reports and answer questions raised by PC members (they may bring along with them experts, or be represented by their deputies or authorised representatives). The presence of these government officials (once invited) is mandatory, though non-attendance is not "punishable" (the media can draw the attention of the public to their absence and sometimes such officials can be held politically liable before the Parliament). In Malta's case, it is not customary for a minister to be requested to attend a PC meeting; it is usually the Permanent Secretary (the Head of the Ministry) or the head of another public organisation who is requested to attend such meetings since he/she would be the person primarily held accountable for audit issues.

37. In addition, the parliamentary committee may invite other persons, such as representatives of professional, social or even political organisations, to provide requested information or explanations. The PC also has the right to invite experts, either on a permanent or temporary basis, who may act in the capacity of advisers. Non-governmental experts, who are invited, are expected to attend a PC meeting.

#### ***Parliamentary committees' support staff***

38. Each PC usually has one person (rarely two or three) in charge of administrative duties (organisational issues, co-ordination, and administrative tasks). When a committee needs professional expertise, there are three typical solutions: in some countries members of the support staff perform both administrative and advisory duties (Albania, Cyprus, Estonia); in other countries committees either have their own advisors (Bulgaria, Hungary, Latvia, Lithuania); or may seek advisory aid from the highly specialised personnel of the parliamentary secretariat (Albania, Croatia, Poland). Additionally, PCs can hire external experts.

#### ***Attendance at parliamentary committee meetings by the media and general public***

39. From the formal point of view, in parliaments of candidate/participant countries, there are two situations concerning the attendance of media persons and the general public in PC meetings:

- PC meetings are public and therefore they can be attended by the media and the public, except on very rare occasions when meetings may be closed for very specific reasons

(Bulgaria, Croatia, Cyprus, the Czech Republic, Hungary, Latvia, Malta, Romania, the Slovak Republic, Slovenia).

- PC meetings are not public but media persons and other interested parties may freely obtain permission to attend these meetings (Albania, Estonia, Lithuania, Poland).

40. In practice, media persons and the general public usually may attend PC meetings, whether they are public or not. An appropriate parliamentary service attempts to create the proper conditions so as to enable such participation, e.g. the general public is informed about the date of the meeting and its agenda.

41. In reality, this opportunity is not often taken. In the majority of countries, the media and the public rarely attend such meetings (the media are always present in Cyprus and Malta, very often in Poland). In certain countries the parliamentary service makes an effort to inform the public about the course of such meetings, mainly by publishing a bulletin that describes and details every such meeting (Latvia, Lithuania, Poland).

### ***Media coverage of SAI related parliamentary committee meetings***

42. Media coverage involves TV and radio reports, articles in newspapers and magazines and also coverage on the Internet. The extent of media coverage of SAI related PC meetings depends on the relevance of topics to the general public. The journalists rarely participate in such meetings and their articles are brief. Meetings that deal with issues of material public interest are covered more closely and participants in such PC meetings are sometimes interviewed. Essential information is regularly broadcast by news agencies. Only in a few countries is the extent of media coverage of SAI related PC meetings considered as being adequate (Cyprus, Slovenia).

### **Parliamentary Committee's Role in Outputs/Results of the SAI**

#### ***The number of SAI audit reports sent to parliament and reviewed by parliamentary committees***

43. The ultimate products of an SAI are the audit reports, which would include the material audit findings and related possible recommendations, where applicable. Audit reports are made on the overall or individual government financial statements, the financial statements of government corporations, companies or other public entities, value for money reports, investigations, advice on draft legislation, and other reports and papers on themes that fall within the terms of reference of an SAI. The most common type of reports prepared by SAIs are financial/compliance reports and value for money/performance reports. Value for money/performance audits have been given more prominence by most SAIs in recent years. SAIs also give an account of their activities in their annual reports.

44. Certain SAIs issue an individual report on each material audit finding. Other SAIs issue an audit report on several audit findings at the same time. Comparisons are not meant to be made, and cannot be made between one SAI and another since the number of issues reported upon in an audit report may vary widely between one SAI and another, or even between one report and another of the same SAI. Furthermore, the volume of work also depends upon the size of the SAI in question. The number of employees in the different SAIs (including the regional offices) varies significantly from under one hundred (e.g. Cyprus, Estonia, Malta) to several hundred (e.g. the Czech Republic, Hungary), or more (Poland, Romania). The number of SAI employees largely depends upon the size of the country concerned and upon the scope of SAI constitutional and legally defined competencies.

45. Typically, in terms of a constitution or law, SAIs are obliged to submit the main audit reports to parliament, in particular an annual report on their activities, an audit report on the execution of the State budget and reports on audits requested by parliament (where applicable). In some cases an opinion on public accounts, a report on the use and preservation of state assets and a report on the public debt is submitted as well. In the Czech Republic the SAI is obliged to submit all its audit reports to parliament.

46. Not all SAI audit reports received by parliament are reviewed by parliamentary committees. Primarily parliamentary committees regularly review those audit reports whose review by parliament is mandatory. Moreover parliamentary committees regularly review reports from the audits ordered (where applicable) or suggested by them.

47. In the majority of countries parliamentary committees do not review more than half of received audit reports. There are the following kinds of situation:

- Parliamentary committees receive a significant number of audit reports every year (e.g. about 40, 60 or 200) and thoroughly review the majority of them during several meetings throughout the year (Cyprus, Hungary, Poland). Similarly, in Malta the Annual Audit Report (composed of several parts, largely relating to the audit of the Government Financial Report and individual Financial Audits) and separate value for money and investigative reports are reviewed in about 20 meetings. In 2001, new procedures were adopted whereby the PC and the SAI together decided that only a number of items featuring in the Annual Report (considered key issues), apart from the other individual reports, were to be examined by the PC.
- Parliamentary committees receive a significant number of audit reports (e.g. about 20, 40 or 100) and review only a few of them (the Czech Republic, Estonia, Latvia, the Slovak Republic).
- In some of the countries a significant majority of the audit findings is included in the annual report and/or an audit report on execution of State budget. These are reviewed by parliamentary committees during one, two or three meetings (Albania, Bulgaria, Romania).
- Sometimes parliamentary committees, during several meetings, review a large number of audit reports (e.g. about 70, 120 or 900), most of which are of a detailed character (e.g. relating to the audits of financial statements and financial transactions of local self-government and government units). In such instances few of them are generally reviewed in depth (Croatia, Lithuania, Slovenia).

#### ***The review of SAI audit reports by parliamentary committees and SAI related PC reports***

48. The purpose of reviewing audit reports by PCs is to consider SAIs' observations, findings and recommendations and/or to present their own points of views and recommendations to help parliament and the audited organisation take appropriate decisions and action. In this way, pressure is applied to government and the audited entity to take timely, necessary measures to rectify shortcomings. Through such a system of review, the accountability of auditees is also increased.

49. In all candidate/participant countries the PCs consider, evaluate and analyse the audit reports (or at least note them without discussion). In practically all cases the procedure is the same as that of other documents that are considered and discussed during the meetings. As a norm, audit reports are submitted

prior to the meeting so that PC members may get acquainted with the audit report in question. Sometimes the PCs request additional information and documentation prior to the meeting.

50. After reviewing the audit reports certain PCs prepare their own reports with their views, comments and recommendations to parliament (Croatia, Romania, sometimes in Cyprus), or formulate a draft resolution for parliament (Latvia). In these cases PCs must also report upon the opinions of the minority of the PC members if the minority insists. In Hungary, PCs make a formal decision of approving or rejecting an SAI report and this decision is referred to parliament. Other PCs review the audit reports but do not take any formal decisions/ resolutions, as such decisions would be implied in the PC hearings (Albania, Bulgaria, Estonia, Lithuania, Malta and Slovenia). In the case of Malta, transcripts of PAC sittings are made, a copy of which is distributed to the SAI and extracts of which are also transmitted to the auditees. Other parliamentary committees take note of audit reports, but do not formally discuss them (the Slovak Republic). In the Czech Republic, it is the subcommittee of the budget committee, which actually discusses the SAI's reports and proposes a draft resolution; the committee usually acts upon suggestions of the subcommittee and submits draft resolutions to the parliament. In other instances, decisions are only made on the annual activities report, but not on the audit reports (Bulgaria, Slovenia).

51. In Poland, the relevant PC may take the audit report into account by means of a resolution, but this is rarely done in practice (usually it is implied, as would be stated in the minutes of the meeting). In addition, depending on the content and conclusions of the audit report, the PC may pass:

- A *desideratum* with postulates of the PC. The *desideratum* may be addressed to the Council of Ministers, individual Ministers or other central state bodies. The recipient is obliged to reply to the *desideratum* and notify the Sejm's (the Parliament) Speaker in writing of its opinion within 30 days.
- An "opinion" with PC's views on a certain issue. The opinion may be sent to the same bodies as the *desideratum*. A reply is not obligatory but the PC may request a position paper on issues raised in the opinion (also within 30 days).

52. *Desiderata* and opinions passed by PCs are often made, following review of audit reports, and they sometimes contain a direct reference to the SCC audit report. Replies to *desiderata* and opinions, as well as reports of state bodies on the performance thereof, are reviewed at PC meetings. If a reply is not received in due time or reply is deemed unsatisfactory, the PC may re-send the *desideratum* or opinion, submit a motion to the Sejm's Speaker for rejection of the reply as unsatisfactory, or submit a draft of a relevant resolution of the Sejm.

### ***Follow-up on audit reports by PC and SAI***

53. In the majority of candidate/participant countries, some form of follow-up either by the SAI or the PC, or both, is carried out (Croatia, Cyprus, the Czech Republic, Hungary, Malta, Poland, Romania, the Slovak Republic and Slovenia). Other SAIs and parliamentary committees do not, as a rule, carry out any follow-up on SAI reports.

54. The forms of follow-up are different and their type, extent, and degree varies between one country and another:

- The auditors are obliged to check what progress was made in the auditee's state of affairs since the previous audit (in many countries this task is included in the SAI auditing methods and planning procedures).

- If an issue reported in the audit report is not resolved, the matter would be included in the following year's Annual Report (e.g. Cyprus, Hungary).
- The PC can request different state bodies to report upon audit findings and recommendations. On the basis of an audit report, the PC can adopt a resolution raising specific demands on the government, ministries or other central state administrative bodies. In particular, it may request that SAI-noted deficiencies be rectified and that the PC be informed about the remedial measures adopted and the outcome thereof. The body that is the addressee of such a resolution is required to communicate the information or deliver an explanation to the PC within a requested time limit (e.g. the Czech Republic, Poland, the Slovak Republic).
- The PC report to parliament can contain concrete proposals for the follow-up of the measures proposed by the SAI (e.g. Romania).
- In many countries, the user of public funds, whose operations, irregularities or inefficiencies have been disclosed, has to submit to the SAI a report on the remedy of disclosed irregularities and inefficiencies (the response report).

### **Parliamentary Committee's Role in Operations of the SAI**

#### ***Right of PC to review and influence SAI's audit programme and to request an audit, investigation or other review from the SAI***

55. Practically all SAIs effectively have a reasonable degree of independence in preparing their annual audit programme. Some SAIs are not influenced in their work-plan in any way by parliament or by the individual PCs (Albania, Cyprus, the Czech Republic, Estonia, Malta). Other SAIs are influenced to some extent. However, the major part of work carried out by SAIs largely depends upon the SAI's priorities and decisions.

56. The influence of parliament and PCs on an SAI's audit programme may take the form of their right to review (or approve) the annual audit programme, or to order additional audits. Thus one must stress the few examples of influence on SAI's annual audit programme:

- In Croatia, under the provisions of the State Audit Act, the House of Representatives should confirm the SAI's Annual Programme on its proposal (in practice, it never had any influence on the SAI's Annual Programme).
- In Slovenia, the SAI is obliged to include in its work-plan five proposals from parliament, two of which would be from opposition deputies and two from the PCs.
- In Hungary, the SAI President determines the content of the Annual Audit Programme after consulting the State Audit Committee.
- In Poland, according to the act on the SCC, "the SCC performs its tasks on the basis of periodical plans, which are submitted to the Sejm". The State Control Committee discusses the annual audit plan when it is approved by the SCC.

- In the Czech Republic, once approved, the audit activity plan is submitted to the House of Representatives and the Senate for their information, (the SAI President also reports in person on the audit activity plan in the budget committee).

57. In some of the countries there is also the possibility of ordering additional audits:

- In some cases, only one of the chambers of parliament may request an audit or other review, but not the individual parliamentary committees (Bulgaria - up to three audits annually, Croatia, Hungary, Lithuania, Romania and the Slovak Republic). It is possible for parliamentary committees to turn to the plenary session of parliament to instruct the SAI to amend the annual audit programme or include a new theme in the work-plan. However, in practice such orders are rare.
- In Poland, according to the act on the Supreme Chamber of Control, “the SCC undertakes audits on the order of the Sejm or its bodies”. The orders are binding on the SCC. An order from the PC takes place when the PC passes a resolution on an audit to be performed by the SCC. In 1999 there were 14 audits following orders of the Sejm and its bodies, in the year 2000 there were five such audits.
- In Latvia, a parliamentary investigation committee, in compliance with the assignment set by the Saeima (the Parliament), has the right to request an audit to be carried out.

58. Apart from this, in many candidate/participant countries, there is an informal practice of parliamentary committees (or even individual MPs) submitting suggestions on audit subjects. They may be included in the SAI’s audit programme at the discretion of the SAI Head or Council. Although such proposals are not mandatory, the SAIs consider them seriously and respond appropriately. The proposals are often submitted after prior consultations with the SAI. Some SAIs stress that they never refuse such proposals so long as they are reasonable and within their mandate. By way of example, from 1996 through 2000, the SAI of the Czech Republic received a total of 24 suggestions, primarily from individual PCs, of which 13 were accepted. In Poland, in the first half of every year, the SCC President applies to the Sejm’s Speaker for suggestions of audit subjects for the forthcoming year. PCs often use this opportunity - in the year 2000 they submitted 46 suggestions of which 43 were partly or fully considered (moreover, parliamentary committees influence audit activities of the SCC through audit orders).

59. There is no apparent evidence in any of the countries that parliaments or PCs prevent audits from being planned or performed by the SAI. In theory, this may possibly be done in either a formal or informal way, for instance by applying political pressure on the SAI, or by threatening its budgetary allocation. There do not seem to be instances of formal veto powers. However, the informal modes of persuasion could be a serious problem should a PC be controlled by the governing political party/coalition, as it may have an interest in avoiding audits that the government might find politically damaging. This risk would depend upon the political maturity of the ruling class.

#### ***Contacts between SAI and parliamentary committee prior to and after PC meetings***

60. In the majority of countries, contacts exist between the SAI and a PC prior to and after PC meetings. These relate to PC discussions on SAI related reports and other issues. Certain SAIs have few such contacts (Cyprus, the Czech Republic, Estonia, Latvia, Lithuania, Malta, Romania, the Slovak Republic). Other SAIs have a more frequent way of communicating with the PCs (Albania, Croatia, Hungary, Poland, Slovenia).

61. The contacts relate to more detailed information about SAI's reports that would be on the agenda for the next PC meeting (Albania, Croatia), collaboration and preparation for the meeting (Romania, the Slovak Republic, Slovenia), including lists of proposed questions by SAI to PC prior to the meeting (Malta), the request for additional documents, information or clarification (Latvia, Poland), and pre-review of PC reports (Bulgaria). In Hungary, the SAI informs the PC about an audit report six months before the end of the audit and submission of the relevant report to the PC.

62. The main area of SAI-PC contacts relates to the audit reports. Conclusions resulting from audit activities sometimes inspire PCs to act upon certain problems. In addition, SAIs sometimes provide other assistance and support, which may take the form of comments on draft legislation submitted to the SAI for consideration (Bulgaria, Czech Republic, Lithuania, Poland), discussions on particular questions (Croatia), preparing additional analytical papers (Lithuania, Poland), presentations and guidance on professional questions (Hungary) or submission of other information requested by the PC (Romania, the Slovak Republic). In the Czech Republic, if requested by the House of Representatives or the Senate Committees that were assigned to debate certain draft legislation, the State Audit Office (SAO) President may from time to time appoint a member of the SAO or an SAO employee, who happens to possess expertise in the relevant area, to participate in discussions concerning such draft norms.

63. Typically there are contacts between the PC Chair and the SAI Head, but in some countries also SAI units (departments, directorates, etc.) have direct contacts with relevant PCs (Albania, Bulgaria, Estonia, Hungary, Latvia, Lithuania, Poland, the Slovak Republic). Those contacts involve rather informal oral or more official written communication between PC members and SAI members. They may be concerned with the request for further details, clarification or other information on certain issues in the audit report or collaboration in a wider sense. Where contacts exist, these would usually be between the PC Chair or PC members and the deputy Head, Head assistants or directors in the SAI. In some cases it is the committee's rapporteur responsible for a specific audit report who, in the preparations of his/her own report for the committee, gets into contact with a respective member or director of the SAI or with the auditors, who participated in the audit. This is done for the purpose of clarifying particular questions arising from the audit report. In other countries, SAI units have no direct contacts with the PCs.

### ***Influence of Parliamentary Committees in SAI's audit work or methodology***

64. All 14 SAIs reported that PCs cannot interfere in the SAI's audit work and methodology. It was noted that the activities, organisation and methodology to be applied, are the prerogative of the SAI. SAI audit procedures are sometimes defined by an Act, so that no external entities may affect the audit procedure. PCs cannot influence audit methodology. This may be described in legal regulations and is developed in detail individually for every audit by the SAI.

### **Other Parliamentary Committee Functions Related to the SAI**

#### ***SAI legislative opinions and proposals***

65. One of the criteria of audits performed by the SAIs is the criterion of legality. The assessment of activity of audited entities from the point of view of legality, provides the SAIs with an extensive basis for formulating notes and conclusions on the law in force or amendments required. This concerns, in particular, the legislation that the SAIs are most concerned with, namely that legislation which is applicable to public finances and other issues that come under audit, *i.e.* the Budget Act, the Public Procurement Act, the Financial Control Act, the Accounting Act, taxes and duties, the SAI Act, etc. In the various documents generated in the course of audit (*e.g.* working papers, audit protocols, post-audit

statements), as well as in audit reports, observations and remarks appear concerning current legislation and the advisability of any amendments thereto.

66. The majority of SAIs from time to time presents their suggestions in the form of *de lege ferenda* motions, although some of them avoid this practice, which they perceive as trespassing onto the area of policy; "the SAI cannot comment on matters of policy" - Malta. In practice, legislative proposals are usually submitted not directly by the SAI itself, but through other bodies, mainly the appropriate parliamentary committees (Albania, Bulgaria, Croatia, Hungary, Latvia and Poland). No SAI has the power to propose bills to parliament, and are only exceptionally allowed to submit their drafts to the government. Therefore, if a SAI wishes to attain some legislative amendments, it first of all seeks to consult the relevant parliamentary committees and draw their attention to the failures of existing legal regulations. If a parliamentary committee agrees with the SAI's proposals, it can submit a draft bill to the plenary. It should be stressed, however, that this practice is not very frequent.

67. More common is the solution whereby the SAI presents its opinions on draft bills submitted by other entities. This can be done in the course of government work (Bulgaria, the Czech Republic, Estonia, Latvia, Malta and Poland), or parliamentary work. Usually, these opinions are presented during sessions of parliamentary committees (Bulgaria, the Czech Republic, Latvia, Poland, Romania and Slovenia). In various countries different procedures are available, including: a) the general right of the SAI to take part in all committee meetings and the possibility to present its opinion on all draft bills (Poland only); b) the preparation of an opinion on a given draft bill on request by parliament or its bodies (the Czech Republic, Latvia and Romania); and c) the delegation of SAI experts as consultants to the debates on request by the appropriate PC (the Czech Republic). In some countries it is regarded as particularly important that it is part of the mandate of the SAI to present its comments on the draft state budget (Estonia and Hungary).

68. It is worth mentioning that some SAIs present their opinions not only on draft bills, but also on draft secondary legislation, namely at the external consultation stage within the executive branch. In principle, providing comments on draft legal regulations prepared by government ministries, or other central administrative bodies, is not the duty of the SAIs, but they perceive such activities as part of their efforts to promote the principles of proper financial management in state administration (the Czech Republic, Estonia and Poland).

### ***Role of parliamentary committee in review and approval of the annual budget of the SAI***

69. In order to fulfil its mandate, appropriate financial resources should be made available to the SAI. The budget of the Supreme Audit Institution in all candidate/participant countries, constitutes a separate chapter in the state budget. The draft budget of the SAI is prepared by itself and then is submitted to the government (or eventually directly to parliament) to be included in the overall draft state budget. In some countries (Cyprus, Estonia, Latvia) the government has the right to change the SAI's draft. The draft state budget is then submitted to parliament for approval.

