



ECONOMIC POLICY PAPER SERIES **09**

THE IMPACT OF U.S. AND U.K. LEGISLATURES ON AID DELIVERY

SIMON BURALL

Research Fellow, Overseas Development Institute

JONATHAN M. WHITE

Senior Program Officer, The German Marshall Fund of the United States

ANDREW BLICK

Senior Research Fellow, Democratic Audit

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The German Marshall Fund of the United States
1744 R Street, NW
Washington, DC 20009
T 1 202 683 2650
F 1 202 265 1662
E info@gmfus.org

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STRENGTHENING TRANSATLANTIC COOPERATION

German Marshall Fund of the United States
1744 R Street NW
Washington, DC 20009
United States

Tel: 202-745-3950
Fax: 202-265-1662
www.gmfus.org



Overseas Development Institute
111 Westminster Bridge Road
London SE1 7JD
United Kingdom

Tel: +44 (0)20 7922 0300
Fax: +44 (0)20 7922 0399
www.odi.org.uk

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Simon Burall, Jonathan M. White, and Andrew Blick*

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*Simon Burall is currently the director of Involve in the United Kingdom. Involve works with authorities to engage communities in decision-making and carries out research to improve such engagements. He was previously a research fellow at the Overseas Development Institute working on aid architecture, aid effectiveness, and mutual accountability.

Jonathan M. White is a senior program officer at the German Marshall Fund of the United States (GMF). He manages GMF's Aid Effectiveness Project that seeks to strengthen transatlantic and global cooperation on development issues. He works on a number of GMF initiatives in areas such as aid effectiveness, private sector development, and fragile states.

Dr. Andrew Blick is senior research fellow for Democratic Audit, a research organization that assesses democratic performance according to a variety of criteria. He is the author of *People Who Live in the Dark: A History of the Special Adviser in British Politics* (2004, 2nd edition forthcoming 2010); *How to go to War: A Handbook for Democratic Leaders* (2005); and with Professor George Jones *Premiership: The Nature, Development and Power of the Office of British Prime Minister* (forthcoming 2010).

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ACRONYMS

AAA	Accra Agenda for Action
CN	Congressional Notification
DA	Development Assistance Account
DFA	Director of Foreign Assistance
DFID	Department for International Development
FAA	U.S. Foreign Assistance Act
FAF	Foreign Assistance Framework
GAO	Government Accountability Office
GBS	General Budget Support
GDP	Gross Domestic Product
GNI	Gross National Income
HELP	Helping to Enhance the Livelihood of People around the Globe Commission
IDC	International Development Select Committee
MCC	Millennium Challenge Corporation
MDGs	Millennium Development Goals
MFAN	Modernizing Foreign Assistance Network
M&E	Monitoring and Evaluation
MP	Member of Parliament
NAO	National Audit Office
NGO	Non-Government Organization
ODA	Official Development Assistance
OE	Operating Expense Account
OECD/DAC	Organisation for Economic Co-operation and Development/Development Assistance Committee
OMB	Office of Management and Budget
OPIC	Overseas Private Investment Corporation
PAC	Public Accounts Committee
PART	Program Assessment Rating Tool
PEPFAR	President's Emergency Plan for AIDS Relief
PSA	Public Service Agreement
TPA	Trade Promotion Authority
U.K.	United Kingdom
UN	United Nations
U.S.	United States
USAID	United States Agency for International Development

1 EXECUTIVE SUMMARY

The global economy has experienced unprecedented turmoil over the past year and geopolitical and social tensions are rising worldwide, particularly in the poorest countries of the world. Foreign aid budgets are likely to come under pressure, protectionist impulses continue to rise, and challenges to international commerce and security intensify. Over 130 million people have been driven into poverty due to dislocations last year and it is likely that the number will increase further given the severity of the global crisis in 2009.¹

The combined cost constraints and rising number of people living in poverty will mean that each unit of aid will need to produce greater development impact. One of the most critical drivers of aid and its effectiveness will be the relationship between legislatures and aid agencies in the world's major donors. This is where the interests of domestic humanitarian, political, commercial, and foreign actors collide. Accordingly, this study seeks to examine aid through the lens of the relationship between the legislature and the aid agency in two leading donors: the United States (U.S.) and the United Kingdom (U.K.). The objective of this report is to deepen understanding on how this relationship potentially impacts a donor's ability to pursue its development objectives and internationally recognized best practice in aid. While there are important differences between the U.K. Parliamentary system and the U.S. Presidential system, there are important transatlantic lessons to be learned from how their legislatures impact the effectiveness of bilateral aid.