70. Hence, parliament and government often influence the decisions concerning the amount of the SAI's budget. PCs play a significant role in this respect in almost all the countries. There exist two basic models:

- Review of the draft budget of SAI is carried out by a budgetary committee within a general process of draft state budget approval (Albania, Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, the Slovak Republic, Slovenia). In this respect, the situation in Poland is slightly different, *i.e.* the Sejm refers the draft of the state budget to the Public Finance Committee for review. Certain parts of the draft are also

reviewed by relevant PCs. As regards SCC budget draft, the State Control Committee is the relevant PC. Having reviewed the draft, the parliamentary committees send their positions along with opinions or proposals for amendments with justification to the Public Finance Committee. Having reviewed specific parts of the state budget draft and positions submitted by the PCs, the Public Finance Committee presents a report at the Sejm plenary session.

- Review of the draft budget of the SAI is carried out by a committee, set-up mainly for this purpose. The National Audit Office (NAO) Accounts Committee in Malta reviews the NAO budget as well as its implementation and submits a report to Parliament on its review. Based on the PC report, Parliament then approves the NAO budget.

71. In practice, the role the PCs play in this proceeding is often decisive, since they can suggest increases (in the majority of countries) or decreases in the amount of the SAI's budget and they sometimes do so. Occasionally, it is done under the influence of the government, since the government itself has no mandate to amend the draft budget of SAI, yet it can persuade the parliament to do so.

#### ***Review of the SAI's annual activity report by parliamentary committees***

72. In some of the candidate/participant countries, PCs do not have the right to review and evaluate the SAI's annual activity report (Bulgaria, Cyprus, Estonia, Latvia, Romania, the Slovak Republic, Slovenia). In other countries PCs do possess such a right (Albania, Croatia, the Czech Republic, Hungary, Lithuania, Malta, Poland), especially when this review is a preparation for further discussions to be made by parliament.

73. The evaluation results have practically always been positive so far. It has to be added, however, that a possible negative assessment would not, in fact, affect the SAI. This does not mean that it would not be taken into account – such an assessment would probably entail the PC encouraging and advising the SAI to rectify and improve matters and possibly to seek professional assistance, if necessary. In the majority of countries, the SAI would not be formally obliged to follow such recommendations, in view of the independence clause in the constitution and the legislation (that typically ensures that the SAI is not subject to the authority or pressure from any person or body). However, in practice, the SAI would probably still try to accommodate the PC's recommendations.

#### ***Role of parliamentary committees in the audit of the SAI***

74. In some of the candidate/participant countries the law provides the PC with the right to designate or suggest outside auditors to carry out an annual audit of SAI (Albania, Estonia, Hungary, Malta, Slovenia). In other countries it is the SAI itself that chooses an outside auditor (the Czech Republic, Latvia) or that carries out its own audit (Bulgaria, Croatia, Cyprus). In the Slovak Republic, the Ministry of Finance performs the audit. In Poland - according to the Supreme Chamber of Control Act - the Sejm shall supervise the implementation of the SCC budget. A similar solution exists in Lithuania.

75. In some of the countries the results of SAI's annual audit are submitted to the relevant PC for its information or review (Albania, the Czech Republic, Hungary, Malta, Romania). Most often, the audit of the SAI is a financial audit (Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, the Slovak Republic, Slovenia); only rarely is a performance audit also carried out (Albania, planned in Bulgaria and Estonia).

*Other parliamentary committees functions*

76. In some countries PCs perform also other SAI related functions:

- They have the right to discuss the candidate/participants for the position of the Head of SAI or for other managerial positions in SAIs, including the right to actually suggest the candidates for such positions (Hungary, Romania) or to provide opinions on candidates before parliament makes a final decision (the Czech Republic, Poland).
- They have the right to provide the Sejm's Speaker with an opinion concerning internal legal acts on the SAI, that he/she approves (Poland).

### **CHAPTER 3: GOOD PRACTICES IDENTIFIED**

77. Any discussion of relations between an SAI and its parliament, and of steps that might be taken to improve those relations, must start by recognising the symbiotic relationship that ideally exists between these important, but separate, institutions. Parliament can perform its vital oversight functions most effectively when it uses - and can rely upon - the auditing work of an SAI. Similarly, an SAI can be much more effective when parliament and its committees provide both a forum for the presentation and discussion of the SAI's important audit results and, potentially, an ally in taking, or strongly encouraging others to take, appropriate corrective actions.

78. This part of the report aims to identify good practices in relations between SAIs and parliamentary committees. These are based on the information gathered regarding the situation in the participating countries, as described in Chapter 2, experiences of countries with the systems of SAI/PC relations, detailed and discussed in the Annexes, and professional judgement and analysis.

79. The recommendations may be considered as possible guidelines for SAIs. The formal and legal relationships between SAI and parliament vary widely among different countries. Each SAI must obviously view the recommendations within the context of its own particular situation and circumstances, as well as within the context of the parliamentary system of the country concerned.

80. Notwithstanding the differences in organisational structure and formal location in the state structure, virtually all SAIs recognise the importance of:

- Assuring the independence of the SAI in setting audit priorities and in fairly, factually and objectively reporting audit results.
- Gaining appropriate parliamentary attention to audit results as a vital step in obtaining corrective action on problems revealed during the audit process.

81. Reconciling these goals requires a careful balancing act. Too close a relationship with parliament can threaten the SAI's independence, a vital foundation for its credibility. If the relationship is too distant, parliament may ignore important audit findings. Each SAI must judge how best to maintain the appropriate balance, considering its unique national circumstances.

82. The recommendations hereunder are to be viewed from the perspective of the SAIs. Certain recommendations, however, may need to be sensitively discussed with the PCs concerned, where these have a direct bearing on, and largely concern, the PCs.

83. The recommendations set forth in this chapter are in two primary groups. The first group includes actions that an SAI should consider taking - if it has not already done so - steps to assure that it is fully prepared to provide effective and reliable assistance to parliament and its committees in overseeing governmental activities. In principle, at least, these are actions that should be within the purview of the SAI, although some may require parliamentary approval of additional budgetary resources.

84. The second group of recommendations includes actions that parliament and its committees could take - if they have not already done so - to strengthen its oversight functions and its use of SAI audit work in that regard. This report is addressed to SAIs and recognises that an SAI has no authority to (nor should it), instruct parliament on how to carry out its constitutional responsibilities. Thus, these recommendations are best understood as matters that the leadership of an SAI might wish to discuss with the leaders of parliament and others who would support strengthened parliamentary oversight of governmental activities.

### **Recommendations for Consideration by SAIs**

85. These are steps that the SAI may wish to take - if it has not already done - to enhance its auditing effectiveness and its potential usefulness in parliamentary oversight.

86. The SAI must demonstrate to parliament and its committees that it is a professional body prepared to assist in a professional way. The SAI, in order to accomplish this, must assure that its staff, taken collectively, has the knowledge, skills and abilities needed to perform the full range of audits that would be of value to parliament and its committees. Depending upon the circumstances in a particular SAI, this may require any or all of the following:

- Adoption of appropriate auditing standards.
- Development and promulgation of audit manuals reflecting those standards.
- Training of staff to assure that the standards and procedures are understood and can be implemented.
- The recruitment of staff to fill critical gaps in needed skills.
- Internal and external (peer) review to assure that actual auditing work conforms to the standards and procedures.

87. The SAI must also assure that the SAI staff carries out its duties with appropriate objectivity and professionalism. This may require any or all of the following:

- Adoption of appropriate ethical standards, and internal regulations implementing those standards covering, among other things, avoidance of personal and financial conflicts of interest and inappropriate consideration of partisan political factors.
- Training on the standards and on the importance of objectivity and professionalism in conducting audits and reporting audit results.
- Review procedures to assure conformity to the standards.

88. The SAI should give appropriate consideration to parliamentary concerns in setting its audit priorities. Although the SAI should act independently, its ties with parliament, especially with particular PCs, are often extensive. It is inevitable - and desirable - that the SAI should be aware of parliament and the Executive's needs and interests and should take them into account in setting its priorities, while also assuring that it carries out its other responsibilities. SAIs that wish to promote closer working relations with parliament and its committees will need to be open to considering parliamentary views on audit targets and priorities. The establishment of a liaison unit, discussed in item seven, below, can facilitate this. It is essential, however, that parliamentary views not be the only consideration in this regard and that the

SAI retains its discretion to accept or reject suggestions from parliament and to perform audits on its own initiative, without regard to parliamentary views. One reason is that, if the SAI becomes too focused on responding to parliamentary interests, its work may be skewed by partisan concerns in ways that would undermine the SAI's perceived independence and thus its credibility. Another reason is that members of parliament may have rather short-term agendas and may thus place achieving the long-term improvements in financial management and other matters of high priority to the SAI as a lower priority.

89. The way in which the SAI reports audit results can have a considerable effect on the parliamentary reaction to those reports. To the extent that it has discretion in this regard, an SAI should be quite selective in choosing the reports to be presented to parliament and its committees. Typically, members of parliament are very busy people, with far more reading material supplied to them than they can possibly handle. Many audit reports involve administrative matters that are best handled by working with the affected ministry or with the Ministry of Finance, rather than by seeking parliamentary attention. In general, to avoid overburdening MPs, it would be better if audit reports on these matters were presented to the affected ministry, with periodic summaries provided to parliament and the relevant PCs for their information. In principle, the SAI should only report to parliament on matters that, it believes, truly warrant parliamentary attention. These might include audit reports revealing specific problems of such significance that pressure from parliament or legislative action may be required to resolve the problem, or reports revealing a consistent pattern of one or more ministries failing to take corrective action on deficiencies disclosed by audits. In addition, there may be statutory requirements that certain reports be addressed to parliament.

90. SAI audit reports, that are deemed to be material, should be presented to parliament or the relevant committee, with a clear statement of why it is believed to warrant parliamentary attention. Selected reports falling within this concept of materiality for parliament may include findings, observations, comments and recommendations on any of the following:

- Audits of government financial statements.
- Regularity/compliance audits.
- Value for money/performance audits;
- Investigations.
- Analysis of past audit reports of a common nature.
- Advisory documents.
- Proposals and comments on draft legislation.
- Guides on good practice.

91. The writing style of audit reports can also play an important part in generating interest in the issues from members of parliament and others. Reports should be clear and concise, but with sufficient evidence to convince an objective reader, including the PC members, of the validity of the audit findings. Some SAIs have found it to be especially useful in this regard to include a brief Executive Summary in the report, so as to convey the central findings and recommendations quickly to busy readers. The audit reports should also be written in a fair and factual manner and deal with important issues in a timely fashion, to assure the PC of the professional and serious way in which the audit was performed and the SAI report written, reinforcing the credibility of the audit results. The reports should be balanced, non-partisan,

non-ideological and written within the terms of legislation to avoid controversy with the PCs. Audit reports typically concern financial control, proper management of public funds and government's implementation of its policies, but not government policies themselves. The SAI should be totally apolitical. In principle, the SAI should avoid commenting on government policy. In practice, however, the disclosure of problems in the implementation of those policies may raise unavoidable questions about the policies themselves.

92. Many SAIs have found it useful to establish a separate unit or person to co-ordinate the SAI's contacts with parliament. The unit's responsibilities may include maintaining day-to-day contact and communications with the relevant PCs. In this capacity, the parliamentary liaison unit can assure that the SAI is aware of current parliamentary interests and concerns that may need to be considered in developing the SAI annual audit programme. The unit can also assure that interested MPs are kept informed of SAI work that may be of material interest to them. The liaison unit also can provide a useful channel through which MPs can convey their views to the SAI on matters of mutual interest. Information gathered by the liaison unit about parliamentary views regarding the SAI's work should be shared with other leaders in the SAI. The liaison unit can also help co-ordinate the work of different units of SAI with the PCs.

93. Follow-up of material audit issues of previous years should be included in the annual audit programme of the SAI so as to ensure that appropriate action has been taken by the auditee. It should make the results of this review available to the relevant PC, especially if a pattern of inaction on important problems is revealed. It should also be prepared, if appropriate, to assist the relevant PC in reviewing follow-up issues.

#### **Matters that SAI Leaders may wish to Discuss with Members of Parliament**

94. The matters discussed in this section involve actions that are entirely within the purview of parliament. At convenient opportunities, the leadership of the SAI may find it helpful to discuss these matters with the leadership of parliament and with other MPs who are interested in improving parliamentary oversight. It is important to stress, however, that the SAI should at all times avoid any appearance of seeking to instruct parliament on how to carry out its constitutional responsibilities. Rather, the SAI should emphasise the symbiotic nature of the relationship between parliament and the SAI, the steps the SAI has taken to make itself more useful to parliament, and then introduce the items below as being actions that the parliament could take to enhance the usefulness of the SAI with regard to parliamentary oversight.

#### ***Actions directly affecting relations between the SAI and parliament***

95. Define clearly, in state audit legislation, the type of audit reports and other SAI documents that are to be presented to parliament. Ideally, there would be a small number of requisite reports chosen, because it is known that they are important state documents warranting (or requiring) parliamentary attention. The audit of the execution of the state budget is one such example. Other audit reports should be presented to parliament, or one of its committees, only if requested or if deemed by the SAI to warrant parliamentary attention.

96. Enact state audit legislation in such a way that the SAI is not in any way subordinate to the Executive, but answerable only to the parliament. The SAI must be independent of other institutions because that independence, together with the competence and integrity of its staff, are essential foundations for the credibility of the SAI, and consequently of its influence on parliament, the Executive and the public in general.

97. Appoint the SAI Head in such a way that he/she enjoys as much consensus as possible in parliament. This might be done by parliament undertaking extensive consultations among all parties therein represented prior to making the selection of the SAI Head through a simple or qualified majority of all MPs. Furthermore, the SAI Head should not be easily removed during his/her term of office, except for specified valid reasons such as health, misconduct, fraud or incapacity to continue to perform duties. To further protect the SAI Head from any possible political pressure and unfair dismissal, any proposal for such removal might be required to demonstrate widespread consensus (say, two-thirds majority) in parliament.

98. If the SAI is to be credible and most useful to parliament in its oversight functions, it must be seen, both in parliament and elsewhere, as an independent entity, exercising its own judgement with regard to the matters within its scope of responsibility. The relationship of parliament and its committees to the SAI should be seen as a collaborative one. In this regard, the SAI must have the power to select the matters to be subject to audit (apart from those that are required by law) and to decide how best to perform those audits. At the same time, parliament and its committees have a legitimate interest both in the SAI's audit programme in general and in seeking audit coverage of matters of special interest to them. Parliamentary committees should be able to suggest to the SAI, audit topics that they would find of particular concern and the SAI should give serious consideration to such proposals. In doing so, it is important that the PCs recognise that any proposal for inclusion in the SAI's annual audit programme, or as additional requests to the audit programme, must necessarily be considered by the SAI in the light of its own priorities in audit issues, budget allocation and staff constraints, and that the final decision would rest with the SAI.

99. Contacts between the SAI and PCs should be clearly defined, to establish a consistent mode of working relationships between the two bodies. In some countries, especially those in which the SAI works extensively with multiple PCs, it has been found useful to prepare written procedures governing the relationship, developed jointly by the SAI and the parliamentary leadership. The extent of contacts between the SAI and PC is largely dependent upon the requirements of the PC's Chair and its members. They could vary from a very high level (between the Chair of the PC and SAI Head), to a much lower level (for instance, between PC staff and SAI auditors directly involved with the audit report in question).

100. Establish clear parliamentary rules and procedures for the way in which parliament and its committees will deal with the SAI's audit reports that are presented to it. If there is not at least one PC that has clear responsibility to deal with audit reports, parliament might wish to consider the benefits of having one or more such committees. The existence of one or more parliamentary committees responsible for responding to audit reports helps to focus the attention of government and the public on the findings and recommendations arising from the audit reports and exert pressure for implementation of such recommendations. The decision of whether there should be one specialised PC that deals with audit reports or several (according to the subject in hand), rests with the parliament of the country concerned. Both systems have their merits. Models of effective PC systems in countries with similar political and social traditions could be used as examples of good practice to be emulated. The attached annexes provide examples of countries with advanced and effective systems of SAI/PC relations.

101. Designate a PC to deal (not necessarily exclusively) with SAI's financial statements and activities to ensure that parliament is able to monitor the SAI, not just its reports. The functions of such a Committee (found in several countries) might include the:

- Review and approval of SAI's draft budget.
- Appointment of outside auditors to audit SAI's financial statements and the review and approval of such audited financial statements.
- Evaluation of SAI audit activities.

102. Clearly define, in legislation, the right of the SAI to make audit reports public within a reasonable time following presentation of such reports to Parliament or to other bodies, as the case may be. At the same time, certain audit reports (transmitted to parliament or otherwise) may be, to some extent, a national security, commercially sensitive, sub-judiciary or have some other secretive or sensitive nature that would best not be discussed in public due to adverse repercussions not in the public interest. Although such instances should be as uncommon as possible, it would be appropriate if the SAI were to have authority to decline to make such reports public. They might suggest to the relevant PC that such a report, or extracts thereof, be discussed in private by the PC, should the PC not have already decided upon such course of action.

*Actions that could enhance the role of parliamentary committees more broadly*

103. The following matters, which might also be offered for consideration by MPs concern ways of strengthening the operations of parliamentary committees that may be called upon to deal with SAI's audit reports but would also enhance the effectiveness of parliamentary committees in their other roles. As the composition and mode of operation of parliamentary committees may vary considerably between one country and another, some of these suggestions may not be germane.

104. Elements that are found in most parliamentary committees and are deemed to be of particular importance for the proper functioning of a PC (usually regulated by Standing Orders of parliament or legislation) include:

- Stipulated quorum for a PC meeting to be considered as valid and for the reaching of decisions by the PC.
- Power of the PC to call for any person to testify in PC meetings and request any information relevant to the audit issue in hand.
- Right of the PC to request additional written information from any person relevant to the audit issue in hand.
- Composition of parliamentary committees reflecting the political composition of parties in parliament. Safeguards, at the same time, to ensure that Parliamentary Committees function, as far as possible, in a non-political way such as, for instance, by having the Chair of the Committee (especially a Committee that is responsible for overseeing the SAI) being a member from an Opposition Party. An alternative approach is to ensure that PC members who may disagree with the majority have the right to submit a minority report.

105. Ensure adequate support staff to assist parliamentary committees in their duties. Parliamentary committees should also be able to make use of independent experts, as and when required. This might include the secondment of at least one of the SAI staff to assist the PC in its reporting functions. This might be particularly important for the preparation of follow-up reports by parliamentary committees on audit findings and recommendations.

106. In many countries, it has been found to be helpful to allow the general public and media to be present during PC meetings, in order to encourage transparency and awareness by the general public of the matters being addressed. The most important exception to this rule should be meetings whereby matters are specifically kept private because of the sensitivity or national security implications of the issues concerned.

107. Experience of several SAIs shows that the impact of audit reports on government is enhanced when a PC examines the reports promptly. Thus, when the SAI advises the relevant PC about a significant forthcoming report, the PC should endeavour to discuss the report within a reasonable time-frame to avoid the danger of having the findings in the audit report become outdated.

108. Just as the SAI should prepare itself for PC meetings, it could prove beneficial for the PC Chair to likewise have such a preparatory session. The SAI may be able to assist by helping the PC staff prepare questions relating to the major issues in an audit report and submit them to the PC Chairman prior to the PC meeting. It would be at the discretion of the PC Chair and members whether or not to use such questions during the forthcoming PC meeting.

109. It is advisable that the SAI Head and/or senior SAI staff be present during PC meetings when SAI audit reports are to be discussed. It is also good practice that senior representatives and technical experts of entities on which an audit report is being discussed during a PC meeting, be present so as to answer any questions that may be brought up by the PC members. Although questioning of persons during a PC meeting, including those from the SAI, is the prerogative of the PC, it is helpful if such questions are designed to emphasise or reinforce audit findings.

110. The PC should be free to request additional information prior to or after a PC meeting to be able to obtain all information it considers necessary or useful for the discussion of an audit report or of other matters.

111. Many parliamentary committees have found it useful to establish a follow-up process on audit reports by the SAI to help ensure that due attention is given to audit findings and recommendations and that any shortcomings in the audited body are rectified.

112. It is the practice of many parliamentary committees to draw up, within a reasonable time frame, their own report on an SAI audit report they have reviewed and outline their own recommendations to government, based on the SAI findings and recommendations. The SAI may provide assistance to the PC in preparing the latter's report. The PC may present its recommendations to parliament for approval. This procedure gives added emphasis to those audit findings and recommendations with which the PC agrees. The procedure is most effective, however, if the PC report is issued with the unanimous approval of the PC members. Unanimity is facilitated if the members openly discuss any differences that may arise and then arrive at a solution that would be agreeable to everyone in the PC. This would be beneficial so that corrective action (as proposed by the PC), which the Executive would eventually take on audit findings, would in no way be weakened.

113. Parliamentary Committee and SAI reports would be more interesting and readily acceptable by government if they included recommendations that were forward looking and based on lessons learnt from the past. The SAI could also issue guides on good practice based on audit reports reviewed in the past.

114. It may prove useful for a PC to have a formal system whereby responses are requested and expected from government on SAI or PC reports.

115. Many parliaments find it useful for their committees to seek technical assistance from the SAI in preparing legislative proposals, especially those concerning state auditing, financial management and matters that have been the subject of major audits. This assistance may include the preparation of initial drafts of proposed laws and the provision of comments on drafts prepared by others. In the final analysis, the SAI should be interested in fostering a good working relationship with parliament and the parliamentary committees. Such a working relationship is only possible if the SAI and PC co-operate and collaborate on areas of common interest and if they find mutual agreement on such issues.

## ANNEX 1: SIGMA SHORT PAPER ON RELATIONS BETWEEN SUPREME AUDIT INSTITUTIONS AND PARLIAMENTS<sup>3</sup>

The formal and legal relationships between Supreme Audit Institutions (SAIs) and parliament vary widely among the established democracies. In some cases, the SAI is formally attached to parliament. This linkage may be very close. In the US, the General Accounting Office is legally described as an independent agency in the legislative (parliamentary) branch. In other cases, such as France, the SAI is a court with important quasi-judicial functions and is legally independent of both parliament and government. In the UK the Comptroller and Auditor General, who heads the National Audit Office, is described as an “officer” of the House of Commons, in order to firmly establish and demonstrate his/her independence from the Civil Service. The Comptroller and Auditor general work closely with the House of Commons Public Accounts Committee (PAC). In Sweden, the SAI is officially an agency of the government (but this is currently under active review).

The reasons for these wide variations can be found in the unique history and culture of each country. In many cases, the institution that became the SAI began as an instrument serving the monarch and only moved to its present position when the need was recognised for an independent capability to examine government on behalf of a broader constituency.

Notwithstanding the differences in organizational structure and formal location within the state structure, virtually all SAIs recognise the importance of:

- Assuring the independence of the SAI in setting audit priorities and in fairly, factually and objectively reporting audit results.
- Gaining appropriate parliamentary attention to audit results as a vital step in obtaining corrective action on problems revealed during the audit process.

Reconciling these goals requires a careful balancing act. Too close a relationship with parliament can threaten the SAI’s independence - a vital foundation for its credibility. If the relationship is too distant, parliament may ignore important audit findings. Each SAI must judge how best to maintain the appropriate balance, considering its unique national circumstances.

Just as SAIs vary in structure and legal location, parliaments vary in how they have arranged to handle reports and other information received from the SAI. These variations, likewise, reflect the unique history and political culture of each country. In order to understand how parliaments relate to the audit function, requires a recognition of an inherent tension. Parliaments are pre-eminently political institutions and are composed, for the most part, of professional politicians. Their natural inclination is to view matters in a partisan or ideological framework and to give low priority to issues that appear to have no political significance. Auditing *per se* is overwhelmingly about honest, efficient and effective management, not about major policy issues. Auditing must be professional and objective, effective and credible, carefully avoiding the appearance of taking sides on partisan and ideological issues.

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3 Paper published 27 November, 2000 on the SIGMA Website Q&A: <http://www.oecd.org/sigma>

Parliaments have responded to this tension in various ways. An increasingly common approach is to designate a single committee, often called a Public Audit Committee (PAC), to receive and consider all or most reports prepared by the SAI. In most cases, there is a clear expectation that the Members of the PAC will deal with audit reports in an objective, professional and non-partisan manner. This is inherently difficult for the professional politician, especially in a new democracy with no tradition of separating politics from administration. However, there is ample evidence from the established democracies that non-partisan handling of audit results can be attained, if that goal comes to be sufficiently valued, and there are steps that can be taken to reinforce the expectation of non-partisanship.

**EU member states<sup>4</sup>**

**Denmark**

Denmark, for example, has a political culture of many parties and a tradition of coalition governments. Membership on the PAC is highly prized among parliamentarians and is allocated in rough proportion to the size of the largest four to six parties, including both those that are part of the governing coalition and those that are not. The Chairman of the PAC traditionally represents a party that is not part of the coalition.

The National Audit Office's (NAO) reports are only published by the PAC and are accompanied by the PAC's conclusions regarding the audit. Despite the fragmented party membership of the PAC, the tradition of non-partisanship is such that all PAC reports are unanimous.

**France**

In discussing the French arrangements in this context, it is essential to emphasise that the SAI of France, the Cour des Comptes (CdC) is a court with quasi-judicial functions. Under the Constitution, it is independent from both Parliament and the Government. The Constitution provides that CdC "assists Parliament and the Government in overseeing the implementation of the state budget" and, since 1996, "in overseeing and applying the laws governing social security funding." Until very recently, there was no equivalent of a PAC in the Parliament. Relations between CdC and Parliament were at arms length (submission of the annual reports) and only developed occasionally in close working relations, *e.g.* when either the Upper or Lower House requested the CdC to report on a specific issue, a request the CdC was and still is free to accept or reject.

In January 1999, the Parliament established the Mission d'Evaluation et de Controle (MEC) as a subcommittee of the Public Finance Committee of the National Assembly, intending that it would function as the equivalent of a PAC. To minimise partisanship in MEC's work, the parties have equal representation on the committee and it is led by two co-chairs, one from the main majority party and one from the main minority party. MEC reports, based on CdC audit results together with other information gathered by MEC (including hearings conducted by MEC) are prepared by an MEC rapporteur who works closely with the relevant CdC audit team.

It would be premature to make firm judgments about the effectiveness of this new arrangement but early indications are favourable. It has been demonstrated that Parliament and CdC can work closely without infringing on CdC's independence. The MEC has been able to work in a reasonably non-partisan way and people at CdC, have, on the whole, reacted favourably to working with the MEC.

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4 See also the table in Appendix A.

## **Portugal**

The Portuguese Court of Audit, like its French counterpart, is a court with important judicial functions and is constitutionally separate from Parliament and the Government. In the past, its relationship to Parliament has generally consisted of sending certain required reports and other reports that it chooses to send and responding to parliamentary requests for information or advice.

There is no PAC. The Committee on Economy, Public Finances and Planning (CEPFP) has some of the responsibilities that, in other countries, found in a PAC. It receives and considers audit reports and may request relevant information, advice and special audits on behalf of Parliament. The CEPFP is the largest committee in Parliament. It has representatives from all the parties and is headed by a member from the largest opposition party.

The Court of Audit has recognised the need for closer and stronger relations with Parliament. It has taken a pro-active role in promoting meetings, the exchange of information and provision of advice to the CEPFP. It has also urged the establishment of a PAC. This is not seen as a threat to the independence of the Court because of the Court's constitutional status.

## **United Kingdom**

In the UK, the Public Accounts Committee is one of the most prestigious committees of the House of Commons. Its work is highly respected. There is a strong tradition that PAC members must be non-partisan in their PAC work. Seats on the PAC are allocated in proportion to the size of the political parties' representation in the House of Commons. The Chair, by tradition, is a senior backbench member of the opposition party, usually with prior ministerial experience in the Ministry of Finance. The PAC issues its report normally after examining witnesses regarding an NAO report. Despite the partisan composition of the PAC, its reports are always unanimous. This non-partisan tradition is supported by two other factors. First, the NAO strenuously avoids commenting on matters that are viewed as being of a "policy" nature. Second, there is a tradition that the facts disclosed in an audit (but not necessarily the conclusions and recommendations) must be agreed between NAO and the auditee as "fair and factual" before the audit report is issued. These practices considerably reduce the potential for partisan disagreement during committee sessions and when drafting subsequent PAC reports.

Despite the close relationship between NAO and Parliament, there is little risk of impinging the independence of the NAO. There are several factors reinforcing that independence. The Comptroller and Auditor General (C&AG), while an officer of the House of Commons, is appointed in a non-political way with life tenure. In addition, the House has a long-standing tradition of respecting NAO's independence because of the value that the members attach to NAO's public credibility.

### **Western non-EU states**

#### **Australia**

In Australia, there are some basic similarities to the UK arrangements, but there are important differences as well. The Australian Joint Committee of Public Accounts and Audit (JCPAA) has members from both the Senate and the House of Representatives. It has a majority of members from the governing party and is chaired by a member from that party. The vice-chairman, however, is always from the opposing party. The JCPAA considers all reports from NAO and, in addition, may examine matters on its own initiative or in response to other parliamentary referrals. The JCPAA is assisted in its work by its own secretariat and by

observers and secondments from the Finance Department and the NAO. As in most other countries with PACs or the equivalent, the tradition of non-partisanship is very strong, despite the partisan affiliations of the Members. All but three of 359 reports issued by JCPAA since 1953 were unanimous.

### **United States**

Notwithstanding these (and many other) examples of highly effective, non-partisan PACs, they are not universally in use. In the United States, for example, there is no real equivalent to the PAC in the US Congress. The General Accounting Office (USGAO) must relate to many committees in both the Senate and the House of Representatives and to both majority and minority members of those committees. There is no strong tradition of non-partisanship, although there is a tradition (somewhat weaker now than at times in the past) of bipartisan co-operation on matters that do not appear to involve political issues. And the boundary between “political” and “non-political” can be very unclear, depending on the issue that is involved. These factors often make USGAO’s tasks more difficult, as there may be no clearly identifiable committee that will be interested in and receptive to the results of an audit. It is often necessary for USGAO, in order to gain needed congressional attention, to reach out in ways that may seem overly aggressive to other SAIs and parliamentarians, such as by seeking media and public notice of important audits as a means of evoking congressional interest in that work.

### **Conclusion**

There is no one way of gaining effective parliamentary attention to audit results. One of the chief impediments is that parliaments as a whole, being political in nature, may unfortunately tend to place a relatively low priority on their responsibilities for “non-political” matters of management, administration and financial control. A very useful step in overcoming this obstacle can be the establishment of a PAC, which can help focus attention and responsibility for the consideration of audit reports and subsequent corrective actions.

For a PAC to be most effective, it is important that its members view their work as both important and not politically partisan in nature. This depends, first and foremost, on the attitudes of the members. The tradition of non-partisanship in a PAC can become self-reinforcing in time but - at least initially - it requires conscious effort for members to separate their PAC work from their partisan affiliations. Thus, one important step is the selection of members with careful attention to how they seem likely to approach the work. The goal of non-partisanship can be further emphasised by assuring broad, relatively balanced party representation on the PAC. The leadership of the PAC is also vitally important. It appears to be helpful if the chair or the vice-chair is a senior and respected member of a party that is not affiliated with the government. It is most important, however, that the leadership be firmly committed to the goal of objectivity and non-partisanship, such as by serious efforts to seek unanimity in PAC actions.

While much of this discussion has centered on what parliaments should do to use audit results more effectively, it would be a mistake to assume that all the responsibility falls on parliament. The SAI also bears considerable responsibility for helping parliament use the SAI’s work. To encourage an effective relationship, the SAI should:

- Report to Parliament only the matters that truly warrant parliamentary attention.
- Report clearly and concisely, but with sufficient evidence to convince an objective reader of the validity of the audit findings.

- Ensure that audit reports are fair and factual and deal with important issues in a timely fashion.
- After completing the audit report, be prepared to work with parliamentarians to assure that they understand the nature and significance of the audit findings, and to help them develop appropriate corrective actions, but without sacrificing the independence of the SAI.
- Establish firm procedures for the government to formally have to respond to the recommendations of parliament and the SAI.

**More Information**

Attached to this reply please find a fact sheet summarising the main characteristics of some of the existing PACs in EU member states and western non-member states (Appendix A).

Please also find attached a short checklist/guideline on some suggested practical matters to consider when establishing a parliamentary audit committee (Appendix B).

## Appendix A: Public Accounts Committee Fact Sheet

Country	Legislation	Number of members	Appointment procedures	Common political affiliation of chair and members	Relations to SAI
Australia	Joint Committee of Public Accounts and Audit is established by law, which also specifies size and primary duties. Other duties may be assigned by Standing Orders approved by both Houses of Parliament.	By law, 16 members, 6 from the Senate and 10 from the House of Representatives.	Appointed by the Senate and the House of Representatives.	The Chair and a majority of members are from the Government party.	All ANAO audit reports are received by JCPAA. ANAO also provides secondments of staff to assist in the work of the Committee.
Denmark	Constitution establishes PAC. Law regulates size and responsibilities of PAC. Secondary legislation (Parliamentary order) regulates procedures for appointment and dismissal of PAC.	By law 4-6 members. In recent years 6.	Appointed by Parliament for 4 years at the time. The post as member is remunerated.	4-5 largest parties in Parliament represented. Chair elected by PAC peers and traditionally not from Government coalition.	In the Act of the Auditor General (AG) (an officer of Parliament) it is said that the AG shall assist the PAC and act upon request from the PAC. Recommendations from PAC rest exclusively on AG reports and findings.
France	MEC established by resolution of the bureau of the National Assembly. Applicable are general rules of procedures for the subsidiary bodies of the National Assembly.	15 appointed each year.	Appointed by the public finance committee amongst its members + some representatives of other committees	All parties in National Assembly represented. Co-chaired by majority and minority.	SAI (Cour des Comptes-CdC) fully independent from Parliament and Government, but assists both of them. CdC informs MEC about the audit topics of significance or special interest that are ready for parliamentary work. Participation of CdC staff to the work of MEC (preparation of hearings,

UK	<p><i>Committee of Public Accounts</i>, established in 1861, under parliamentary procedure, to examine "the accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure, and .. such other accounts laid before Parliament as the Committee may think fit".</p>	Chairman and 15 members, quorum 4	Appointed for the life of each parliament	The Chair a senior member of an opposition political party. The members are allocated in proportion to the party strengths in the parliament. Reports are recognised to be non-political and concern only administrative matters, not policy.	hearings, follow up by MEC). Recommendations from MEC rest mainly but not exclusively on CdC reports and findings.
USA	<p>Has no PAC or equivalent. USGAO works with all committees of the Senate and House of Representatives and with both majority and minority members.</p>	Established by the rules of the Senate and the House of Representatives and varies from one committee to another.	The number of members from each party is decided by the majority party in that body. The members to fill those positions are selected by the respective parties.	The Chair and a majority of the members of each committee are from the majority party. This may or may not be the party of the President of the US.	<p>Much of USGAO's audit work is in response to requests from committees or members. Results are sent to the requesting committee or member or to the committee having legislative jurisdiction. USGAO also works with the relevant committee to seek corrective action.</p>

## **Appendix B: Checklist of matters to consider when setting up a Parliamentary Audit Committee**

Parliamentary Audit Committees (PACs) are part of a structured framework for government accountability and accounting, whereby the parliament authorises expenditure in advance and receives sufficient information to hold the executive to account for the spending and good stewardship of public money, revenues and assets. In this framework the aim of the Parliamentary Audit Committee is to improve the way in which public money is spent by a process of gathering evidence, pinpointing weaknesses and making unbiased, non-partisan technical recommendations based firmly and fairly on the facts so as to avoid a repetition of improper or unwise spending of public money. In this context the main features to consider when setting up a Parliamentary Committee for Public Accounts are:

### **Responsibilities**

The responsibilities of a committee set-up to examine public accounts and audit reports are best defined by the legislature, preferably in the form of a resolution or in standing orders/rules rather than specific legislation.

The committee's prime responsibility should be to examine the financial accounts and audit reports of public bodies and entities presented to parliament. The SAI will normally provide such reports. It should also take a wide interest in all financial management and control issues.

The committee could also be expected to take an interest, on behalf of parliament, in the operation of the SAI, perhaps by commenting on its plans and budgets, but without interfering with the constitutional independence of the Auditor General.

### **Constitution**

The committee should have a constitution, preferably set out in the legislature's standing orders, and this should specify its size and the minimum number of members needed to form a quorum.

The committee's members should be nominated, probably following consultation between the main political groupings, as soon as possible after the first meeting of the legislature following a general election. Political balance in the composition of the committee is essential to help to ensure that constructive unbiased, factually based reports emerge. The appointment of the Chair should be a matter for the committee and it may help if the chair is a senior backbench member of the opposition.

Members of the committee are likely to be more effective if their service on the committee is for the duration of the parliament, rather than renewable annually.

### **Programme**

The committee should determine its programme of work, perhaps on the advice of the Supreme Audit Institution (SAI), in advance. All members should participate in selecting topics for examination. The programme of work will largely be based on the reports the SAI will be planning to prepare.

The frequency of sittings and duration of meetings should depend upon the quantity of material available to the committee, but should provide sufficient opportunity for the committee to take evidence and report their findings whilst matters are still topical.

## Procedure

It is helpful for the committee to have a briefing paper in advance of the hearing, setting out the important issues in the audit report and identifying possible questions.

The President/Auditor General or the equivalent could prepare the briefing paper. Other forms of briefing that might be helpful are oral briefing or presentations by the auditors.

The committee should have wide and extensive powers to call persons to give them evidence and information on the topics they consider, and also to call for information and documents when necessary. Although not expected to be a regular feature of the work of the committee, it should be possible for them to make on-site inspections themselves.

All members of the committee should have an opportunity to ask questions. It may be necessary to impose a time limit in order to ensure that all members have this opportunity.

A verbatim record of the committee's proceedings will help in the preparation of subsequent reports.

- The committee should decide in advance which witnesses it wishes to call. As the emphasis of the committee's work is on the implementation of policy, rather than the policy itself, the key witnesses will be the senior civil servants rather than politicians.
- The committee should expect witnesses to be well briefed for the subject under discussion, it may, however, be unreasonable to expect them to be able to answer every single question, especially on wide-ranging subjects. It is useful for the witnesses to be supported by their officials, and for the committee to accept written evidence where the answers to their questions are not readily available.
- The presence at committee meetings of a representative from the Ministry of Finance may help to ensure that broader questions about the financial framework can be answered, although this is probably not essential.
- It is essential to the committee for the President/Auditor General to be present to answer questions about audit work and provide technical advice and information.
- It is better for evidence sessions to be held in public, if they are to contribute to a public and open accountability process. There may be exceptions where confidential matters arise, but the committee should decide what can and cannot be discussed in public.

## Reporting

The committee should issue reports on the subjects on which it takes evidence. These should be seen as balanced and even-handed, commenting where things are good, as well as where criticism is justified and noting when they are not satisfied with the evidence provided. The reports should concentrate on making constructive recommendations and indicating wider lessons to be learned. They should be agreed by a consensus of the committee.

- The committee's report can draw on the evidence provided to the committee (this will be mainly the reports from the President/Auditor General), with particular reference to points made by witnesses in the oral evidence session.

- The President/Auditor General may prepare the committee’s first draft reports. The committee can then consider and amend the draft report at a private meeting with the Auditor General. The committee can approve the report for publication, in accordance with the legislature’s procedures governing such matters.
- It is helpful if the committee’s reports appear as soon as practicable after the evidence session, because the matters may still be topical and the recommendations can have an immediate impact.
- The committee may wish to accompany the publication of the report by a press notice to help ensure good media coverage; in appropriate cases the Chair may even wish to supplement this with a press conference.
- The government should be obliged to formally and publicly respond to the recommendations made in the reports of the committee.
- It is also essential that where the government’s response to the committee is not satisfactory, that the committee has the power to hold a further evidence session.
- In order to complete the circle of accountability the whole legislature should have a regular opportunity to consider and debate the reports of the President/Auditor General, the committee, and the governments’ responses.

## **ANNEX 2: RELATIONS BETWEEN THE EUROPEAN COURT OF AUDITORS AND COMMITTEES OF THE EUROPEAN PARLIAMENT<sup>5</sup>**

### **1. General role and objectives of Parliament and Parliamentary Committees in relation to the ECA**

The European Parliament (EP) has important powers in relation to the European budget and the European Court of Auditors (ECA). The scope of the relations between the EP and the ECA is not only about the Court's reports, but covers a wide range of other areas linked to the financial management of EU budgets.