The Department for International Development (DFID) manages nearly all U.K. foreign aid, while the United States Agency for International

Development (USAID)—although it is America's lead development agency—is responsible for less than half of U.S. foreign aid. As a result, in the context of examining DFID and USAID there are limitations to comparing official development assistance (ODA) flows and Paris Declaration on Aid Effectiveness indicators. This is a pilot study and involved a literature review and a limited number of interviews with representatives from these respective legislatures, agencies, and other practitioners on both sides of the Atlantic.

In 1970, the United Nations (UN) adopted a declaration calling for economically advanced countries to commit 0.7 percent of GDP to ODA. With the end of the Cold War, a major strategic rationale for aid disappeared and questions over the effectiveness of aid have since grown, particularly after the turn of the millennium. This has culminated in the Paris Declaration on Aid Effectiveness in 2005. This Declaration committed donors, and aid recipient countries, to a series of targets that will require them to fundamentally alter their aid practices. Some donors are making progress against the Paris targets and some have reached the 0.7 percent UN target. Both the United States and the United Kingdom endorsed the Paris Declaration and have been making efforts to implement the more recent commitments made at the 2008 High Level Forum on Aid Effectiveness in Accra, which produced the Accra Agenda for Action (AAA).²

²The Paris Principles are the following: *Ownership*—Developing countries set their own strategies for poverty reduction, improve their institutions and tackle corruption. *Alignment*—Donor countries align behind these objectives and use local systems. *Harmonisation*—Donor countries coordinate, simplify procedures and share information to avoid duplication. *Results*—Developing countries and donors shift focus to development results and results get measured. *Mutual Accountability*—Donors and partners are accountable for development results. The Accra Agenda for Action was drawn up in 2008 at Accra and builds on the commitments agreed in the Paris Declaration. Among other things, it focuses on accelerating progress in the areas of predictability, conditionality, and untying.

¹World Bank. "Crisis Hitting Poor Hard in Developing World, World Bank says: Ahead of G7 meeting, research highlights growing risks to the poor." February 12, 2009.

A central consideration for any legislature is how to pursue oversight and scrutiny of an executive agency while also providing it sufficient freedom to be able to carry-out its work well in changing circumstances and contexts.

Some countries are progressing well against Paris, but others are struggling to achieve the targets. This raises the question of why different donor agencies are performing differently. This study takes as its starting point the premise that aid agencies exist to mediate among and between interest groups in the donor country and those in the recipient country. To varying degrees these groups influence the incentives for the aid agency and its staff. These incentives in turn make it more or less likely that the agency will be able to address the rising number of questions over the effectiveness of aid and meet commitments such as the Paris Declaration targets.

One key interest group is the legislature. It holds aid agencies accountable for spending taxpayers' money. Based on the OECD/DAC, accountability means the "obligation to demonstrate that work has been conducted in compliance with agreed rules and standards or to report fairly and accurately on performance results vis-à-vis mandated roles and/or plans. This may require a careful, even legally defensible, demonstration that the work is consistent with the contract terms."³ A central consideration for any legislature is how to pursue oversight and scrutiny of an executive agency while also providing it sufficient freedom to be able to carry-out its work well in changing circumstances and contexts. The balance between political influence or control and managerial flexibility to achieve development objectives is a key dimension in the relationship between the legislature and agency. It can be gauged according to *afforded discretion*, a concept that provides useful insights into the challenges and opportunities facing USAID and DFID.⁴

³ OECD/DAC. *Glossary of Key Terms in Evaluation and Results Based Management*.

⁴ This is not to say that all forms of political influence and control result in less managerial flexibility or undermine the ability of an aid agency to pursue its development objectives.

For the purposes of this study, effectiveness is defined as "the extent to which the development intervention's objectives were achieved, or are expected to be achieved, taking into account their relative importance."⁵ Related to this is the fundamental question of how donors clarify and distinguish among core operational development objectives. This study also includes in this definition the Paris Declaration on Aid Effectiveness principles, such as local ownership, alignment and donor coordination. Both the United States and the United Kingdom have endorsed this international agreement. This study accepts that aspects of the principles continue to be debated.⁶ It does not seek to empirically prove any relationship between the discretion given to an aid agency by a legislature and its progress on the principles. Rather, through interviews with key policymakers and practitioners, case studies, and research, it aims to deepen understanding on how the relationship between the legislature and the executive potentially impacts a donor's ability to pursue its development objectives and internationally recognized best practice in aid (i.e., be effective).

The Obama administration has been pursuing a consultative process with the U.S. Congress on foreign policy issues and seeks to renew American diplomacy with a more civilian-led, multilateral approach. President Barack Obama, Secretary of State Hillary Clinton, and Secretary of Defense Robert Gates have publicly endorsed the notion that the United States must bolster its civilian capabilities and that development has an important place alongside defense and diplomacy in helping

⁵ OECD/DAC. *Glossary of Key Terms in Evaluation and Results Based Management*.

⁶ This study accepts the limitations of these principles. For instance, local ownership and alignment can be extremely challenging or even counterproductive in fragile, highly corrupt, and severely underdeveloped states.

address global challenges. Chairman Howard Berman of the U.S. House of Representatives Committee on Foreign Affairs has proposed a National Strategy for Global Development (NSGD), the first step in initiating a formal dialogue between the Congress and the Executive on modernizing U.S. foreign assistance. Organizations such as the Modernizing Foreign Assistance Network (MFAN) have called for elevating global development as a national interest priority and adopting a set of priority actions, including a “grand bargain” between the Executive Branch and Congress on a new Foreign Assistance Act (FAA) along with a number of institutional and policy reforms.⁷

In the United Kingdom, a commanding majority in the House of Commons is the basis of authority for the government. Compared to the U.S. system, this alignment of interests between the Parliament and the Executive provides a higher degree of trust and affords significant discretion to the government of the day. DFID is considered a world leader in aid, “a development superpower,” in part because of this degree of discretion and can provide lessons for improved aid practice. However, DFID’s independence and empowerment are not without risks and are by no means guaranteed. Andrew Mitchell, the shadow international development secretary has stated that DFID has begun to encroach on the work of other departments and has come “perilously close” to setting its own foreign policy, a role that should be reserved for the Foreign Office.⁸

By contrast, in the United States, the Congress and Executive are co-equal branches of government, where Congress is expected to play an oversight,

if not adversarial role in the execution of federal government policy. The division of powers across the legislative, executive, and judicial branches of the U.S. government provides checks and balances. Only Congress may authorize the drawing of resources from the public treasury for use by the Executive. Agreement on the allocation of resources is the result of a competitive negotiation among rivaling objectives. Building trust may not come as easily compared to the U.K. Parliamentary system. In some cases, distrust can lead to legislative efforts to exercise detailed parameters and constraints over an agency’s resources thereby limiting its discretion as is the case of USAID.

Congressional oversight—coupled with pressure from the Office of Management and Budget (OMB) and civil society broadly—have led to improvements in measurement and accountability at USAID. This has also resulted in new performance-based approaches such as the Millennium Challenge Corporation (MCC). The creation of the MCC was based on a systematic approach. Well-defined objectives were agreed between Congress and the Executive; as part of this bargain it was afforded discretion in key areas, such as untied aid and longer-term funding. However, no such bargain exists that encompasses USAID and other agencies responsible for development programs across the U.S. government. USAID suffers from a low level of afforded discretion and this has had a detrimental impact on its ability to customize development interventions according to host country conditions—either local development needs or the opportunity for more multilateral interventions.

In addition to this concept of afforded discretion, a second important dimension of the relationship between the legislature and the executive is the degree of shared agreement on foreign assistance objectives. In the United Kingdom there is a remarkable level of consensus between Parliament

⁷ Modernizing Foreign Assistance Network. “New Day New Way: U.S. Foreign Assistance for the 21st Century.” Washington, DC: June 2008.

⁸ “Tories accuse DFID of trying to usurp powers of Foreign Office.” London, U.K.: *The Independent*, January 8, 2009.

and DFID about the need for the aid budget to rise to 0.7 percent of GNI and agreement on a clearly defined objective, namely poverty alleviation. In addition, there is a degree of support for the Paris principles and the delegation of authority for spending taxpayers' money away from DFID toward either recipient governments or multilateral organizations. As will be illustrated, this clarity in objectives also helps add to transparency in terms of aid allocation and oversight. Although Parliamentary support for DFID is broad, it is not deep. There are signs that a change in the political environment could alter the balance, which could lead to Parliament restricting the discretion of DFID to deliver aid against the Paris principles. Without proper maintenance and leadership, the currently held unity of purpose across the U.K. government and wider stakeholders for aid could dissipate.

The U.S. aid delivery system is complex. There are multiple agencies and programs with overlapping and competing objectives. U.S. aid objectives include strengthening fragile states, national security, promoting democracy, mitigating conflict, alleviating poverty, opening export markets, providing humanitarian and disaster relief, and addressing global challenges such as health, climate changes, and crime. These are not clearly articulated or delineated across agencies and many

are duplicative. This appears to be the by-product of a lack of shared objectives or strategy for aid between Congress and USAID and other aid agencies across the Executive Branch. Without a strategy to help rationalize accounts around goals, the budget process is fragmented and complexity in the system causes considerable inefficiency in the delivery of aid.