First, the EP is, together with the European Council, the Budgetary Authority for the General Budget of the European Community and as such adopts the budget for each year, including the part related to the ECA. Second, on recommendation of the Council, the EP gives discharge to the European Commission and to this end, the Council and the EP examine the annual report, the statement of assurance and the special reports of the ECA (Article 276 of the EU Treaty). The ECA shall in particular assist the Council and the EP in exercising their power of control over the implementation of the budget (Article 248 paragraph 4 of the EU Treaty). The third role is related to the adoption of legal acts for the Financial Regulation, the methods and procedures whereby the budget revenue shall be made available to the Commission, and rules concerning the responsibility of financial controllers, authorising officers and accounting officers as well as concerning appropriate arrangements for inspections (Article 279 of the EU Treaty). As regards these legal acts, the EP has to be consulted and the ECA has to express an opinion before the Council can adopt them (see also point 6). Finally, the EP is also consulted for the nomination of the members of the ECA, who are appointed by the Council.

Within the European Parliament, two permanent committees deal with the powers relating to these functions. These are the Committee on Budgets (CB) and the Committee on Budgetary Control (CBC). The main committee dealing with the reports of the ECA is the CBC. The CB deals with the budgetary matters of the ECA. Tasks linked to the adoption of legal acts are covered by either of the two committees. Both committees also have other tasks besides those related to the ECA, and the CBC has responsibility for matters relating to:

- (a) The control of financial, budgetary and administrative implementing measures relating to the general budget of the European Union (including the EDF).
- (b) The control of the financial and administrative activities of the ECSC and the financial activities of the EIB carried out on the basis of instructions from the Commission.
- (c) The Financial Regulation in connection with matters relating to the implementation, management and control of budgets (Article 279 of the EC Treaty).
- (d) The decisions on discharge taken by Parliament and measures accompanying or implementing such decisions (Article 276 of the EC Treaty).

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5 Report received 26 June, 2001 from the European Court of Auditors.

- (e) Accounts and balance sheets relating to decisions concerning the closure, presenting and auditing of Parliament's revenue and expenditure as well as measures accompanying or implementing these decisions, in particular as part of the internal discharge procedure.
- (f) The closure, presenting and auditing of the accounts and balance sheets of the European Communities, their institutions and any bodies financed by them, including the establishment of appropriations to be carried over and the settling of balances.
- (g) The monitoring accompanying the implementation of current budgets on the basis of periodic reports provided by the Commission and measures taken for such implementation with the specialist committees or alternatively without prejudice to the powers of the specialist committee under these Rules.
- (h) The assessment of the effectiveness of the various forms of Community financing, the co-ordination of the various financial instruments and the assessment of the cost-benefit ratio in the implementation of the policies financed by the European Union.
- (i) Consideration of the credit terms, financing mechanisms and the administrative structures designed to implement them, by examining cases of fraud and irregularities.
- (j) Sets of rules or parts thereof, dealing with the implementation of budgets.
- (k) The organisation of checks, the prevention, prosecution and punishment of fraud and irregularities affecting the budget of the European Union and concerning the protection of the Community's financial interests in general (Article 280 of the EC Treaty).
- (l) Consideration of reports and opinions of the Court of Auditors (Article 248 of the EC Treaty).
- (m) Relations with the Court of Auditors and the appointment of its members, without prejudice to the powers of the President of Parliament (Article 247 of the EC Treaty).

The CB is responsible for matters relating to:

- (a) The definition and exercise of Parliament's budgetary powers (Articles 268 to 273 of the EC Treaty) and the rules thereof dealing with establishment of the budget.
- (b) The budgets of the European Union including the ECSC budget and budgetisation of the European Development Fund.
- (c) The multi-annual estimates of the Union's revenue and expenditure and the inter-institutional agreements concluded on these matters and the implementation of budgetary conciliation.
- (d) Financial resources of the Union.
- (e) The financial activities of the EIB and the other financial and budgetary instruments of the European Communities and of the Member States (Articles 266 and 267 of the EC Treaty).
- (f) Financial implications of Community acts, without prejudice to the powers of the specialist committees.
- (g) Problems relating to administrative and accounting management and the staff of the European Union, in so far as they do not have substantial implications for the legal status of officials.

- (h) Transfers of appropriations.
- (i) Parliament's budget, administration and accounts (Rule 183).
- (j) The Financial Regulation, with the exception of matters relating to the implementation, management and control of budgets (Article 279 of the EC Treaty).

## **2. Composition and mode of operation of Parliamentary Committees *vis-à-vis* ECA**

According to Article 152 of the Rules of Procedure of the EP, the composition of the committees shall, as far as possible, reflect the composition of Parliament. The CBC as the committee responsible for the relations with the ECA and the consideration of the Court's reports is composed of 21 members and 21 substitute members, the CB of 45 members and 43 substitute members.

The CBC meets regularly (once or twice a month for one or two days) and a staff member represents the ECA in all these meetings. On specific occasions, members of the ECA present their reports to the CBC. The President of the ECA presents the annual report of the ECA each year to the CBC in a plenary session of the EP.

Like the Committee on Budgetary Control, the Committee on Budgets meets once or twice a month for one or two days. The ECA is not normally represented in these meetings and only attends for the presentation of its own budget.

## **3. Parliamentary Committee's role in reviewing ECA's report and other outputs**

According to Article 276 of the EU Treaty, the European Parliament has to take into consideration the European Court of Auditors' reports for giving discharge to the European Commission. The decision of the European Parliament for giving discharge may therefore include observations and recommendations based on the reports of the European Court of Auditors.

## **4. Degree of independence of ECA *vis-à-vis* Parliamentary Committees**

The ECA is entirely independent *vis-à-vis* all institutions of the EU with regard to its audit activities. This includes the selection of audit fields, the audit methodology and the reporting of audit findings. Parliamentary committees, and in particular the CBC, may ask the ECA to carry out specific investigations, but it is up to the ECA to decide whether it takes up these proposals or if other audit fields have priority.

The EP is the main budgetary authority for the adoption and implementation of the ECA's budget, which means that it adopts the budget and exercises the political control of its implementation. On the adoption of the ECA annual budget, the EP also adopts the number of staff working in the ECA. Within the legal framework, the ECA is fully independent in implementing its budget. (See also point 6)

## **5. Parliamentary Committee's role in operations of the ECA in areas such as:**

- (a) The ECA's audit programme.
- (b) Parliamentary committee's request for audits/investigations from the ECA.

(c) Type of assistance that the ECA provides to Parliamentary Committees.

(d) Parliamentary committee's influence on the ECA's audit methodology.

The assistance the ECA is providing to the parliamentary committees is mainly through written reports. However, in case the Committee on Budget Control or any other specialised committee has further questions to the observations and recommendations made by the ECA, the ECA provides further details and explanations.

**6. Other possible functions, such as:**

(a) ECA's functions *vis-à-vis* law-making process.

(b) Approval of annual budget for the ECA.

(c) Evaluation of ECA's work by the Parliamentary Committee.

(d) Audit of the ECA (and type of audit carried out).

(e) Appointment or dismissal of ECA Head, approval of ECA legislation, etc.

According to Article 279 of the EC Treaty, the ECA has to express its opinion before the Council adopts the Financial Regulation, procedures for making available the Community's own resources to the Commission, measures to meet cash requirements, as well as rules concerning the responsibility of financial controllers, authorising officers and accounting officers, and concerning arrangements for inspection (see point 1 above).

The estimation for the annual budget of the ECA is proposed by the ECA to the European Commission, which consolidates the proposals from all institutions and has the formal right to attach an opinion thereto. The Commission places this as the preliminary draft budget before the Council, which can depart from this preliminary draft after consultation with the Commission and, where appropriate, the other institutions like the ECA. After the Council has established the draft budget, it is forwarded to the European Parliament. Both institutions, the Council and the European Parliament, have the right to modify the section of the draft budget related to the ECA. However, the final vote for this section of the budget is with the EP. In order to prepare the vote of the Parliament, the Committee on Budgets and in particular its rapporteurs are discussing the section related to the ECA expenditure with the ECA.

The ECA implements its section of the budget on its own responsibility (Article 274 EC Treaty and Article 22 FR), although formally the Commission remains fully responsible for the execution of the entire budget. According to the EC Treaty, the ECA is at the same time its own external auditor. In view of solving the resulting potential conflict of interest, the ECA has contracted a private audit firm with the audit of its accounts. The audit report is published annually in the Official Journal of the EU.

The European Parliament is consulted about the nomination of the members of the ECA, after the candidates have been proposed by the Member States. It screens all candidates before a resolution is passed to the Council, who finally appoints the ECA members.

### ANNEX 3: RELATIONS BETWEEN PARLIAMENTARY COMMITTEES AND OFFICE OF THE AUDITOR GENERAL OF CANADA<sup>6</sup>

#### 1. General Role and Objectives of Parliament and Parliamentary Committees in relation to the SAI

- The House of Commons' Public Accounts Committee has a mandate to examine reports of the Auditor General as well as the Office's budget.
- The Senate's National Finance Committee also has a mandate to examine reports from the Auditor General.
- Most contact is with the House of Commons' committees and the largest portion of that contact is with the Public Accounts Committee (PAC). In any given year, the PAC will meet with the Auditor general and his/her staff approximately 20 to 25 times. Two of these hearings are held to discuss our "Plans and Priorities" and the "Performance Report".
- All standing committees of the House of Commons are provided with summary information of each of the chapters that fall within the committee's purview immediately after SAI reports are made public. Many of these committees invite SAI representatives to appear before them to answer questions relating to the chapters. Occasionally, with Auditor General appearances before standing committees other than the PAC, the department referred to in the chapter is also present to provide testimony.

#### 2. Composition and Mode of Operation of Parliamentary Committees *vis-à-vis* the SAI (do any customs, principles, rules or regulations exist to ensure and preserve the non-political character of PC activities *vis-à-vis* the SAI?)

By convention and House rules, the OAG has a special relationship with the Standing Committee on Public Accounts (PAC). The PAC is one of 16 standing committees of the House of Commons. The Standing Orders of the House provide for the automatic and permanent referral to the PAC of the reports of the Auditor General and of the Public Accounts of Canada once they are tabled in the House of Commons. What the Committee does with these documents and whether it issues any reports to the House is at its own discretion. The basic powers of the PAC are the same as other House Committees: to call witnesses, to send for papers and to report to the House.

There are currently 17 members on the PAC. Since 1958, the committee has been chaired by a member of Parliament from the official opposition and the two Vice-chairs are from the government side. The Committee generally operates in a non-partisan manner by focusing on public administration and the implementation of policy as opposed to the merits of government policy. The Auditor General interacts equally, in a non-partisan manner, with all members of the committee. Further, the committee calls the

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6 Report received 27 April, 2001 from the Office of the Auditor General of Canada.

deputy head of a department rather than the minister to appear as a witness. The Auditor General appears as a witness at the table concurrently with the departmental witness at the majority of hearings.

In recent years, the committee has issued 10 to 15 reports to the House per year. These reports are substantive in nature and contain recommendations addressed to the specific department involved in the related hearings, to the Government and to the Auditor General.

### **3. Parliamentary Committee's Role in reviewing SAI's Reports and Other Outputs**

Although the Auditor General's reports attract considerable media attention when they are released, their long-term impact is felt when they are examined by the PAC. The committee reviews whether public money was spent for the approved purposes and with due regard to efficiency, economy and effectiveness. It bases much of its work on the Auditor General's reports. Throughout the year, the committee holds hearings to review audit findings. After the hearing, the committee tables a report in the House of Commons with recommendations to the Government or to a department. The government departments have 150 days to report back to the committee on what they have done in response to these recommendations. Ministers provide the responses on behalf of the Government. Through this process, the PAC ensures completion of the accountability loop.

In cases where a chapter is not made the subject of a hearing, the PAC will follow-up with the department by asking it to provide in writing a status report or a plan to correct the deficiencies identified by the Auditor General. This follow-up process is normally done once a year.

As stated previously, other standing committees of the House or Senate will also hold hearings on report chapters. The Auditor General attends 15 to 20 such hearings in a year.

In addition, the PAC reviews the Auditor General's budget documents (see section 6).

### **4. Degree of independence of SAI vis-à-vis Parliamentary Committees**

Parliamentary interest in any given matter is routinely considered during the planning of topics to be audited. Parliamentary committees are invited to advise SAI of their interests and concerns during hearings and during informal meetings. The Office seriously considers committee recommendations to undertake an audit of a particular matter. Ultimately, however, SAI has the mandate to independently choose the topics to review.

### **5. Parliamentary Committee's role in operations of SAI in areas such as :**

- **SAI's audit programme:** Planning begins by considering broad issues and overall priorities, needs and expectations of Parliament and other key stakeholders, and allocated resources. External input to this process comes from informal consultations with members of parliament, deputy ministers and from external advisors.
- **Parliamentary Committee's request for audits/investigations from SAI:** Requests by committees are considered and the subject matter is audited if it is deemed appropriate by the office. For example, the office is auditing grants and contributions on a government-wide scale as a result of a request by the Public Accounts Committee. The office also conducted a more detailed audit of the management of grants and contributions at Human Resources Development Canada by taking into consideration the interests of the Human Resources

Development Committee. The results of the government-wide audit will be published later this year. Notwithstanding the office's desire to be of service to parliamentarians and to be responsive to requests from committees, the decision to undertake audits rests completely with the Auditor General and his/her independence is assured.

- Type of assistance that SAI provides parliamentary committees.
- Testimony at hearings, meetings with committee research staff to discuss the reports prior to the hearing (research staff prepare briefing notes to the committee members based on this discussion).
- Parliamentary committee's influence on SAI's audit methodology.

#### 6. Other possible functions, such as:

- **SAI's functions vis-à-vis law-making process:** The SAI Office is not generally involved in any aspect of the law-making process except on those occasions when specifically asked to comment on a bill as it is being studied by parliament. And on these occasions, the SAI will normally only speak on the bill if there is an impact on its mandate. However, government officials are encouraged to review with us draft proposals to change basic legislation such as the Financial Administration Act.
- **Approval of annual budget for SAI:** A hearing is held by the PAC to discuss the office's budget (hearing on "Plans and Priorities"). The Committee issues a report based on that hearing (a copy of the relevant minutes of the proceedings is tabled). The PAC has never recommended a change in the Office's budget. House of Commons standing orders restrict the powers of standing committees when reviewing budgets to the following: adopt as presented, reduce or reject. To reduce a budget would be seen as a question of lack of confidence in the government, which could lead to the government's fall.
- **Evaluation of SAI's work by PAC:** The office's overall performance is evaluated by the PAC during the hearing on its yearly Performance Report (part of Estimates process). The PAC issues a report with specific recommendations related to improving the information the SAI provides on its work and its impact. Indirectly, committees also evaluate the work whenever SAI representatives are before them as witnesses and they ask questions about the audit work.
- **Audit of SAI (and type of audit):** There is an external financial audit of the Office conducted annually. The Office has also recently undergone a peer review of its financial audit practices. A similar peer review for its value-for-money audits is currently being planned.
- **Appointment or dismissal of SAI Head, approval of SAI legislation:** The Treasury Board is mandated to make a recommendation to Cabinet on the selection of the Auditor General. Members of Parliament are not systematically involved in the selection process. However, a decision to remove an Auditor General would require the approval of the Senate and the House of Commons. In terms of SAI legislation, both Houses need to agree to any changes. The Auditor General is appointed for a ten-year term.

## **7. Perceived strengths and opportunities of the current system**

The Public Accounts Committee's established practice of convening a hearing with the Office and the departmental witnesses on any given chapter constitutes one of the best features of the system. This practice adds much weight to SAI recommendations, as the PAC generally endorses them through a report that the Chair tables in the House of Commons. The PAC reports require a formal response by the government within 150 days.

As stated previously, even if a chapter is not made the subject of a hearing, the PAC has the option of requesting an action plan in response to SAI recommendations.

## **8. Other useful practices established by the Office to enhance parliamentary relations:**

**Tabling day procedures:** On the day a report is presented to Parliament, provision is made for Members of Parliament and their research staff to have the opportunity to 'preview' the report before it is formally tabled. This confidential preview is 'hosted' by the Chair of the PAC in concert with the Office. On the tabling day, a letter that proposes priority topics for hearings is provided to the PAC for consideration in developing its plan for hearings. Two days following tabling of the report, the PAC will hold a public hearing on the report just tabled and on the priorities suggested by the Auditor General.

**Letters to committees:** Shortly after the tabling of a report to Parliament, letters are sent to individual parliamentary committees to advise them of any chapters in the report that may fall under their purview. A short description of the main issues is provided. It is anticipated that these letters will lead to hearings.

**Transition letters:** Subsequent to an election, transition letters are prepared for all standing committees of the House of Commons to inform them of any work that has been conducted in departments that fall within their purview. These highlight issues that remain outstanding from the previous legislature. The Auditor General may also write to selected Senate committees.

**Meetings with MPs:** The Auditor General attempts to hold meetings with small groups of Members of Parliament from the various parties just after an election to talk about the role and mandate of the Office. The Auditor General also meets with small groups of MPs on a regular basis to discuss subjects of mutual interest.

**Letters from parliamentarians:** In addition, the Office will answer a number of letters from parliamentarians. These may pertain to a variety of subjects, including queries about past or on-going work of the Office and requests that certain matters be audited. These letters are to be considered by the individual audit teams when planning their work.

**Meetings with committees:** All Assistant Auditor Generals are encouraged to meet informally with the members of standing committees that coincide with their audit responsibilities. Meeting with members of committees helps the Office understand their interests and concerns.

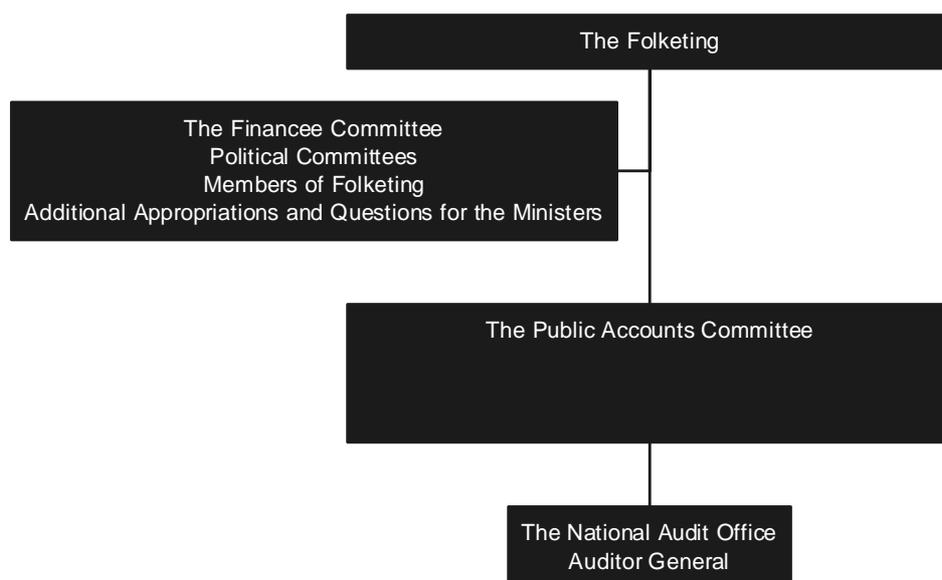
**Meetings with researchers:** Prior to hearings with the Public Accounts Committee, the Committee's dedicated research staff will meet with the audit teams responsible for chapter that is the subject of the hearing. This process helps the research staff to better understand the subject matter and allows them to better prepare the Committee members for the actual hearing.

## ANNEX 4: RELATIONS OF THE SAI AND PARLIAMENTARY COMMITTEES IN DENMARK<sup>7</sup>

### 1. General Role and Objectives of Parliament and Parliamentary Committees in relation to state auditing

In 1849, the Danish Constitution was made and shortly hereafter in 1851 the Parliament's Public Accounts Committee (PAC) was established in Denmark. The National Audit Office of Denmark (NAOD) is organisationally placed under the Parliament as an independent institution.

The following chart illustrates the relations between the Parliament (the Folketing), the parliamentary committees, the PAC, and the NAOD.



The powers and functions of the PAC were set out in their current form in the Act of the Public Accounts Committee in 1976. According to the Act, the PAC may request that the NAOD examines certain areas of interest; in other words, the PAC may request that a certain examination be carried out. After a report is completed, it is forwarded to the PAC. The PAC will, in turn, base its work on the reports of the NAOD.

The Auditor General assists the PAC with a review of the state accounts. In doing so, it is ensured that state revenues are included in the account, and that no expenditure has been paid without authority of the Finance Act or other legislative basis. The PAC also ensures that the funds are administered properly and that sound financial considerations have been taken.