Competing priorities and the lack of trust between Congress and the Executive Branch leads to the excessive use of earmarks and other Congressional mechanisms, which reduce agency discretion to the point where its ability to design foreign aid programs has been debilitated. The proliferation of Presidential initiatives has also added bureaucracy and redundancy. This lack of shared agreement on foreign assistance objectives in the context of a system where branches of the U.S. government and executive agencies are competing over the prioritization of resources adds to further complexity. This inhibits transparent oversight and weakens the Congress's ability to call for Executive Branch accountability for use of taxpayer resources. There are also incentives to keep the status quo—leaving objectives vague and non-strategic, and where some agencies benefit at the expense of others under various levels of discretion and managerial flexibility.

KEY FINDINGS

- A national development strategy based on a clear legislative mandate that helps clarify and distinguish among foreign assistance objectives can reduce complexity in a national aid system. This impacts the degree of transparency and accountability expected by the legislature, and operational and coordination effectiveness pursued by the executive.
- A central consideration for any legislature is how to pursue oversight and scrutiny of an executive agency while also providing it sufficient freedom to be able to carry out its work well in changing circumstances and contexts. The balance between political influence or control and managerial flexibility to achieve development objectives can be gauged according to *afforded discretion*.
- Democratic constitutional practices vary across donor countries and inevitably have an impact upon the functioning of aid agencies. The amount of discretion likely to be afforded to agencies can vary in inverse proportion to the degree of separation between the legislature and the executive. Attempts to strike the appropriate balance between political influence or control and managerial flexibility (i.e., afforded discretion) must operate within and take account of this broader constitutional framework.
- Low levels of trust and agreement on aid policy objectives between the legislature and the executive can contribute to a legislative rationale to limit agency afforded discretion. This may have an adverse impact on the managerial flexibility and technical accuracy of agency decisions and make an agency vulnerable to legislative reactions to popular civil society concerns, including pressures for nationalistic and protectionist policies such as tied aid.
- High levels of trust and agreement on aid policy objectives between the legislature and the executive can contribute to a legislative rationale to allow agency afforded discretion. This may benefit the managerial flexibility and technical accuracy of agency decisions, although the pursuit of aid modalities perceived to be more risky may make it susceptible to legislative constraints.
- Establishing shared objectives in foreign assistance is not an end-state; it is an ongoing process requiring continued dialogue and political leadership. It can smooth the “trade-offs” between political control desired by the legislature and managerial flexibility and effectiveness desired and expected of the agency.
- Host-country partnerships, predictable funding, donor coordination, and other forms of ODA leadership by the United Kingdom and the United States in the international system along with efforts to pursue the Paris Declaration depend on the degree of afforded discretion offered their respective aid agencies.
- Tied aid represents accountability to specific constituencies and not necessarily accountability to the poor and broader national interests, especially when considering that poverty is the predominant characteristic of weak and fragile states.

- While there is general agreement on the need for accountability to taxpayers—by legislatures and aid agencies—legislators may focus on inputs and budget allocations at the expense of scrutiny of development outcomes. This has implications on oversight at the field level and the necessary investments in monitoring and evaluation.
- The concentration of authority for development policy and empowerment of development agency leadership also impacts the level of visibility, scrutiny, and oversight it receives. This also influences the development agency’s ability to coordinate with other agencies or programs whose policies may impact development and in turn overall policy coherence.
- Legislative oversight for multi-agency and interagency approaches that involve development and other government departments are often limited and weak, although efforts have been made in both the United States and the United Kingdom to pursue such mechanisms.

Accordingly, the overall conclusion of the study is that the legislature and the executive must *forge* and *sustain* a sense of shared objectives for the spending of the aid budget, including

shared principles and approaches on how development is done more broadly. The **major recommendation** arising from this analysis is to broaden the conversation in three ways beyond current stakeholders in order to achieve this:

- Build and maintain a strong national consensus on strategic objectives for aid recognizing the importance of agency afforded discretion to accomplish these objectives, moving past narrow sector-specific and agency-specific interests and technical aspects of meeting the Paris indicators discussed by a few people in the agencies and development NGOs.
- As part of a national discussion, expand the responsibility for aid effectiveness beyond aid agencies to include other executive agencies whose primary mission is not global development and, importantly, legislatures to ensure the best use of taxpayers’ hard-earned money and increase transparency.
- Strengthen dialogue between donor country legislators, aid practitioners, and policymakers from developing countries to deepen the understanding of the legislative impact of aid policy on aid recipient countries and on donor coordination.

2 LEGISLATIVE IMPACT ON GOVERNMENT: THE THEORY

Why do aid agencies exist? Why don't treasuries or central banks directly transfer money into an account in an aid recipient country? One interpretation suggests it is because a range of interest groups exist in the donor country and then another set in the aid recipient country. The transaction costs involved in mediating between these groups are too large for the treasury. A special agency is, therefore, established to mediate between and among these interests.⁹ One of the most important stakeholders in this mediation process is the legislature. The following brief literature review offers background on legislative power, channels of influence, and their impact on agency effectiveness to help frame the two country case studies.

2.1 How much influence does the legislature wield?

Within U.S. Constitutional arrangements the legislature is afforded a more prominent role compared to other political systems. As a result, research on the U.S. Congress tends to focus on how much influence it has and how far it chooses to exercise it, the means by which it does so and the outcomes.¹⁰ One way of assessing the extent of Congressional influence has been through the application of agency theory.¹¹ In this framework, there is a trade-off between delegation and political control. In other words, Congress must carefully choose how much discretion it should afford to agencies in order to potentially improve

their operational and overall effectiveness, weighing the potential costs and benefits of exercising more or less political control over agency operations.

However, there are alternative views on the role of legislative power. Niskanen argues that *bureaux* (i.e. executive agencies) are always at an advantage over legislatures.¹² In addition, there is the concept of "bureaucratic drift," where the legislature is unable to exercise effective control over government agencies, which are able to exercise a high degree of discretion in their activities.¹³ There is also a debate over whether "presidential dominance" has emerged at the expense of Congress.¹⁴

Unlike the United States, the literature emanating from the United Kingdom tends to focus on the implications of having a legislature with minimal influence. For instance, one exposition of so-called "core executive" analysis argues that "Parliament has lost influence over the executive."¹⁵ A recent detailed study of Parliament concluded: "The executive is constantly engaged in making 'foreign policy' without ever being required to seek parliamentary... approval."¹⁶ But others have argued that, while Parliament in the United Kingdom has lost the ability to initiate legislation,

Congress must carefully choose how much discretion it should afford to agencies in order to potentially improve their operational and overall effectiveness, weighing the potential costs and benefits of exercising more or less political control over agency operations.

⁹ Martens, M. (2005). "Why do aid agencies exist?" *Development Policy Review*, 23 (06). London, U.K.: ODI.

¹⁰ B. Weingast and M. Moran (1983). "Bureaucratic Discretion or Congressional Control?: Regulatory Policymaking by the Federal Trade Commission." *Journal of Political Economy* 91: 765–800.

¹¹ R. Calvert, M. McCubbins, and B. Weingast (1989). "A Theory of Political Control and Agency Discretion." *American Journal of Political Science* (Vol. 33, No. 3, August 1989), pp. 588–611.

¹² W. Niskanen (1971). *Bureaucracy and Representative Government*. Chicago, IL: Aldine-Atherton.

¹³ K. Bawn (March 1995). "Political Control Versus Expertise: Congressional Choices about Administrative Procedures." *The American Political Science Review*, Vol. 89, No. 1, pp. 62–73.

¹⁴ S. Lohmann, and S. O'Halloran (Autumn, 1994). "Divided Government and US Trade Policy: Theory and Evidence." *International Organization*, Vol. 48, No. 4, pp. 595–632.

¹⁵ J. Smith, *The Core Executive in Britain*, (Basingstoke: Macmillan, 1999).

¹⁶ S. Burall, B. Donnelly, and S. Weir (2006). "Not in Our Name: Democracy and Foreign Policy in the U.K." London, U.K.: *Politico*, p. xi.

The amount of afforded discretion allowed an executive agency can also be impacted by Congressional reactions to popular civil society concerns or a lack of attention by the Executive Branch to that specific agency's priorities.

it still retains influence over policy¹⁷ and this will be elaborated on below. Elsewhere in Europe, especially in countries where minority government is the norm, legislatures are seen as having greater power. The German Bundestag has been portrayed as possessing significant influence, albeit not publicly visible in its exercise.¹⁸

Importantly, some contend that legislatures are capable of discerning an appropriate level of intervention based on an understanding of afforded discretion and its impact on agency effectiveness.¹⁹ For instance, Lohmann and O'Halloran argue that Congress may sometimes, in the interest of efficiency, "deliberately grant discretionary powers to an agent whose preferences differ from those of any one member of Congress."²⁰

However, Congressional delegation of authority over aid policy is influenced by a complex set of factors, such as the degree of trust between Congress and the Executive, agreement on policy objectives, and degree of political control preferred by a legislature. For instance, Congressional preference for control can be reflected in the use of earmarks or deviations from a Presidential request. High distrust and low agreement on policy objectives between branches contribute to Congressional rationale to limit agency afforded

discretion. The amount of afforded discretion allowed an executive agency can also be impacted by Congressional reactions to popular civil society concerns or a lack of attention by the Executive Branch to that specific agency's priorities.