The Parliament elects six members based on proportional representation; therefore, each major party is represented in the PAC. The Chair of the PAC is the longest serving member of the group. The members

<sup>7</sup> Report received 7 May, 2001 from the National Audit Office of Denmark.

are paid and need not be members of the Parliament. The PAC's tenure is for four years, and it is not affected by general elections. The PAC is not a parliamentary committee; therefore, the Finance Committee formally presents the accounts.

## 2. The relations between the PAC and the NAOD

The NAOD is an independent organisation carrying out audit on behalf of Parliament.

According to the law on the state accounts etc (the Auditor General's Act), which was adopted on 1 January 1976, the audit of the state accounts is to be carried out by an independent Auditor General leading a one-unit organisation.

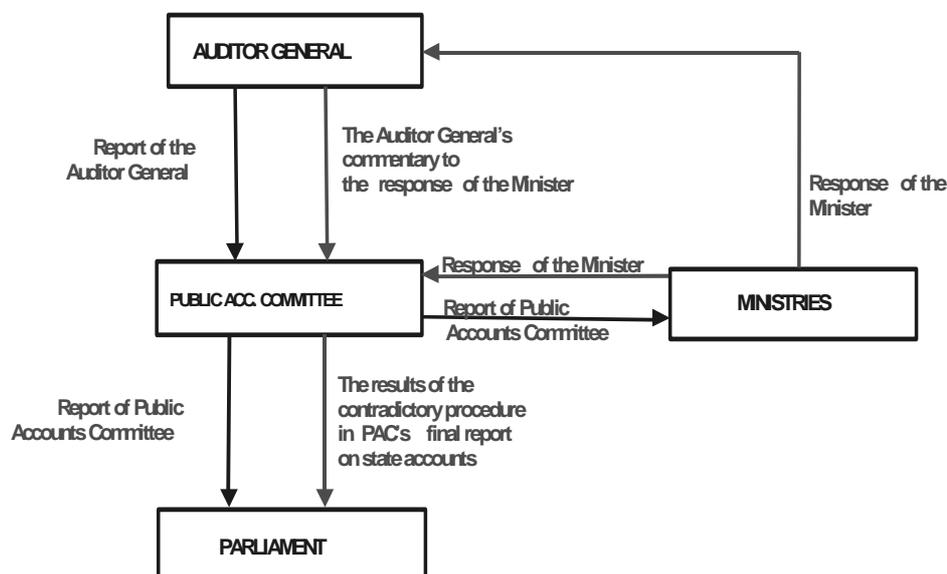
After amending the Auditor General's Act in 1991, the NAOD became organisationally placed under the authority of the Parliament, whereafter the Auditor General is appointed by the Chairman of the Parliament on recommendation of the PAC.

In 1996, the Auditor General Act was amended again, which among other things resulted in the NAOD obtaining direct access to accounts and other kinds of company information. Furthermore, the Auditor General withdrew as an auditor in completely limited liability companies.

In addition to the Auditor General's Act, the Auditor general also operates under the Notice of Instruction for the Auditor General on relations to the Public and the General Administration.

## 3. The PAC's role in reviewing NAOD's Reports and the other Outputs

The PAC considers the Auditor General's reports whereafter the Committee comments on them; hereafter the reports are submitted to Parliament and the minister concerned. The ministers must respond to the reports within four months, describing intended actions. The ministers are obliged to respond because the Act of Ministerial Responsibility makes them both politically and administratively responsible for the area of their competencies.



The preceding chart illustrates the relations between the NAOD, the PAC, the ministries and the Parliament. The red arrows originating from the ministries show the contradictory process.

Once the Auditor General has received a minister's reply to a report, the Auditor General has one month to consider the reply and to report his views to the PAC in a follow-up memorandum. The ministers' responses and the Auditor General's replies are reproduced in PAC's final report on the state accounts. According to the Constitution, the final report on the state accounts forms the basis for Parliament's approval of the state accounts.

#### **4. Independence of NAOD**

According to the Auditor General's Act, the Auditor General is independent in the performance of his/her duties; in other words, the Auditor General decides how to organise and carry out examinations, and whether additional examinations are needed. The PAC is the only body that may request an examination to be carried out.

#### **5. The PAC's role in the NAOD's audit programme, requests for audits, methodology**

Because the Auditor General is independent in the performance of his/her duties, the PAC does not participate in the planning of the NAOD's audit programme, neither does it discuss choices of methodology. However, the Auditor General incorporates the PAC's request for audit examinations in the audit programme.

#### **6. Other functions**

The PAC makes the nomination for appointment and dismissal of the Auditor General to the Speaker of the Parliament who, after negotiating with the deputy speakers, presents the nomination to the Standing Order Committee. If the nomination cannot be approved, the Speaker shall notify the PAC, who hereafter presents a new nomination. The PAC may in this case request that the post be advertised once again.

The PAC normally meets once a month and carefully evaluates the audit reports. The Auditor General participates in the meetings, where the most recent audit reports are thoroughly discussed, and new ideas for audit reports are considered.

Since the passing of the 1991 Act, the NAOD budget is presented by the Auditor General to the PAC. The PAC discusses it, makes comments on the recommendations and forwards it to the Speaker, who ensures that it is considered along with the Parliament's own budget. The NAOD's budget is part of the Parliament's budget.

The audit of the NAOD is carried out by Grothen and Perregaard, a certified public accountant company, in accordance with the Auditor Generals Act and the Parliament's Standing Orders. The audit is carried out in accordance with the principles as defined in *Good Public Auditing Practice*, and includes financial audit as well as performance audit.

According to the Auditor General's Act, the Auditor General shall assist the ministers in the organisation of accounting and internal accounting control. Therefore, ministries forward all relevant draft legislation for the consideration of the NAOD.

## **ANNEX 5: RELATIONS BETWEEN SAI AND PARLIAMENTARY COMMITTEES IN IRELAND<sup>8</sup>**

### **1. General Role and Objectives of Parliament and Parliamentary Committees in relation to the Supreme Audit Institution (SAI)**

Ireland has a written Constitution, which provides for two Houses of Parliament – a House of Representatives called Dáil Éireann and a Senate called Seanad Éireann. The Constitution also provides for a Supreme Audit Institution called the Comptroller and Auditor General (C&AG).

The C&AG's relationship with Parliament is essentially a reporting one, exercised by way of annual and periodic reports provided for by law. These reports form the basis for Parliament's examination of State revenue and expenditure. Parliament undertakes such an examination by way of a standing committee of Dáil Éireann known as the Committee of Public Accounts (PAC). This committee's duties and powers are set out in Standing Orders. The PAC has operated since the foundation of the State in 1922 and both it and the Office of C&AG are modelled on the UK equivalents that date from the administrative and parliamentary reforms of the mid-1800s in the UK.

### **2. Composition and Mode of Operation of Parliamentary Committees *vis-à-vis* the SAI**

Standing Orders provide that the PAC shall consist of 12 members, none of whom shall be a member of the Government or a Minister of State, and four of whom shall constitute a quorum. The committee shall be constituted so as to be impartially representative of the Dáil. By tradition the committee appoints as chair, a member of the principal opposition party. The committee is precluded from enquiring into the merits of policy or of policy objectives.

### **3. Parliamentary Committee's Role in Reviewing SAI's Reports and other Outputs**

Reports of the C&AG may conveniently be divided into a number of categories. First, there are reports which are required to be produced at regular intervals, typically annually, and presented directly to Dáil Éireann by the C&AG. By far the most important of these is the annual report on the audit of the accounts of departments of the State and the accounts of the receipt of revenue of the State. This report is required by law to be presented no later than 30 September in the year following the year to which the accounts relate. It is considered by the PAC, when the committee meets, usually weekly, and forms the basis of its examination of the administrative heads of government departments. The second category of reports is similar to the first in that the reports are required by law to be produced annually, but typically they are submitted to ministers for presentation to each House of Parliament. The PAC in due course considers these reports of the C&AG and the relevant personnel are examined on their content. Such reports relate, for example, to the expenditure of Regional Health Boards and a wide range of non-commercial State Agencies.

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8 Report received 26 April, 2001 from the Office the Comptroller and Auditor General of Ireland.

The third category of report produced by the C&AG encompasses the discretionary mandate of the Office. The key characteristic of this class of report is the freedom provided in law for the C&AG to choose topics for examination. The most important set of reports in this category is reports relating to value for money (VFM) examinations. Formally this is a relatively new mandate dating from 1993 when legislation, governing the work of the C&AG, was significantly revised for the first time in over one hundred years. However, for many years prior to 1993, the annual reports of the C&AG had tended to draw attention exclusively to instances of loss, waste and excessive expenditure, in other words some aspects of the value for money concept. The VFM mandate as formally set out in the 1993 legislation, is concerned with the extent to which public resources have been used economically and efficiently, and whether or not public agencies have systems in place to evaluate the effectiveness of their operations. Reports under this mandate are made to ministers, who are obliged by law to present them to Dáil Éireann. This leads to their subsequent examination by the PAC. To-date some 38 such reports have been presented for consideration by the PAC.

Four, there are special reports. These, as the term suggests, are intended to allow the C&AG to report on issues arising from his/her audits, examinations or inspections that might otherwise go unreported to Parliament, thus ensuring greater public accountability for the proper use of public resources. Such reports are presented to ministers in the first instance, subsequently laid before Parliament, and ultimately examined by the PAC.

#### **4. Degree of independence of SAI *vis-à-vis* Parliamentary Committees**

The independence of the C&AG derives directly from his/her position as a Constitutional Officer. Historically, the C&AG has strong links with the PAC, and is a permanent witness at all its meetings. It was the PAC that pressed for the development of the C&AG's role in the 1980s. He/she does not report through any other Parliamentary Committee. In the mid 1980s, consideration was given to whether or not he/she might have a reporting relationship with other parliamentary committees. However, such ideas did not find universal favour, and a White Paper on the role of the C&AG, published in 1992, indicated that the Government, in considering revised terms of references for the PAC, had regard to the need to ensure that the PAC should continue to be the only parliamentary committee through which the C&AG reports to Dáil Éireann.

While there are close working relations between the PAC and the C&AG, there is no doubt that the two are quite independent, both in law and in practice. This is clearly recognised by all concerned.

#### **5. Parliamentary Committee's Role in Operations of SAI**

In considering the questions raised under this heading, it is worth noting that the 1993 legislation provides that the C&AG shall audit certain accounts, and may carry out such examinations as he/she considers appropriate for the purpose of ascertaining whether resources have been used economically and efficiently (the VFM mandate). Thus the statute proscribes mandatory and discretionary elements in the work of the C&AG. The audit programme is planned to ensure that audits are conducted in accordance with internationally recognised auditing standards and within the constraints of the staff and budget allocations provided for the Office.

As regards the PAC's requests for audit/investigations, it should be noted that the 1993 Act specifically provides in respect of VFM examinations that, where the C&AG proposes to make any examination under this part of his/her mandate, he may, at his/her discretion, seek the views of the PAC.

It should be further noted that the Standing Orders provide that the PAC may, without prejudice to the independence of the C&AG in determining the work to be carried by him, or the manner in which it is to be carried out, in private communication, make such suggestions to the C&AG regarding that work as it sees fit. The C&AG has absolute discretion to accept or reject any such suggestions. Thus, the complementary relationship of the C&AG and the PAC is recognised without prejudice to the independence of either party.

The C&AG or, in his/her absence, a senior member of his/her staff attends the meetings of the PAC as a permanent witness. The Office assists the C&AG in providing the PAC with oral and written presentations on his/her reports to facilitate the PAC in the performance of its functions. The PAC has its own secretariat and support staff. A staff member from the C&AG's Office assists the Chair of the PAC in a liaison capacity.

The PAC has no influence on the Office's audit methodology.

## **6. Other Possible Functions**

The C&AG has no specific function *vis-à-vis* the law-making process. Nonetheless, it is customary that his/her Office is consulted regarding the enactment of laws which would directly affect the conduct of audits for which he/she is responsible, and his/her Office is frequently represented on working parties dealing with improvements in such matters as government accounting.

The budget of the Office is determined as part of the overall provision for the civil service as a whole, and is subject to prevailing government policy in such matters. From time to time, this has led to a less than ideal allocation of staff and other resources. However, in practice, this has not, to date, led to any insurmountable problems. It should be noted that the pay of the C&AG (in common with that of the judiciary), is paid from the central fund, rather than being appropriated annually by Parliament, thus emphasising his/her constitutional independence.

As regards the audit of the Office, prior to 1993, the staff of the Office audited the appropriation account of the Office of the C&AG. However, it was recognised that this was a less than ideal situation, and provision was made in the 1993 legislation for the audit of the accounts of the Office by an external auditor appointed by the C&AG. Such an auditor may, at his/her discretion, and with the consent of the Minister for Finance, carry out a value for money examination of the Office. The report of any such examination must be submitted to the C&AG and laid by him/her before Dáil Éireann. This report would then be available to the PAC for consideration in exactly the same way as any other report presented under the legislation. To date, no such examination has occurred.

As regards the possible role of the PAC in the appointment or dismissal of the C&AG, the Constitution provides that the C&AG is appointed by the President on the nomination of Dáil Éireann. He/she shall not be removed from Office except for stated misbehaviour or incapacity, and then only upon resolutions passed by Dáil Éireann and by Seanad Éireann calling for his/her removal.

## **7. Other Developments**

In early 1998 media reports suggested there might be significant evasion of Deposit Interest Retention Tax through the use of bogus non-resident bank accounts. The PAC sought to investigate the matter but concluded it had insufficient powers to do so. This led to the enactment of the Comptroller and Auditor General and Committees of the Houses of the Oireachtas (Special Provisions) Act in 1998, which granted extensive quasi-judicial powers to the C&AG. It allowed him/her to investigate the operation of

the tax by the revenue authorities and the financial institutions and to report his/her findings to Dáil Éireann. This investigation broke new ground and the C&AG's report formed the basis for a subsequent public inquiry by a sub-committee of the PAC into the whole affair which generated enormous public interest. It ultimately led to the payment of significant sums by the financial institutions and others to the revenue authorities. The affair raised public awareness, of the PAC and the Office of the C&AG, to levels previously unknown.

## ANNEX 6: THE INTERACTION BETWEEN THE STATE COMPTROLLER AND THE COMMITTEES OF PARLIAMENT (ISRAEL)<sup>9</sup>

The relationship between the State Comptroller and the Israeli Parliament (The Knesset) express, both on the formal and the practical level, two fundamental principles:

1. The independence of the State Comptroller not only *vis-à-vis* the executive branch, but in regard to the legislature as well.
2. The establishment of an independent SAI as a major tool, in effectively realising the basic principle of the public's "right to know".

It should be born in mind that parliaments are, by definition, political organs as are all parliamentary committees. Since state audit functions within a political environment, there is potential for tension between the public interest, as presented in audit reports and the political agenda of members of parliament and or political parties. It is therefore important to remember, that the more state audit deals in areas of performance audit, the more the potential for tension increases as decision makers may, under certain circumstances, try to threaten the Auditor General's status of professionalism and impartiality.

The relations between state audit in general and parliaments have a formal basis in law, but there are also informal aspects which develop over the years and differ from case to case.

In the Israeli case, some of these relations are stated in the Basic Law, giving them a constitutional standing.

There can be no rules or regulations that can eliminate the scent of politics in the course of discussions in parliamentary committees. Moreover, formalising does not necessarily have superiority over tradition. That is to say, political culture is no less, and usually more, dominant in shaping the balance and relationship between actors in the public arena, than are formal regulations. This basic fact applies to the relations between the organs dealt with here as well.

The question, whether the relations of SAI's *vis-à-vis* the legislature are politically tinted, should be examined both from the formal and informal aspects and should not be separated from the issue of the independence of the SAI.

On the formal level, there are certain provisions in Israeli law, establishing the independence of the State Comptroller *vis-à-vis* Parliament, and, thus, also ensuring the elimination of political influence upon the State Comptroller.

The law provides that "in carrying out his/her functions, the State Comptroller shall be responsible only to the Knesset, and shall not be dependent upon the Government". That is to say, the State Comptroller is not subordinate to the Knesset.

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9 Report prepared by Mr Yehoshua Roth from the State Comptroller's Office of Israel (received 9 May, 2001).

This independence is secured by the procedures for electing the State Comptroller (secret ballot in the plenum); for determining the budget of the office; and by the fact that neither Parliament nor its committees have any influence in regard to the audit programme of the office. They have no power to dictate, or be involved in the selection of subjects to be audited, or to determine what methodology should be applied, either in specific cases or in general. Moreover, a request submitted by an individual member of the Knesset that the State Comptroller investigates a certain matter, does not have any priority over a request submitted by any other person. Both will be notified that the matter brought to the attention of the Comptroller will be examined according to the priorities of the office and that they will not be personally informed, either about the decision of whether to investigate the matter - or in an interim report, about any findings.

The interaction between the State Comptroller and the Parliament takes place mainly in two organs of the Knesset; the plenum and the State Audit Affairs Committee, the last being the major organ in this regard.

The contacts with the Knesset plenum concern three major issues:

1. The election of the State Comptroller: The source of authority to propose candidates for the position of Comptroller is the legislative branch. The executive branch has no standing concerning this issue. Ten or more members of the Knesset may nominate a candidate to be elected as Comptroller. The Comptroller is elected by the Knesset plenum in a secret ballot, for a term of seven years. This procedure (and the duration of term) is identical to that of electing the President of the State. The President has no executive powers, and is considered to symbolise the unity of the State. The identical procedure of election is meant to express that the State Comptroller is also at the core of public consensus. It should be noted that until 1998 the State Comptroller was elected by the House Committee of the Knesset (and then appointed by the President). The amendment of the law is an expression of the aforesaid idea, and is strengthened by the fact that his/her election was excluded from the authority of just a group of members. The removal of the Comptroller from office requires a resolution of the Knesset, carried by a two-thirds majority of those voting.
2. Laying the Annual Report of the Comptroller on the table of the plenum of the Knesset.
3. Approval of recommendations, formulated following the discussions on the State Comptroller's reports in the Committee.

The State Audit Affairs Committee is the main channel of communication between the two Institutions. The law states that the Comptroller shall carry out his/her activities in contact with the Committee. Thus, according to the wording of the law, he/she is not subordinate to the committee as well. This is a special permanent committee, established in order to deal mainly with State audit reports. From this provision it is derived that the Comptroller should not participate in sessions of other committees of the Knesset, in the course of his/her routine activity, although they may deal with subjects investigated by the Comptroller. He/she also does not appear before the Knesset plenum, except on the occasion of his declaration of allegiance.

The Committee holds three weekly sessions in which the Comptroller and his/her staff always participate.

As the Committee is unable to deal with all the Comptroller's reports, selection must be made. How this is done may appear as an interesting question:

Indeed, it is the prerogative of the Chair of the Committee to determine which subjects to deal with. However, on a non-formal basis, the Comptroller advises the Chair of the Committee as to the priority of reports to be discussed.

Nevertheless, it would be naïve to assume that the selection made by the Chairman of the Committee ignores the public agenda, at any given moment.

The actual selection does not necessarily reflect an identical preference of the Comptroller and Committee Chair, as the Chair's preference may sometimes express a latent "sectorial" interest, rather than the objective importance of a certain report when considered from a purely professional point of view.

According to a certain provision in the law, the Comptroller shall (if requested to do so by the Knesset, the Committee or the Government), prepare an "opinion" as to any matter in the scope of his/her functions. The question as to whether an "opinion" should be interpreted as an investigation with regard to a matter of principle only, or as a request for a regular report, has never been dealt with.

This provision, which enables the aforesaid bodies to compel the State Comptroller to carry out an audit on a certain issue, has very rarely been put into effect.

The Knesset and the Government have never asked for an "opinion", and the Committee has not done so for about a decade.

In practice, when the Committee examines such a request for an "opinion", which may be raised by any of its members, it actually leaves it for the consideration of the Comptroller whether to look into the matter or not. There is a kind of "gentlemen's agreement" between the Comptroller and the Committee, that it should not take a vote, so as not to formally impose on the Comptroller the implementation of an investigation. Practice thus, demonstrates the "constitutional reality" in this regard.

Members of the Committee sometimes make use of this provision in order to raise special issues in the Committee. As this Committee has very clear terms of reference, one might expect that these issues concern matters raised in audit reports. However, the reality is quite different. These issues are sometimes vaguely connected to the reports and rather reflect an attempt by members of the Committee to draw the attention of the public to their parliamentary activity. Thus, they are usually sufficed by raising the issue, and do not ask the Comptroller to submit a special opinion on the matter. When the matter is clearly of a political nature (which is very rare), the Comptroller refrains from attending these sessions, although he/she is invited.