These factors can complicate efforts to make policy decisions based on effectiveness. In countries such as the United Kingdom, Parliament enjoys enormous latent power, in a sense but is unlikely to exercise it because the government rests on commanding a majority in the House of Commons. In addition, the ministers with executive authority sit in Parliament, usually the House of Commons, but they can also sit in the House of Lords. These are two critical differences between the U.S. and U.K. systems and cannot be ignored. For instance, the agreement between the U.K. Parliament and DFID on the objectives of foreign aid policy is achieved more easily compared to the United States. In the United States, the division of powers, specifically between Congress and the Executive, has made a shared understanding on aid objectives more difficult.

2.2 What are the channels of legislative influence?

When examining European legislatures, there are various devices for oversight such as questions, debates, and votes in plenary, but the primary mechanism is the committee system.²¹ The committee system is the "engine room" of legislative activity. In many countries committees are focused on legislation. A peculiarity of the U.K. system is that the specialist departmental select committees, instigated in their current form in 1979, concentrate instead on policy. The practice of select committees carrying out pre-legislative

¹⁷ P. Norton (ed.), *Parliaments and Governments in Western Europe* (London: Frank Cass, 1998).

¹⁸ Thomas Saalfeld, "The German Bundestag: Influence and Accountability in a Complex Environment," in P. Norton, *Parliaments and governments in Western Europe* (London: Frank Cass, 1998).

¹⁹ Investigating the Congressional Dominance thesis, De Vault describes the necessity of determining whether Congress attempts to influence decisions before determining whether or not it is successful in so doing. A tendency to seek to influence but not micromanage is discerned De Vault, J., (2002), "Congressional dominance and the International Trade Commission," *Public Choice* 110, p. 1–22.

²⁰ Lohmann and O'Halloran (1994), p. 628.

²¹ P. Norton, (ed) (1998). *Parliaments and Governments in Western Europe*. Frank Cass, London.

scrutiny of draft bills has, however, gained some ground since 1997.

There are number of variables influencing committee performance: the degree of party control over committees, constitutional factors, and developmental issues (i.e., the capacity and complexity of the committee system that has emerged over time).²² However, other factors should be taken into account when considering committee power. These include the ability of legislatures to wield informal influence through the media, NGOs, and other actors who can impact the process by providing research to committees and campaigning with them to achieve common objectives.²³ This is true in the United Kingdom and the United States.

Another important perspective for understanding legislative influence is the role of political parties. In addition to considering the roles of various institutions such as the legislature and the executive, there needs to be a recognition that “in each political system a number of distinct political relationships each with its own ‘membership,’ so to speak, and each with its own dynamics and structure of power.”²⁴ For instance, as in other parliamentary systems, the U.K. government’s authority rests on the majority in Parliament and intra-party influence reinforces alignment of interests between these bodies. However, in the United States, Congress and the presidency may not always be controlled by the same party. If they are, party discipline offers an avenue for

consensual agreement on legislation, although the division of powers built into the U.S. system still affords each branch a degree of independence to “check and balance” each other.

In the United States, Calvert argues that the most important component in legislative influence is the role of the appointment. Appointment in this context means “any actions that the executive or legislature can take, prior to agency choice, that influence the later goals of the agent or the set of feasible choices available to the agency.”²⁵ These actions include “the structuring of the agency itself, the denomination of its powers and jurisdiction, the specification of administrative procedures to be followed, and the type of personnel with which the agency is to be staffed.”²⁶ De Vault identifies key sources of Congressional influence as being the power of the purse, the power of appointment, and legislative change, and notes the important role of Congressional committees in exercising these powers.²⁷ Bawn argues that it is through its design of procedures for agencies that Congress wields influence.²⁸ These are powers not held by the U.K. Parliament.

2.3 What is the impact on effectiveness?

The question of aid effectiveness cannot ignore the relationship between legislatures and the agencies responsible for delivering aid. This study examines effectiveness according to an aid agency’s ability to pursue its development objectives

²² M. Shaw (1990 [1979]). “Committees in legislatures,” in Norton, P. (ed), *Legislatures*. Oxford, U.K.: Oxford University Press.

²³ K. Auel (July 2007). “Democratic Accountability and National Parliaments: Redefining the Impact of Parliamentary Scrutiny in EU Affairs.” *European Law Journal*, Vol. 13, No. 4, pp. 487–504; and Blick et al., (2007). *A World of Difference: Parliamentary Oversight of British Foreign Policy*, London.