It must be emphasised that the Committee usually conducts its discussions in a non-political atmosphere. Members of the Committee are basically aware of the importance of the State Comptroller's Office as a source of reliable and impartial information to the Knesset and the public. They are aware of the negative implications of politicising the discussions and refrain from doing so.

The Comptroller also has the discretion to decide whether the facts revealed in the course of his/her investigation require the submission of a special report to the Committee. He/she will so decide, when the investigation reveals an infringement of moral standards or raises a fundamental problem, and thus requires, in his/her view, the special attention of the Committee. Should he/she do so, the Committee may, upon its own motion, or upon the proposal of the Comptroller, decide upon the appointment of a commission of enquiry. If the Committee so decides, the President of the Supreme Court shall appoint this commission. The Committee may, in special circumstances and with the agreement of the Comptroller, decide upon the appointment of such a commission on a subject included in any of his/her regular reports.

In practice, the Committee has never decided upon appointing a committee of enquiry on the basis of its own motion. It has done so only upon the proposal of the Comptroller. Moreover, the Comptroller will refrain from submission of such a special report, unless he/she has come to the conclusion that appointing a commission of enquiry is necessary. It should also be pointed out that the Committee has never denied such a proposal of the Comptroller. One of the remarkable examples of using this tool was the appointment

of a commission of enquiry after the Comptroller submitted a special report investigating the crisis in the Israeli stock market in the early eighties, which resulted in the dismissal of the heads of the banks involved.

Following the discussions on the audit reports, the Committee submits its conclusions and recommendations for the approval of the Knesset plenum. It should be noted, that on the grounds of the informal relations developed between the Committee and the Comptroller, the Committee asks the Comptroller to forward his/her remarks on the recommendations, prior to their submission for approval by the Knesset. It should be emphasised that this is the only Knesset committee, all of whose recommendations, are, according to the law, to be approved by the plenum.

The Committee may also decide, upon the proposal of the Comptroller, that certain parts of the report shall not be published, if it deems it necessary to do so in the interests of safeguarding the security of the state, or in order to avoid an impairment of its foreign relations or its international trade relations. Practically, the audited bodies point out to the Comptroller which information in the report, in their view, jeopardises the mentioned interests, and should therefore not be published. The Comptroller very often does not accept the arguments of the audited bodies. It should be said that in spite of the fact that the Committee consists of political figures naturally having different perceptions of the borders of secrecy, common ground is usually found in defining these borders. It is highly unlikely for the Committee to decide to omit information in contradiction to the position of the Comptroller.

The full version of the audit report is discussed either in a session which is declared secret or, in the case of a report dealing with the secret services, by a special joint committee of the State Audit Affairs Committee and the Foreign Affairs and Security Committee of the Knesset. This joint committee was established as a practical means for dealing with these reports and has no standing in the law.

It should be pointed out that the Chair of the State Audit Affairs Committee of the Knesset is, as a matter of tradition, a member of the opposition, the reasons being very clear. On the other hand, the majority of the members consist of parties composing the coalition block.

Along the same lines, the Knesset has also accepted the opinion of the Comptroller, that a minister should not be appointed as the chairman of the Committee, during a certain period of time after his party lost power. The idea is to avoid either the impression or the actual possibility that he deals in this capacity with the activity of the government of which he was a member or refrains from laying on the table of the Committee unpleasant issues.

On the basis of the Comptroller's proposal, the Knesset amended the law, which provides that a person who served as a minister, as a deputy minister, or as a Director General or Deputy Director General of any Government office, shall not be the Chair of the Committee within two years from the day of termination of his/her tenure of such office. A member of the Committee, who served in one of the above mentioned positions, shall not participate in the discussions of the Committee relating to his/her area of responsibility during the period in which he/she served as aforesaid.

Amendments to the State Comptroller Law are either initiated by the Comptroller or by members of the Knesset, and are dealt with by the Committee. In practice, members of the Knesset will consult with the Comptroller prior to formally initiating these amendments, mainly in order to convince the Comptroller of the necessity of the amendment, not only as a matter of courtesy, but also knowing that it is unlikely that the Knesset will impose an amendment upon the Comptroller.

The procedure of dealing with the budget of the State Comptroller's Office is unique and is dealt with by two committees of the house, so as to avoid a monopolistic position of one committee of the Knesset *vis-à-vis* the Comptroller.

The Knesset Finance Committee on the proposal of the State Comptroller, approves the budget of the office, but the financial report, prepared after the expiration of the financial year, is submitted to the State Audit Affairs Committee.

When approving the budget, members of the Finance Committee might ask for some clarifications. However, due to the respect and trust in which the Comptroller is held, they have never questioned the basic philosophy or strategy of the proposed budget. It should be pointed out that in practice, the budgets proposed by all Comptrollers, over the years, have always been approved without any changes.

The relations between the two institutions reflect the Israeli experience of implementing the principle of the division of power, guided by the rule of self-restraint, as part of the political culture developed in Israel.

## ANNEX 7: RELATIONS BETWEEN THE NETHERLANDS COURT OF AUDIT AND PARLIAMENTARY COMMITTEES<sup>10</sup>

### 1. General Role and Objective of the Parliament and Parliamentary Committees in Relation to the Supreme Audit Institution (SAI)

The general role and objectives of Parliament and parliamentary committees in relation to the Netherlands Court of Audit can be described by the words “control” and “information”. To start with the first word, it can be said that the Dutch Parliament of course controls the Government, as does any parliament that takes its role seriously. In the Netherlands there is a public discussion, however, about the limited possibilities Parliament has in controlling the Government with its thousands of civil servants. The 150 members of Parliament only have (at best) one assistant each, but every minister has literally thousands of civil servants that can assist him/her in the interaction with Parliament. Cynically one can say that it's a “mission impossible” for a single or even a couple of members of Parliament to disagree with a minister since this minister has a huge staff to prevent such confrontation. Following this line of reasoning, the Dutch Parliament makes use of, among other external reports, audits of the Netherlands Court of Audit in its controlling function *vis-à-vis* the government. The Netherlands Court of Audit has a staff large enough and with the relevant qualifications to seriously evaluate the work of a ministry. Parliament can, using the SAI audit, formulate a political judgement about the responsible minister.

The second phrase that can be used describing the objectives of Parliament in relation to the Netherlands Court of Audit is, as said above, “information”. Just as its capacity to control government is limited, the possibilities of the Dutch Parliament in seeking information about public affairs are limited, due to its small staff. Therefore Parliament is happy to make use of the information of independent institutions such as the Central Bureau of Statistics, the Central Planning Bureau and the Netherlands Court of Audit. Reports published by these institutions contain information that members of Parliament can use for the evaluation of the state of the country, (thereby) the functioning of government and (thereby) the formulation of political points of view.

Recently the Dutch Parliament strengthened its support staff and increased its research budget. A unit has been set up aimed at acting as a ‘broker’ between Parliament (with its need for information) and public or commercial researchers (with their skills, knowledge and manpower). Currently there are no plans for a parliamentary research institute.

### 2. Composition and Mode of Operation of Parliamentary Committees *vis-à-vis* the SAI

The composition and mode of operation of parliamentary committees *vis-à-vis* the Netherlands Court of Audit is generally not very different from the composition and mode of operation of parliamentary committees *vis-à-vis* other institutions. The committees consist of members of all political parties

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<sup>10</sup> Report prepared by Mr Omar Ramadan, spokesperson for the Netherlands Court of Audit and Mr Steven Jongejan, Policy Advisor for the Netherlands Court of Audit (received 27 September, 2001).

represented in Parliament, and the contact with the Netherlands Court of Audit is with the Parliament as a whole or a representative committee, not with any individual political party. The audits of the Netherlands Court of Audit are published either for the attention of a minister or for the attention of Parliament. In the latter case, the Court offers to give a briefing about the audit just before publication. The State Expenditure Committee receives this offer, mostly accepts it and invites other committees for the briefing. Mostly the relevant parliamentary committees are present at the briefing, as the audits addressed to Parliament can easily be used for a political debate with the responsible minister(s). It is quite difficult to say whether there are any regulations to ensure the non-political character of parliamentary committee activities *vis-à-vis* the Netherlands Court of Audit, as committees of Parliament are by nature political institutions. Of course there are regulations to ensure that the Court can not be influenced by a single party or a minority of parties, such as the rule that a request for an audit can only be made by the majority of Parliament. The Netherlands Court of Audit also makes sure that the political debate is a debate between Parliament and Government, not involving the Netherlands Court of Audit as a third party. The audits often provide grounds for such a political debate, but if members of Parliament, for instance, ask the Court whether in its opinion a minister should resign, the answer will always be that the Court doesn't have opinions in this matter and that this issue is up to Parliament. Also questions about the desirable content of future policy are generally not answered in great detail, except for matters such as the controllability of all types of policy.

### **3. Parliamentary Committee's Role in reviewing SAI's Reports and Other Outputs.**

The parliamentary committee's role in reviewing SAI audits starts with the above mentioned briefings. The relevant committees are invited for a briefing, which is closed to the public and takes place in the parliamentary buildings. As mentioned before, all the parliamentary committees consist of members of all political parties, but most briefings of the Netherlands Court of Audit are (only) attended by members of the five largest parties, that is the three, currently, governmental parties and the two largest opposition parties. The three smaller opposition parties do not have enough members in Parliament to frequently attend the apparently not so important briefings. The briefings are given just before the audits are free for publication by the press, and all the members of the relevant parliamentary committees (also the ones of the smallest parties that will most likely not attend), will receive the audit under embargo the day prior to the briefing and publication. The briefing consists of a presentation by a member of the Board and staff members of the Court, after which the members of Parliament can ask questions. Mostly the members of Parliament do not ask political questions of the sort that cannot be answered by the Court, such as the aforementioned ultimate question of whether or not a minister should resign. (A minister should resign for no other reason than the lack of parliamentary confidence in her or him.) Some time after the briefing and publication of an audit the Netherlands Court of Audit often receives written parliamentary questions. Other than the oral questions asked at the time of the briefing, the parliamentary committee as a whole issues written questions. The Court of Audit always answers. Similarly the relevant minister(s) can ask Parliament written questions about the audit, and also receive(s) the briefing that the Court plans to give to Parliament.

### **4. Degree of Independence of SAI *vis-à-vis* Parliamentary Committees**

The degree of independence of the Netherlands Court of Audit in its relation with Parliament can be considered quite large. From the answers to the questions below, it can be inferred that Parliament, in a few ways, has some formal influence on the SAI's operations. In practice, however, this influence is very limited.

## 5. Parliamentary Committee's Role in Operations of SAI

(a) The audit programme of the Netherlands Court of Audit is strictly the responsibility of the SAI itself, except for the fact that the Court is obliged by law to perform an annual regularity audit and that it is required to devote attention to the efficiency of government. The programme is conceived with close co-operation between the Board and the staff. A selection from a large number of possible audits and other activities is made based upon the strategic programme of the Board and extensive monitoring of relevant policy areas. The programme is presented to Parliament in a closed session of the State Expenditure Committee (and made public). During this session there is the possibility for members to ask questions and discuss the content of the programme.

In recent years the Netherlands Court of Audit has involved Parliament more closely in the process leading up to the audit programme. Before the Netherlands Court of Audit published its programme, Parliament received a draft. With the State Expenditure Committee acting as a go-between, other parliamentary committees were asked to put forward proposals for audits and/or adaptations of proposed audits. Several of these proposals have led to new audits or changes in the programme. This year a new approach will be used. Before the selection process starts, Parliament will be given the opportunity to put forward proposals. These proposals will be used as input for the selection process.

(b) Parliament (not a parliamentary committee) has the option to request an audit. A parliamentary majority is required. The following steps are involved:

- The idea for a request usually originates from one or more members of one of the committees.
- If discussion in this committee shows a majority exists, the request is put before the State Expenditure Committee for advice.
- The State Expenditure Committee provides advice regarding the content of the request (e.g. if an audit is feasible) and the appropriateness of an audit by the Netherlands Court of Audit (given its powers and constitutional position).
- The proposal is formally brought before the full Parliament and is put to a vote.

During this process, there is frequent contact on a staff level between the Netherlands Court of Audit and Parliament. In this way it is ensured that the request is acceptable and feasible for the Netherlands Court of Audit. Therefore the Netherlands Court of Audit's response is almost always positive.

(c) The Netherlands Court of Audit provides assistance to the State Expenditure Committee on a regular basis by temporarily stationing a staff member with the staff of the State Expenditure Committee.

Other parliamentary committees and/or Parliament as a whole receive support on an *ad hoc* basis, by providing either knowledge or manpower.

(d) The Netherlands Court of Audit's methodology is a matter of the SAI itself - Parliament is not involved.

## 6. Other Possible Functions

(a) The Netherlands Court of Audit does not have a formal role in the law-making process. However, the SAI has the possibility to communicate any comments it has to Parliament or to the minister involved.

(b) Formally the Netherlands Court of Audit's budget (together with that of other High Councils of State) is part of the budget of the Minister of Home Affairs, it is therefore he/she who puts the proposed budget before Parliament. In case of disagreement, the Netherlands Court of Audit may raise the issue with the State Expenditure Committee, but must rely on members of the Lower House to propose amendments to the budget. The unwritten rule is that Parliament is cautious in exercising its budgetary rights, since too much involvement might interfere with the SAI's independence. Formally, however, it is possible for Parliament to reduce or increase the Netherlands Court of Audit's budget.

(c) The work of the Netherlands Court of Audit is not evaluated by Parliament in the strict sense of the word. Annually the Netherlands Court of Audit presents its Report to Parliament in a closed session of the State Expenditure Committee. During this session and other meetings between the Board and the Committee, members have a chance to express their opinions regarding the Netherlands Court of Audit and its work. In addition, members of Parliament frequently comment in the media on audit reports and the institution as a whole.

(d) The regularity of the Court's expenditure as the State Auditor must, of course, also be audited. The auditing system is as follows: the Court appoints an internal auditor, who audits the annual accounts and financial management for the year in question. The internal auditor reports to the Audit Committee. The Ministerial Audit Department of the Ministry of Home Affairs uses these findings, carries out additional auditing if necessary, and reports to the Minister. The cycle is complete once the Court, as part of the regularity audit of all budget chapters, reviews the audits of the Ministerial Audit Departments, including that of the Ministry of Home Affairs on the High Councils of State (which include the Court itself). In the process, the Court might come across shortcomings in financial management, which it would then report on in its regularity audit. The Court realises that it has to set an example and tries to act accordingly.

(e) The Board of the Netherlands Court of Audit consists of three members appointed by Royal Decree; in a separate process one of them is appointed President. This Royal Decree is in fact a Government decision.

In case of a vacancy on the Board, Parliament is notified and the Netherlands Court of Audit provides a list of six candidates. Based on this list and possible new candidates proposed by Parliament itself, a recommendation is made to the Government - which then makes the decision. Members are appointed for life, but retire (at the latest) at the age of seventy. A member can only be dismissed by the Supreme Court of the Netherlands.

The legislation concerning the Netherlands Court of Audit is laid down in the Government Accounts Act. In the act it is stated that the Minister of Finance has an obligation to consult the Netherlands Court of Audit regarding changes to the act which have an impact on the Netherlands Court of Audit.

## **ANNEX 8: RELATIONS OF THE OFFICE OF THE AUDITOR GENERAL OF NORWAY AND THE PARLIAMENTARY COMMITTEES<sup>11</sup>**

### **1. General Role and Objectives of the Parliament and Parliamentary Committees in relation to the SAI**

The Office of the Auditor General (OAG) is the control agency of Parliament, the Legislature. Its origin goes back to the Norwegian Constitution of 1814 which provides that Parliament, for its four-year term, shall elect five Auditors General to examine the financial statements of the Government. These five Auditors General, one of which is designated as Chair, constitute the Board of Auditors General (Board) with overall directive and supervisory authority in all matters of general policy. The political allegiances of the Auditors General tend to reflect the political composition of Parliament and the Board is often made up of former members of Parliament.

The OAG is Parliament's supervisory body. It submits reports to Parliament both on the results of audits it has performed, and on its own activities. All publications of the OAG are published as official parliamentary documents and they are dealt with finally in plenary sessions of the Parliament. All findings or results submitted by the OAG are dealt with and presented on behalf of the Parliament by the Standing Committee on Scrutiny and Constitutional Affairs (the Committee).

The Committee shall review and submit recommendations to Parliament on:

- The OAGs annotations with replies and approval of annual accounts, as well as recommended decisions and measures deemed necessary in connection with approval.
- The annual report of the OAG on its activities, as well as report to Parliament on whether the auditing of the accounts has been carried out in accordance with the instructions for the OAG.
- Reports from the OAG concerning scrutiny of the administration of the State interests in State-owned enterprises, etc. and the matters relating to the activities of the OAG.

### **2. Composition and Mode of Operation of Parliamentary Committees *vis-à-vis* the SAI**

After the election, all members of Parliament are appointed to be members of Parliament's standing committees. Proceedings for the election and the tasks for the different committees are stated in Parliament's Rules of Procedure. According to these rules, the party groups should be, as far as possible, proportionally represented on the committees.

As described, the Committee on Scrutiny and Constitutional Affairs (the Committee) review and make recommendations regarding all reports from the OAG. The Committee is also admitted to conduct its own

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<sup>11</sup> Report received 30 April, 2001 from the Office of the Auditor General of Norway.

examinations in the Ministries. The purpose of the examinations initiated by the Committee itself is to obtain the information, which is considered necessary, to enable Parliament to deal with the constitutional and parliamentary responsibility of the members of the Government. In such cases, the OAG can be requested to render its opinion or make a statement before any decision is made, however, the OAG is not obliged to do so.

### **3. Parliamentary Committee's Role in Reviewing SAI's Reports and other Outputs**

The audit reports are unlikely to result in the impeachment of a Minister. Instead, Parliament can invoke parliamentary or political responsibility of the Government or Minister. However, parliamentary/political criticism of the responsible minister is the most common result of the reports. Several open hearings based on performance audit reports from the OAG have also been arranged.

Normally the Chairman of the Board and other staff members of the OAG are present as observers during the plenary session in the Parliament when audit reports are debated.

Representatives from the OAG have also been present during open hearings in the Committee when the hearing is based on a report from the OAG. From time to time representatives from the OAG meet when the Committee has ordinary meetings discussing audit reports. However, this is not the normal procedure.

### **4. Degree of independence of SAI *vis-à-vis* Parliamentary Committees**

It follows from the legislative power Parliament is given by the Constitution, that it is obliged to give legal provisions regarding the mandate, obligations and extent of the audit work. Parliament also determines the financial resources for the OAG.

The present legislation does not govern how the OAG should conduct its assignments. There is, however, a common understanding between Parliament and the OAG that the OAG enjoys full independence in its choice of work with regard to standards, methodology and procedure to be used in performing the audit work.

There is, however, an informal relationship between Members of the Committee and the Board of Auditors General and other representatives from the Office. From time to time meetings have been arranged between the Committee and the Board.

The OAG has also regular contact with Parliament's administration and Parliament's Presidency on budgetary and administrative matters.

### **5. Parliamentary Committee's Role in Operations of SAI in Areas such as (a) the SAI's Audit Programme, (b) Parliamentary Committee's request for audit/investigations from SAI (c) Type of assistance that SAI provides Parliamentary Committees (d) Parliamentary Committee's influence on SAI's audit methodology**

(a) The OAG is free to establish its own priorities and plan its work in accordance with its terms of reference, and to choose the appropriate methods for the tasks to be carried out.

(b) The legal provisions governing the OAG do not regulate whether Parliament or the committee can direct the OAG to do specific audit work in particular performance audits. According to common law, however, only Parliament in plenary session can request specific audit work to be carried out. The

committee is not regarded to have power to do so. Today it seems to be a mutual understanding among the politicians to limit the amount of requests.

(c) If the committee needs more information regarding a specific audit finding, the committee in most cases makes a request to the Ministries. The OAG will normally be submitted with copies of the correspondence between the committee and the ministries, but this is not always the case. From time to time the committee requests the OAG to forward it with more information. The contact and communication between the Committee and the OAG, when they deal with audit reports, is, not stipulated in any legal provision nor does it follow established procedure.

(d) All the audit work is based on auditing standards and guidelines for auditing, adopted by the Board of Auditors General. The Committee has no influence on the OAG's audit methodology.

**6. Other possible functions, such as (a) SAI's function *vis-à-vis* law-making process, (b) Approval of Annual Budget for SAI, (c) Evaluation of SAI's work by PC, (d) Audit of SAI (and type of audit carried out), (e) Appointment of dismissal of SAI head, approval of SAI legislation, etc.**

(a) The OAG has no special function *vis-à-vis* the law-making process, and is totally independent from the executive powers (the government and other public administrations). The OAG is, however, normally invited to comment on law proposals from the executive powers before they are sent to Parliament for final adoption.

(b) The OAG prepares an annual draft budget and this is passed directly to the Parliament's Presidium. The Presidium prepares the budget proposal, together with the budget for the Parliament itself, for final adoption by Parliament in plenary session. Normally the Parliament's Presidium does not possess the competence to modify the draft budget from the OAG. Nevertheless, the Presidium has the power to do so, and during the preparation of the budget proposal to Parliament itself, the Chairman of the Board of Auditors General has to give an account of the draft budget in a meeting with the Presidium. The final adoption takes place without any cuts or retrenchments.

(c) The Committee or Parliament does not specifically evaluate the work of the OAG. Nevertheless, the Committee often gives comments on its work together with recommendations to Parliament in the annual report of the OAG on its activities.

(d) The OAG's accounts are audited by a State Authorised Public Accountant, who has been appointed by the Parliament's Presidium as auditor (financial audit). The audit report is submitted to Parliament together with the financial statement of the OAG approved by the Auditor Generals.

(e) The Auditor Generals are elected for a four year-term and constitute the Board of Auditors General. To be a member of the Board is considered a position of trust, and they cannot be dismissed during the election period.

The legislation that governs the OAG is not under revision. The OAG itself has prepared new legislation and a draft was sent to Parliament in January this year. The draft is now in an external hearing within the executive powers (ministries). Parliament will probably discuss the draft later this year.

An important issue to be stated in the new legislation is the independent status of the OAG (independence as regards both the Government and Parliament). For example, it is regarded as important for the OAG to decide itself which auditing assignments to include in its programme of work. On the other hand the OAG will still aim to have a close relationship and dialogue with Parliament and the Standing Committee on

Scrutiny and Constitutional Affairs. So even if Parliament or the Committee do not make formal requests, more informal requests will still be honoured when the OAG determines the audit work plan.

According to the draft, only Parliament in plenary sessions will have the power to give instructions to the OAG to do specific audit investigations. It is of major importance that all the audit work is based on the assessment of risk and materiality. The OAG has a given amount of resources available to it and, within this framework, it must decide how to allocate the various tasks it performs. The necessity for Parliament to give such directions to the OAG should therefore probably be considered against the need for the OAG to plan and to prioritise the financial and human resources necessary for its legal obligations and responsibilities.

## ANNEX 9: RELATIONS OF THE PORTUGUESE COURT OF AUDITORS AND PARLIAMENTARY COMMITTEES<sup>12</sup>

The main relations between the Court of Auditors (Tribunal de Contas) and Parliament are settled with the Economy and Financial Committee. Although there are no rules or regulations to ensure the non-political character of parliamentary committees, the Court under the terms of article 7 of Law n° 98/97 is independent, has self-government and exemption from liability, its members cannot be removed from office and are exclusively subject to the law.

Under the terms of the Constitution of the Republic, Parliament can only assume the General State Account through the Tribunal de Contas. In reality, and even though it is a typically consulting act, the Opinion of the Tribunal de Contas is an important instrument in analysing the State's Account. It evaluates the respective financial activity, culminating in the issuing of a decision as to the regularity and legality of the budget's application. It also evaluates the economy, efficiency, and effectiveness of the management carried out and the reliability of the internal control systems.

The Court technically assists Parliament within the scope of this performance.

In the same way, one may view the collaborative relationship that can arise between these two bodies under the terms of point 2 of article 36 of Law n° 8/97, which sanctions the possibility of the Court notifying Parliament of information it has gathered, be it during the budget's application or up until the publishing of the *General State Account*.

Furthermore, within the scope of applying the State Budget, and with the objective of increasingly close relations with Parliament, the main addressee of the Court's activity, the Law foresees that Parliament may request that the Court: “provide intercalary reports on the Budget control results throughout the year, as well as any clarifications necessary for the evaluation of the State Budget and the report on the General State Account” or, further still, “notify it of information, reports or opinions related to the respective financial control functions”.

Beyond the strict domain of the budget's application, Parliament may also request that the Court carries out audits of the activity performed by any and all entities, public or private, subject to its powers of control.

At least Parliament may request the Court of Auditors to provide it with information, reports or opinions, related to the respective duties of financial control, specifically the presence of the President, or of relaters in the parliament committees sessions or by the technical collaboration of staff from the support services, under the terms of point 4 of article 11 of Law n° 98/97.

Equally important, is the participation of the Tribunal de Contas in drawing up legislative projects of a financial nature upon Parliament's request for consultative opinions.

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12 Report received 2 May, 2001 from the Court of Auditors of Portugal.

In what concerns the Court's audit programme and audit methodology, the parliamentary committees have no influence.

Parliament approves some of the legislation of the Tribunal de Contas and also the annual budget (source of the state budget).

The Court's annual report of activities, as well the certification of the accounts of Tribunal de Contas, are presented to the Economy and Financial Committee - only for information. Parliamentary committees have no power to evaluate the Court's work.

The appointment or dismissal of the Court's Head is done by the President of the Republic under the proposal of the Executive.

(For more information, see *The Court of Auditors Today* on Website: [www.tcontas.pt](http://www.tcontas.pt) (English version))

## ANNEX 10: UNITED KINGDOM: THE PUBLIC ACCOUNTS COMMITTEE<sup>13</sup>

### 1. Origins of the PAC

- The Committee of Public Accounts (PAC) was first formed in 1861 on a motion from William Gladstone, the then Chancellor of the Exchequer. This followed a report from the Select Committee on Public Monies in 1857, which recommended that accounts comparing expenditure with the monies voted by Parliament be produced for all government departments and submitted annually to a committee of the House of Commons.
- The creation of the PAC was followed five years later by the 1866 Exchequer and Audit Departments Act, which required all government departments to produce accounts for independent audit. The act also created the post of Comptroller and Auditor General by combining the functions of the Comptroller of Exchequer with those of the Commissioners of Audit.
- Under the terms of the 1866 Act, the Comptroller and Auditor General authorised the issue of money to departments, examined every appropriation account and reported the results of his/her examinations to the PAC. The PAC then reported its conclusions to the House of Commons.

### 2. Operation of the PAC

- The PAC operates under Standing Order 148 of the House of Commons. It is an all-party, non-partisan group of 15 MPs, including the Financial Secretary to the Treasury. The Committee does not seek to concern itself with policy; its purpose is to examine whether the money voted by Parliament has been spent in accordance with Parliament's wishes. Its members are selected by the Committee of Selection according to party strength in the House of Commons. By convention, the Chairman of the PAC has always been a senior member of the official Opposition and is usually a former minister. The current Chairman is Rt. Hon David Davis MP, former Minister of State at the Foreign Office.
- The Committee's remit extends to all central Government departments, executive agencies, and executive non-departmental public bodies. It also covers the National Health Service, higher and further education institutions and around 1700 other bodies which receive grants from government departments. The total expenditure and revenue within the Committee's remit exceeds £600 billion a year.
- The PAC's relationship with the C&AG is central to the Committee's work. PAC investigations are based on the accounts, reports and memoranda presented to Parliament and

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13 Report received 4 May, 2001 from the UK National Audit Office.

the Committee by the C&AG, who is head of the National Audit Office (NAO). The C&AG is the statutory external auditor of all government departments and agencies and a wide range of other public bodies. Under the National Audit Act, 1983, he/she also has the power to report to Parliament on the economy, efficiency and effectiveness with which these bodies have used their resources.

- This leads to a close relationship between the PAC and the C&AG. The Chair and the PAC meet regularly to discuss matters of common interest, and the C&AG and the Committee hold regular ‘deliberative’ meetings to discuss future work.

### **3. Accounting Officers**

- The system of Accounting Officers is another key feature of the workings of the PAC. An “accounting officer” is appointed by the Treasury for each parliamentary vote and for each executive agency and non-departmental public body. The accounting officer is normally the permanent secretary of a department or the chief executive of an executive agency or non-Departmental public body. An accounting officer has a personal responsibility to ensure proper financial management within their organisation, and to account to the PAC for his/her management of public funds.

### **4. PAC hearings**

- If the Committee decide to hear evidence on the basis of a report from the C&AG, they will summon the relevant accounting officer to give such evidence. The accounting officer is examined along with the Treasury Officer of Accounts, a senior Treasury official, who responds on behalf of the Government on more general matters relating to the management of public funds that fall outside the remit of the accounting officer. The C&AG enjoys the status of a permanent witness before the PAC and his/her deputy attends all hearings.
- Although the PAC acknowledges that Accounting Officers will have widely delegated their responsibilities, this does not detract from their duty to account to the Committee and to Parliament for all areas of expenditure for which they are responsible.
- The Committee’s sessions are normally held in public and can be televised or recorded for radio transmission. A verbatim record of the evidence presented is produced in all cases and is normally publicly available as a House of Commons paper.

### **5. PAC reports**

- Following an evidence session, and consideration of any further evidence prepared at the request of the Committee during the hearing, the Committee will meet to consider a draft report from the Chairman. The eventual report will contain a number of findings and recommendations and will include the minutes of evidence of the hearing.
- In making its recommendations, the Committee seeks to develop expertise in particular areas and disseminate good practice. For example, the Committee’s report *Getting Value for Money in Privatisations* brought together the findings and key recommendations from over 35 privatisations examined by the Committee.

- PAC recommendations take a forward-looking approach to ensure that lessons are learned for the future. In recent years, the Committee has assisted in the development of new and innovative public management techniques such as performance measurement and resource accounting.
- The House of Commons has an annual opportunity to debate the reports the Committee has produced throughout the year. By convention, the Chair of the Committee introduces the debate and summarises some of the reports published by the Committee in the 12 preceding months. The Financial Secretary to the Treasury, a government minister, replies to the debate. This debate completes the circle of accountability, which starts with Parliament approving departmental budgets or estimates.

## **6. Treasury Minutes**

- By a long-standing convention, Government is expected to respond to a PAC report within two months. Responses are known as Treasury Minutes, reflecting the fact that they are co-ordinated by the Treasury, who respond to any recommendations affecting the whole of Government.
- Over 90% of the Committee's recommendations are accepted each year and over the last three years the work of the NAO and PAC has led to savings of over £1.3 billion, an average of £427 million a year.

**ANNEX 11: SIGMA SHORT PAPER FOR THE LIAISON OFFICERS EXPERT WORKING GROUP ON RELATIONS BETWEEN SUPREME AUDIT INSTITUTIONS AND PARLIAMENT (WITH SPECIAL ATTENTION TO CASES FOR USA AND AUSTRALIA)**

## **1. Overview**

An effective Supreme Audit Institution (SAI) is an integral element in the structure of government, one whose mission is to help hold the public sector accountable and to use its influence to strengthen the integrity of the public service and to improve the economy, efficiency and effectiveness of its operations. Achieving these goals, however, requires the SAI to maintain a delicate balance.

On one hand, the SAI must be independent of other institutions of government because that independence - along with the competence and integrity of its staff – are essential foundations for the credibility of the SAI, and thus of its influence. On the other hand, the SAI must not be so distant from the institutions of government as to be readily ignored by those with the power to implement its conclusions and recommendations. This balance is particularly sensitive in the SAI's relationship with parliament, which, in most democracies, is a vital avenue for the implementation of SAI recommendations. That is the focus of this paper.

SAIs in different countries achieve and maintain this potentially precarious balance in different ways. The SAIs of Australia and the United States function in very different governmental environments and their links to their respective legislative bodies have taken quite different forms. Yet each has established and maintained – over many years – both the channels of communication that are a key to effectiveness and the independence that is a vital basis for credibility.

## **2. Australia**

**Introduction:** The SAI of Australia is the Australian National Audit Office (ANAO), with a current staff of about 270. It is directed by the Auditor-General for Australia (AG), who is, by law, an independent officer of the Australian Commonwealth Parliament. The AG is appointed by the Governor General of Australia, but only upon the approval of Parliament's Joint Committee of Public Accounts and Audit (JCPAA).

The AG serves a fixed term of ten years and may not be re-appointed. He/she may be removed from office only by the passage of a resolution of removal (on grounds of misbehavior or physical or mental disability), approved by both the House of Representatives and the Senate.

The law establishing the office of AG specifies that the AG:

has complete discretion in the performance or exercise of his/her functions or powers. In particular, the Auditor-General is not subject to direction from anyone in relation to:

- (a) Whether or not a particular audit is to be conducted.
- (b) The way in which a particular audit is to be conducted.
- (c) The priority to be given to any particular matter

This and related laws provide the foundation for a high degree of independence for the AG and thus for the ANAO.

**Governmental Environment:** The Commonwealth of Australia has a federal structure, comprising six states and two territories. The design of the national (federal) government is derived from the British (Westminster) model, but with significant differences. The Head of State is the Governor General, nominally representing the Queen of England. However, the Governor General's role is largely ceremonial and any powers are severely limited. For example, in theory he/she is empowered to dissolve Parliament. In reality, however, this is only done at the request of the Government.

The Commonwealth Parliament consists of two bodies, the House of Representatives (House) and the Senate. The House has 148 members representing electoral divisions with approximately equal numbers of electors. (Because of wide differences in population density across Australia, the electoral divisions differ enormously in geographic area). The entire House must stand for election at least every three years but elections are often held earlier than this at the discretion of the Government.

There are 76 Senators, 12 each from the six states and two each from the Australian Capital Territory (surrounding Canberra) and the Northern Territory. The Senators representing the states serve staggered terms of six years, with half standing for election every three years. Senators representing the two territories have the same terms as members of the House, three years or less, depending on the duration of the House. Senators are elected using a system of proportional representation. This tends to reward candidates from smaller parties, several of which are represented in the Senate.

The Government, led by the Prime Minister, is constituted by the party or coalition having a majority in the House. Frequently, in fact, the Government faces a Senate in which the majority consists of an Opposition party or coalition. Government ministers may be members of either the House or the Senate. The Government is not assured of a majority in the Senate.

To be enacted, a law must be approved by both House and Senate. A draft law (called a "bill") may be introduced by any member of either body. Most, however, originate in the House and are introduced by the Government. The Senate appears to see its primary role not as that of originating laws, but of reviewing legislation passed by the House and of reviewing other activities of the Government.

Most legislative disagreements between House and Senate are resolved by compromise. However, in the event of irreconcilable differences on a major issue – signified by the Senate's refusal twice to pass a Bill that was passed twice by the House, after an interval of three months – the Government may act to dissolve both House and Senate, followed by new elections to both bodies. This event, called a "double dissolution" occurred six times in the 20<sup>th</sup> Century, most recently in 1987. Even though it is rarely used, this process probably creates a useful incentive (one which is not present, for example, in the US bicameral system) to resolve differences by compromise.

The Commonwealth Parliament relates to the ANAO primarily through its Joint Committee of Public Accounts and Audit (JCPAA). This Committee has 16 members; ten appointed from the House and six from the Senate. The Chairman and a majority of members are from the Government party. The Vice Chairman is always from an Opposition party. JCPAA has a professional staff (secretariat) that is supplemented by secondees from the ANAO, observers from the ANAO and the Department of Finance, and consultants.

The self-described role of JCPAA (first established in 1913) is to scrutinize the performance of Commonwealth agencies in spending the funds appropriated to them by Parliament. In this capacity, it receives and examines all reports of the AG that have been laid before the Parliament. The Committee's statutory duties also include a variety of other specific matters related to the public accounts. In addition, however, JCPAA has broad authority to consider and report on any circumstances connected with reports of the AG or with the financial accounts or statements of the Commonwealth. This wide authority gives JCPAA considerable discretion, allowing it to undertake its own inquiries and, to a large extent, to establish its own priorities. Thus, JCPAA is not limited only to the consideration of matters brought to its attention by the ANAO. Rather, it can – and routinely does – initiate inquiries into other matters that come to its notice.

Among its other duties, JCPAA reviews the annual budget proposals for the ANAO and provides its recommendations in that regard for inclusion in the Government's overall budget. The Government is not required to conform to JCPAA's recommendations. However, because of the stature of JCPAA and the high regard in which the AG and ANAO are held, a significant departure from those recommendations is likely to be questioned by parliamentarians.

**Initiating Audits:** The ANAO performs a full range of audits, including financial statement (attestation) audits and performance audits evaluating the economy, efficiency and effectiveness of public sector management. Another important product of the ANAO is its Better Practice Guides, which are intended to assure wide promulgation of good management practices developed in particular organizations. These Guides are typically developed on the basis of information gathered during the audit process.

As noted earlier, the law gives the AG total independence in setting the audit agenda of the ANAO: selecting audit subjects<sup>14</sup>, assigning staff and developing the audit plan. The statutory protection in this regard could hardly be more explicit. If the AG decides it is necessary or desirable to audit the financial statements or the performance of a Commonwealth agency, he/she has the clear authority to do so. Similarly, he/she can decline to undertake an audit if he/she judges that the ANAO staff resources would be better spent on other work. No one has the power to direct him/her otherwise. But it would be naïve to assume that the AG makes these decisions without regard to the institutional environment in which he/she functions. The AG is an (independent) officer of Parliament. His/her ties (and those of the ANAO staff) to Parliament – especially to the JCPAA – are extensive. It is inevitable that the AG would be aware of parliamentary needs and interests and would take them into account in setting ANAO's priorities.

Performance audit topics are selected on two grounds: first, to focus on audits expected to have the greatest value added in terms of improved accountability, economy, efficiency, and administrative effectiveness; and second, to ensure appropriate coverage of entity operations within the limitations of available resources. The views of JCPAA and other parliamentary and public sector entities are sought when audits are being planned. Suggestions from individual members and Senators are welcomed but, ideally, should be directed through the JCPAA for consideration. On occasion, the ANAO receives direct requests from

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14 Performance audits of wholly-owned government business enterprises are undertaken only at the request of the responsible minister, the Minister of Finance, or the JCPAA. This restriction does not apply to financial statement audits or to performance audits of other public sector entities.

Ministers, including the Prime Minister, and other parliamentarians, including Opposition members, to undertake particular audits. These requests and suggestions receive serious consideration in ANAO's planning process and may be approved at the AG's discretion.

This is not to suggest that the ANAO is subject to an audit request process comparable in any way to that encountered by US General Accounting Office (USGAO), in dealing with the US Congress (discussed later in this paper). But, as is true of most other SAIs, the ANAO is sensitive to the needs of the Commonwealth Parliament and seeks to serve those needs to the extent possible, consistent with its other responsibilities.

**Conducting Audits:** The actual performance of an audit is entirely the responsibility of, and under the control of, the ANAO and its professional staff. They develop the audit plan, consistent with the objectives and scope approved by the AG. The scope, of course, may be adjusted or expanded, if that is deemed necessary because of issues that arise during the course of the audit. All audits must comply with audit standards established by the AG. Performance of the audit is guided by the ANAO's audit manuals, which set forth, among other things, procedural and other safeguards to assure consistency and reliability in achieving audit results. In carrying out an audit, the ANAO has statutory authority to require that an auditee grant access to its records and other documents. The ANAO also has authority to require that responses to questions be provided under oath, although this procedure is rarely necessary.

**Completing the Audit and Issuing the Report:** When the ANAO completes the preparation of a proposed report on an audit, the AG is required by law to provide a copy to the agency or other entity that is the subject of the audit. If the recipient provides written comments within 28 days of receiving the proposed report, the ANAO must consider those comments before preparing the final report. When the AG has approved the final report, it is delivered to the JCPAA, the Minister of Finance, the minister responsible for the auditee and to the affected agency or other entity. The report is then made available to the public.

**Activity after Issuance of a Final ANAO Report:** The examination of reports from the AG is one of the main elements in the work programme of the JCPAA. (As noted earlier, JCPAA can also undertake inquiries on its own initiative). When JCPAA completes its work on a topic, it prepares a report that is delivered to both House and Senate and to all interested ministers and agencies.

The nature of the Government response to a JCPAA report depends on the content of the report. If the report addresses administrative matters, the Secretary of Finance responds to the Committee in the form of a Finance Minute, containing the consolidated response from all relevant agencies to each of the JCPAA's recommendations. Typically, the Finance Minute is received within six months after issuance of the JCPAA report. If JCPAA is dissatisfied with the response contained in the Finance Minute, it may decide to re-open its inquiry.

If a JCPAA report makes policy recommendations, the Government's response is usually prepared by the responsible Minister, who typically presents that response to Parliament within three months. It is not unusual for such a response to precipitate debate among the parliamentarians.