²⁴ A. King (1990 [1976]). “Modes of executive–legislative relations: Great Britain, France, and West Germany,” in Norton, P. (ed), *Legislatures*. Oxford, U.K.: Oxford University Press.

²⁵ Calvert et al. (1989).

²⁶ Ibid.

²⁷ J. De Vault, “Congressional dominance and the International Trade Commission,” *Public Choice* (Vol. 110, 2002), pp. 1–22.

²⁸ K. Bawn, “Political Control Versus Expertise: Congressional Choices about Administrative Procedures.” *The American Political Science Review*, (Vol. 89, No. 1, March 1995), pp. 62–73.

When there is limited discretion given to the Executive over aid policy, this can make it vulnerable to protectionist tendencies that undermine effectiveness.

and internationally recognized best practice in aid, such as the Paris principles. The concept of afforded discretion gauges the balance between political influence or control by the legislature and managerial flexibilities in the executive agency, including a degree of discretion that allows country offices to respond to country-led priorities. Generally, legislators do recognize the challenge involved with this balancing act.

For example, the U.S. President has “a national constituency... she or he cares about and internalizes cross-district external effects.”²⁹ For this reason, in certain situations, Congress “may achieve more efficient outcomes by delegating policymaking authority to the President.”³⁰ For instance, Trade Promotion Authority (TPA) empowers the President to negotiate trade agreements and submit them for approval of Congress without amendments attached. It is one example of Congress deliberately granting discretionary powers to the Executive based on the premise that this provides for more effective policy. It is simply more practical to have the President pursue international trade policy instead of 500 plus members of Congress. But in times of “partisan conflict and divided government, the members of the majority party in Congress may have incentives to constrain the President’s use of delegated authority, thereby forcing the President to accommodate partially protectionist pressures.”³¹

When there is limited discretion given to the Executive over aid policy, this can make it vulnerable to nationalistic and protectionist tendencies that undermine effectiveness. Tied aid is one example where mercantile or self-serving interests of certain domestic constituencies may

²⁹ Lohmann and O’Halloran (1994).

³⁰ Ibid.

³¹ Ibid.

come at the expense to taxpayers or national interests more broadly as well as an agency’s ability to flexibly implement foreign aid.³²

Legislators face a dilemma. Exerting political control involves imposing certain predispositions on officials as to the means of fulfilling the objectives of their agency. “Congressional choices about administrative procedures affect an agency’s political responsiveness and the technical accuracy of its decisions.”³³ On the one hand, if legislatures design procedures in such a way as to allow technical expertise fuller reign, bureaucratic drift may occur as officials follow their own paths. On the other hand, procedures reinforcing political control are likely to “limit the agency’s ability to research policy consequences or to make decisions that reflect its expertise.”³⁴

Effective oversight may require the Executive to have certain specific policy principles set out in order that objectives can be assessed and official conduct measured against them. But this may undermine its ability to achieve objectives, even those which might be favored by the legislature.

In a study of donor accountability in the United Kingdom, Collinson notes that “the absence of very clear policy pledges backed-up by robust systems of monitoring and reporting in this area

³² *Untied aid*—loans and grants whose proceeds are fully and freely available to finance procurement from all OECD countries and substantially all developing countries; *Partially untied aid*—loans and grants which are tied, contractually or in effect, to procurement of goods and services from a restricted number of countries which must include substantially all developing countries and can include the donor country; *Tied aid*—All other loans and grants are classified as tied aid, whether they are tied formally or through informal arrangements. OECD DAC (1987).

³³ Bawn (1995: 62).

³⁴ See B. Ackerman and W. Hassler (1981). *Clean Coal/Dirty Air*. New Haven: Yale University Press; R. Noll (1971). *Reforming Regulation*. Washington, DC: Brookings Institution.

reflects, in part, a tension between accountability and effectiveness. Paradoxically, it is the concern to improve the strategic effectiveness and accountability of its humanitarian assistance program that largely explains why the Secretary of State has resisted any straightjacket of high-level policy commitments that might require DFID to respond to humanitarian emergencies in an automatic fashion.”³⁵

³⁵ S. Collinson, *Donor Accountability in the UK* (London: Overseas Development Institute, 2002).

3 DFID AND THE U.K. PARLIAMENT: A GOLDEN AGE?

The greater prominence of aid meant that it attracted more parliamentary attention. Parliamentary questions could now be put to a minister who was solely responsible for aid and ran the department delivering it.