**Conclusion:** The AG and ANAO have established a strong relationship with the Commonwealth Parliament while successfully maintaining their needed independence. That independence has a particularly clear and explicit foundation in law. It is apparent that this independence has been strengthened by the well-earned respect in which the AG and the ANAO are held by Parliament, Government and the general public.

The JCPAA has played an important role in establishing and maintaining the proper relationship. It serves not only as an effective channel through which the ANAO's reports are brought to the attention of Parliament, but also as a useful buffer and an important source of support for the AG and the ANAO.

In other circumstances, the role of JCPAA might be seen as a threat to the ANAO's independence. The JCPAA oversees the ANAO, and has a determining voice in deciding its budgetary allocation. Moreover, it is chaired by a member of the party of Government and has a majority of members from that party. In theory, it could use its powers to exert considerable pressure on the ANAO, potentially inhibiting it from undertaking audits that were opposed by the Government or reporting results that the Government would view as undesirable, for political or other reasons.

In fact, however, for reasons that may be unique to Australia, this theoretical threat has never materialised. One factor, clearly, is the JCPAA's strong, longstanding tradition of non-partisanship. Indicative of this is the fact that almost all the Committee's reports are issued with the unanimous support of its members. Another key factor is surely the high esteem in which the AG and ANAO are held. Any serious threat to their independence, no matter how subtle, would probably become public in a very short time, with the accompanying likelihood that the party instigating such an attack would incur considerable political costs.

Under these circumstances, it seems reasonable to conclude that the ability of the AG and ANAO to maintain both an effective working relationship with Parliament and the independence needed to carry out their work, is safely assured for the foreseeable future.

### 3. The United States

**Introduction:** The Supreme Audit Institution of the United States is the US General Accounting Office (USGAO), with a current staff of about 3200. It is an independent agency in the legislative branch of government. The USGAO's head, the Comptroller General of the US (CG), is nominated by the President of the US from a list of candidates forwarded from the Congress. This list is prepared by a congressional commission, including members from the Senate, the House of Representatives and from both major political parties. When the President has made his/her selection, the Senate must then confirm the nomination.

The CG serves a fixed term of 15 years and may not be re-appointed. He/she can be removed from office only by a resolution that is passed by both the Senate and the House of Representatives, an action that has never been taken. After the completion of his term, the CG retires on full salary and may not be appointed to any other office in the US Government. All other positions in the USGAO are filled on the basis of competitive merit. These employees have the same range of salaries and the same protection against arbitrary removal as other US civil servants<sup>15</sup>.

These and other institutional arrangements assure that the USGAO has virtually total independence from the executive branch of government. For example, the USGAO's proposed budget must be included in the President's budget proposal without change.

Relationships between USGAO and the Congress are much less straightforward than are those with the Executive. Some aspects of these relationships could be perceived as creating potential threats to the

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15 The law establishing the USGAO provides for a position of Deputy CG, to be filled in the same manner as that of CG, but the position has been vacant for many years. Currently, the second-ranking official of USGAO, the Chief Operating Officer, is a career civil servant appointed by the CG.

USGAO's institutional independence although, for reasons that will be discussed later, such threats have never materialised.

**Governmental Environment:** The USGAO's relationships with Congress are best understood as being derivative of the complexity characterising the US governmental system, in which one of the fundamental principles is the division or sharing of powers. The Congress is bicameral. The Senate has 100 members, two from each of the 50 States. The House of Representatives (House) has 435 members, representing districts of approximately equal populations. All are elected on the basis of the winner having the most votes. However, this may be a plurality (in a case where there are more than two candidates), rather than a majority. Ministers (called "Secretaries" in US parlance) are appointed by the President, subject to the consent of the Senate, and may not serve simultaneously in either House or Senate.

Draft laws (called "Bills", as in Australia) may be introduced by any member of House or Senate. The Government has no special privilege in this regard and must seek sponsorship of its bill from a member. Laws may be enacted only with the approval of both the Senate and the House and the concurrence of the President. If the President rejects a proposed law, it can be enacted only if it is subsequently re-approved by a two-thirds majority of both the House and the Senate.

The structure of shared powers is further complicated by the fact that Senators and Representatives are elected as individuals, separately from the election of the President. There is no assurance that there will be a majority in either the House or the Senate of the same political party as the President. In recent years, in fact, the most common situation is for the President to face a Congress in which either the House or the Senate (or both) are controlled by the opposing party.

Another important factor is that party discipline in the US Congress is much weaker than in most parliamentary democracies. Senators and Representatives are elected as individuals from specific geographic constituencies and voters expect them, among other things, to support the interests of their constituency. Thus, on matters having potentially significant effect on a member's constituency (or on one or more important groups within that constituency), it is not unusual for the member to defend those interests rather than automatically voting for the position espoused by the leaders of the political party with which that member is nominally aligned.

Furthermore, the two major US political parties are less ideologically based than are those in most other parliamentary democracies. In general, the Republican party is somewhat to the right of the Democrats. However, there is considerable overlap in the centre, with some Republicans to the left of some Democrats. Therefore, it is not unusual for members to part company from party leaders on grounds of ideology, as well as to defend the interests of constituents.

Not only is party discipline weak; power is also fragmented organisationally within the Congress. The numerous standing committees of the House and Senate (and the chairpersons of those committees) are much more powerful relative to the overall leadership of the two bodies than is the case in most parliamentary democracies. For example, the committee Chair largely controls the timing and content of proposed legislation to be considered by the Senate or House. More importantly in the context of the USGAO's relationships with Congress, these Chairs also largely control the agenda for congressional oversight of the executive branch agencies and operations within their respective jurisdictions. They play the primary role in deciding which issues the Congress will explore, which problems it will address, and which remedial actions it will consider.

The USGAO's relationships with Congress reflect this fragmented structure. Indicative of this is the fact that there is no US counterpart to the Public Accounts Committees (PACs) found in many other parliamentary democracies. The closest approximations are the Committee on Governmental Affairs in the

Senate and the Committee on Government Reform in the House. These two committees have responsibility for overseeing the USGAO (as well as a broad range of other subjects), and receive a disproportionate share of its audit reports. However, these committees have no special powers and no special stature relative to other standing committees. Even the responsibility for overseeing the USGAO is shared with the Appropriations Committees of the House and Senate, which largely control the USGAO's budget and routinely alter the proposed amounts<sup>16</sup>.

Reflecting the fragmentation of power in Congress, the USGAO must be prepared to work with any committee of the House or Senate. It routinely reports, at least occasionally, to almost all of them.

**Initiating Audits:** By law, any member of the House or Senate may request that the USGAO undertake a specific audit<sup>17</sup>. In addition, the USGAO may undertake audits on its own initiative, as approved by the CG<sup>18</sup>.

In reality, audits may be proposed in any of the following ways:

- By a mandate from the Congress as a whole, or from either the Senate or House, embodied in a law or resolution.
- By a letter to the CG from the leadership of either House or Senate (the Speaker of the House or the Majority or Minority Leader of the House or Senate).
- By a request from the Chairman or Ranking Minority Member (the senior member of the committee from the minority party) of a House or Senate committee, in the form of a letter to the CG or instructions in a committee report.
- By a letter to the CG from an individual member.
- At the initiative of the USGAO staff.

The overwhelming majority of the USGAO's audits, as much as 90%, are officially recorded as having been undertaken in response to requests from the chairs of committees. However, this fact is somewhat misleading. In developing its audit agenda, USGAO pursues a rigorous, wide-ranging and open planning process. This process involves extensive discussions with agency officials, outside experts and congressional members and staff. During these discussions, views are exchanged about questions, problems and risks that have been noted by the various participants and there is open debate about the relative priority with which these matters might best be addressed through the audit process. Audit proposals often emerge from these exchanges with no clear evidence of the real origin of the idea. The proposal may then be adopted by a relevant committee and form the basis for a letter to the CG requesting the specific audit. Thus a considerable portion of the committee audit requests actually originates in suggestions from the USGAO.

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16 An extreme example of this was a series of budget cuts in the mid-1990s which led, over a period of several years, to a reduction of about one-third in the size of the USGAO staff. It is important to note, however, that these reductions were part of a broad-based economy drive and were not accompanied by any effort to alter the focus or content of USGAO's work.

17 For brevity and convenience, the term "audit" will be used in this paper to describe the entire range of work performed by the USGAO. This includes not only the audit of financial statements (attestation audits), but also various types of performance audits, programme evaluations, and research into policy options.

18 By law, the President of the US may also request an audit but there is no evidence that any President has ever done so.

The potential for a large volume of requests from diverse sources has led the USGAO to establish explicit priorities for responding to such requests, as follows:

1. Highest priority is given to congressional mandates, requests from leaders of the House or Senate, and requests from leaders of committees. It is important to note that requests from minority leaders of the House and Senate and of the committees of those bodies are accorded equal priority with requests from the majority counterparts. This is intended to avoid implications of partisanship in the direction of USGAO's work. High priority is accorded to committee leader requests in recognition that these people are in the best position to stimulate an effective response to audit results.
2. The next priority ranking goes to requests from individual members, concerning matters under the jurisdiction of a committee on which they serve.
3. The lowest priority goes to requests from individual members that involve matters not under the jurisdiction of any committee on which that member serves.

The CG and his/her top staff decide how to allocate the available the USGAO staff resources among the many types of work and subject areas on which audits might be focused. These allocations reflect the CG's judgement on relative priorities and are not necessarily proportional to the volume of audit requests that have been received or that might be anticipated in the various areas. Thus, within each priority grouping, and especially with regard to committee leader requests, there is the potential that the requested work in a particular subject area will exceed the resources that the USGAO is prepared to devote to that area. If this situation arises, the USGAO staff work with the relevant committee members and personnel to reach agreement on the prioritisation and scheduling of audit work to best meet the committee's needs.

In theory, the potential volume of congressional request work could overwhelm the USGAO's limited resources and preclude it from undertaking other audit work it deems essential. Taken to extremes, it is conceivable that a committee could attempt to preclude USGAO from pursuing audits, which the committee deemed "undesirable" for one reason or another by overloading it with other requests.

In practice, however, this theoretical risk has proven relatively easy to avoid. While the process may not be pleasant, the CG and his/her senior officials have always been able to reach agreement with committee leaders setting reasonable limits on the share of the USGAO's resources that can be invested in work on behalf of a single committee.

A further safeguard on the USGAO's ability to undertake audits it deems important is the fragmentation of power within Congress. If the USGAO considers that an audit should have priority, it is almost always possible to find a sponsor for that audit who will give it the necessary priority. If one committee leader declines to sponsor the audit, another leader – on the same committee, or on a different committee in the same body, or in the other body – may well be interested in doing so.

In the final analysis, of course, USGAO can always undertake the audit on its own initiative, using the small – but still significant – resources that it holds in reserve for self-initiated work. This has rarely proven to be necessary. Rather, the reserve for self-initiated work is typically devoted to (a) research on issues that Congress may need to address in the future and (b) developing information of broad institutional interest to the Congress but beyond the jurisdiction of any single committee.

**Conducting Audits:** When an audit request is received, USGAO is committed to respond by letter within ten business days, either accepting the request or declining it. If the request is declined, the letter will explain why. If the request is accepted, the response will indicate when it is likely that staff will be available to work on the audit. After accepting a request, USGAO staff will meet with the requester to

clarify the specifics of the request, if necessary; to discuss the anticipated time frame for the work; and to estimate the level of resources required to perform the audit. The resulting agreement is confirmed by letter to the requester, and includes a tentative expected completion date. As the work proceeds, the USGAO staff provide periodic status reports; notify the requester of any significant changes affecting the scope and timing of the audit; and provide briefings as appropriate on preliminary and final results.

Control over the actual performance of an audit is retained entirely by the USGAO, which has sole authority to decide on the audit plan (consistent with the agreed scope and objectives) and to select the staff who will carry out the assignment. The work must be performed in accordance with applicable audit standards, established by the CG, and must comply with the procedures and requirements set forth in applicable USGAO manuals. As the audit proceeds, the USGAO retains full authority to expand the scope of the audit, if that is deemed necessary because of unanticipated issues that may arise during the course of the audit. By law, USGAO has authority to examine any records, documents or other material that it considers germane to an audit. At the conclusion of the audit, the USGAO retains complete authority over and responsibility for the findings, conclusions and recommendations it draws from that audit.

**Completing the Audit and Issuing the Report:** When data collection and analysis is completed, the audit team normally holds an exit conference with officials of the affected agency to validate the accuracy of the data and to discuss the implications of that information. USGAO also gives agencies and other affected parties an opportunity to provide official comments on any draft report affecting them. Typically, there is a 30-day window of opportunity to provide such comments, but in the case of unusual circumstances, the USGAO may lengthen or shorten this period (at its own discretion). Any comments that are provided within the specified period are published in the final audit report, along with the USGAO's assessment of those comments. The USGAO may decline to provide an opportunity to review and comment on a draft report, if it concludes that doing so could pose risks to individuals and to their confidentiality, or could compromise the results of the audit work.

The requester is notified before the USGAO submits a draft report to affected parties for comment, and a copy of the draft is provided to the requester for information. When the final report is ready for publication, the requester is given the option to restrict general distribution for up to 30 days. After the expiration of any such restriction, all reports are made available to interested parties, the press and the public unless distribution must be restricted because of national security considerations<sup>19</sup>.

On occasion, a requester decides — during the course of audit work or at its conclusion — that the audit does not meet the requester's needs or is otherwise no longer of interest to the requester. It is permissible to withdraw from the request, provided that the final report has not yet been submitted for printing. In that case, USGAO retains the right to issue the report without reference to the requester (as if the report resulted from a self-initiated audit) and typically does so, if it considers such action to be in the public interest or if substantial effort has been invested in the audit before sponsorship was withdrawn.

**Activity after Issuance of a Final Report:** An affected agency is usually required to submit a formal response to Congress following the issuance of an audit report, setting forth whatever remedial actions it expects to take. This is in addition to any comments that the agency may have submitted to the USGAO regarding a draft of the report. This is a useful way of forcing the executive to take official notice of problems revealed in the audit. Frequently, this alone is not sufficient to bring about the needed corrective action, especially if the political leaders of the agency are not fully committed to the management actions required to solve the problems.

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19 If distribution of a report must be restricted because of security classification, USGAO often attempts to "sanitize" the text, removing classified information, in order to produce a version that reflects the primary message of the report and that can be given general distribution.

The preferred method by which congressional committees seek attention for a problem, and thereby generate pressure to solve that problem, is by holding public hearings. Such hearings on important issues are frequently reported in the press and some are deemed to be sufficiently newsworthy to be included in the daily television news reports. At the least, they usually gain the focused attention of any senior executive branch officials who may be requested to appear and to give formal testimony on the matters that are the subject of the hearing.

Many congressional committee hearings do not involve the USGAO audit results. For those that do, a typical arrangement might be along the following lines. The first witness would often be an official from the USGAO to testify about the relevant audit work. The principal witness from the USGAO might be the head of the audit team. Depending on the nature and sensitivity of the matters to be discussed, however, the witness might be a more senior official – up to and including the CG – who would be able to discuss broader issues or to present the audit results in a wider context. In this case, the senior official would normally be accompanied by one or more members of the audit team to respond to any detailed queries about the audit.

The usual procedure is for the witness to submit a formal statement in advance. Often, to save time, the formal statement is entered into the official record of the hearing and only a relatively brief summary is delivered orally. Members of the committee then pose questions to the witness and the witness responds. The committee usually treats witnesses from the USGAO with considerable respect and most questions are intended to emphasise and reinforce the audit findings. But there may be departures from this pattern. Some members may try to lead the witness into making statements that are not supported by the audit evidence. Other members may try to defend the agency or programme being criticised in the audit by posing more hostile questions in an effort to undermine the credibility or significance of the audit findings.

The USGAO officials and staff typically testify at several hundred committee hearings each year. They carefully prepare for these hearings, not only in drafting the formal statement but, especially, in assuring that they are ready to respond effectively – and respectfully – to both friendly and hostile questions.

After hearing from the USGAO witness, testimony is usually taken from an official of the agency affected by the audit. The same procedure is used: an opening statement from the witness followed by questions from committee members. However, if the agency has been reluctant to accept the audit findings or to implement appropriate corrective action, the questioning can be both extensive and hostile. The desire to avoid such an unpleasant experience for the agency witness can be a useful, if relatively minor, incentive to implement remedial actions in response to an audit. Following the agency witness, testimony may be taken from other witnesses, including outside experts and those who may have been affected by the problems reported in the audit.

The USGAO has no power to enforce its audit findings and recommendations except by persuading others to act on those results. Participation in congressional committee hearings has proven to be a particularly valuable element in the process of persuasion and the USGAO staff go out of their way to make themselves available for this purpose. This process is not the only vehicle. Virtually all audit reports are public documents and are available to the media. Press attention to an audit report can be a powerful incentive for corrective action, so the USGAO strives to co-operate with representatives of the various media. It does not hold press conferences but participates, if requested, in press conferences held by another body, such as the sponsor of an audit report. In addition, USGAO staff responds to queries from reporters who are seeking clarification of matters discussed in published audit reports.

In seeking to facilitate the implementation of audit recommendations, the USGAO staff may advise congressional committees in the process of drafting appropriate legislative remedies. If requested, legal experts from the USGAO may prepare draft laws, for consideration by the relevant committee, that would

be consistent with published audit recommendations. Similarly, if requested, the USGAO staff will meet with agency officials to discuss how best to resolve problems identified in an audit. In either instance, final action is the responsibility of Congress or the agency, as the case may be.

**Other matters:** On occasion, a congressional committee may ask that one or more USGAO employees be assigned to the committee to work as part of the staff of that committee. Such secondments (called “details” in USGAO parlance) will usually be approved if resources permit and if staff with the requisite background are available. However, they are subject to some very strict rules:

- Staff may be assigned only to committees, not to personal offices or to the offices of House or Senate leaders.
- Assigned staff may not engage in partisan activities or discussion, but must be restricted to the professional work of the committee.
- The assignment must be for a particular project or purpose that is specified in advance.
- The duration of an assignment may not exceed one year.

**Conclusion:** As is evident from this discussion, USGAO works very closely with the US Congress. The links are numerous and extensive, especially to the many standing committees of the House and Senate. In other circumstances, such close ties between an SAI and its Parliament could be a threat to the SAI’s independence. In the US, however, this threat has never materialised.

There are several reasons why the USGAO has been able to maintain its independence in this environment. One is that the institutional commitment to independence and objectivity – reinforced by successive CGs since the organisation’s creation in 1921 – is fundamental to the USGAO’s organisational culture. Its staff instinctively (and strongly) resists any perceived attempt to exercise inappropriate influence on the direction or content of its work, even at the risk of alienating influential Senators or Representatives.

A more important safeguard for the USGAO’s independence, may well lie in the nature of the Congress itself. Its fragmentation of power and weak internal discipline, characteristics that are probably inherent in the US governmental structure, appear to make it highly unlikely that Congress could apply such consistent pressure on the USGAO as to seriously threaten its independence. Moreover, there is a strong view in Congress – at least among many of its most influential members – that USGAO’s well-established public credibility is too valuable an asset to the Congress, as an institution, to allow its diminution out of unhappiness over the political or policy implications of any particular audit or series of audits.

#### **4. Concluding Observations**

To be most effective, an SAI must be free to function independently, without being subject to undue influence from other centers of power, but must also have adequate links to those centers of power.

Independence is vital to assure objectivity in the auditing work and, along with the professional competence of the audit staff, to establish a foundation for the credibility of audit results. Effective linkages are vital to assure that audit reports will receive appropriate attention from those with the authority to take corrective action or to assure that others do so.

Neither attribute by itself is sufficient. Excessive emphasis on independence can threaten the linkages that are critical to the effective use of audit results. Excessive emphasis on the links to centers of power can

undermine the independence, which is an essential basis for credibility in auditing. It is the responsibility of each SAI, and of the centers of power to which they are linked (usually, but not always, parliaments), to assure that the proper balance of these attributes is established and maintained.

This paper has briefly described the relationship between the SAI and parliament in two countries, Australia and the United States, in which that balance has been maintained for many years. The ways in which this was accomplished are quite different in the two countries, reflecting the important dissimilarities in the governmental structure and political cultures of the two. Either case may contain elements that might be usefully adapted to the needs of another country. But neither, taken as a whole, should be seen as a model for others.

All SAIs face the same need to establish and maintain the proper balance between independence and links to the centers of power. There is no single model or set of arrangements that can assure the achievement of this goal in all SAIs. In the final analysis, the proper balance for a particular SAI can be struck only in full recognition of the unique governmental environment of the country in which that SAI must function.