3.1 Legislative structures and procedures

Over the course of the Cold War, U.K. development policy was influenced by the United Kingdom's strategic and security interests and its commercial interests where aid was linked to the promotion of U.K. exports. Under Tony Blair's New Labour government, the political climate changed opening the way for the party to pursue its Manifesto commitments to strengthen and restructure the British development program, bring development back into the mainstream of government decision-making, and establish a Cabinet minister to lead the new department of international development.³⁶ In 1997, the Department for International Development, to be headed by a Cabinet-level Secretary of State, was established by the Labour government.

This change directly impacted international development policy and the way policy was overseen by Parliament. The greater prominence of aid meant that it attracted more parliamentary attention. Parliamentary questions could now be put to a minister who was solely responsible for aid and ran the department delivering it. In addition, as a Cabinet member, he or she was seen as a genuine force within government and therefore worth holding to account. The role of personality was important here as well; Clare Short, the secretary of state for international development was a prominent and outspoken figure within the Labour Party.

Finally, and perhaps most significantly, the system in the House of Commons whereby select committees shadow particular government departments meant that there was now a specific International Development Select Committee (IDC). Before this, the Foreign Affairs Committee could only include aid as one part of its overall

brief. Select committee scrutiny of aid policy was therefore one-off event that happened relatively infrequently rather than the ongoing process of dialogue between the IDC and DFID that exists now. It tended to be reactive in nature, triggered by problems such as the Pergau dam scandal of the early 1990s.

It is not as clear though that the existence of a separate development ministry has led to more detailed interest from the Public Accounts Committee (PAC) and the body on which it relies, the National Audit Office (NAO). Between 1991 and 1997, the NAO produced six "value for money" reports on aid. In the ten years since DFID was established, there have been eight; two of which occurred in the 2007-08 Parliament.

Since 1997, two acts have been passed that have had a significant impact on the way Parliament oversees DFID. The International Development Act 2002 succeeded the Overseas Development and Co-operation Act 1980. The central purpose of the then-International Development Secretary, Clare Short, was to entrench the concept of poverty reduction, to prevent the use of aid for political or commercial purposes, and to eliminate "tied aid."³⁷ As a result of drafting difficulties, tied aid was not specifically banned, but the Act's core purpose and first clause would make it very difficult in

³⁶ Labour Party 1997 Manifesto.

³⁷ Owen Barder. *Reforming Development Assistance: Lessons from the UK Experience*. The Center for Global Development. October 2005. New Labour under Tony Blair sought to end the "sleaze" associated with the connections between business, especially arms exporters, and foreign policy. This position was reinforced by the Pergau Dam project scandal. In 1994, a U.K. High Court had ruled that the project was not of economic or humanitarian benefit to the Malaysian people and was in violation of the Overseas Development Act 1980. The Act states that the Foreign Secretary is allowed to make payments "for the purpose of promoting the development or maintaining the economy of a country or territory outside the United Kingdom or the welfare of its people."

practice.³⁸ The Act enables DFID³⁹ to provide development assistance to any country outside the United Kingdom, subject only to the requirement that it is likely to contribute to a reduction in poverty. The Act allows for assistance to alleviate the effects of a disaster or other emergencies impacting the population of any country outside the United Kingdom. It enables the use of a wider range of financial instruments in the provision of development assistance than was available under the 1980 Act. Only minimal parliamentary involvement in the exercise of these powers is provided for by the Act.

The Act also aims to buffer development policy from other competing foreign policy priorities. DFID is not to use development assistance to fund programs whose *only* primary objective is addressing threats to the United Kingdom or global security.

“Nor will DFID open programmes in countries on the basis of U.K. or global security considerations alone—there would have to be a prior and compelling poverty reduction case. But we and other development agencies can support programmes that enhance the human security of the poor in developing countries and, in so doing, benefit everyone’s safety, whether rich or poor.”⁴⁰

The Act limits DFID funds to poverty reduction, away from other competing foreign policy and commercial objectives. But, U.K. development policy obviously does not operate in a vacuum. For instance, there were strong pressures to increasing funding for Iraq. Since Iraq is a middle income country such increases would have violated the “90–10 rule”—a 2002 agreement between DFID

and the Treasury that the 90 percent of bilateral programming would go to low income countries. DFID decided to accelerate the planned withdrawal from several other middle income countries in order to fund Iraq programs.⁴¹

The second act which has had a significant impact on how Parliament oversees DFID is the International Development (Reporting and Transparency) Act 2006. This Act requires DFID to report annually to Parliament on total expenditure on international aid and on the breakdown of this aid. It focuses in particular on progress towards the target for U.K. ODA to constitute 0.7 percent of GNI, aid effectiveness and the Millennium Development Goals (MDGs) 1 to 7, and achievements in the untying of aid. The Act requires these reports to contain information about expenditure by country, the proportion of expenditure in low income countries, and the effectiveness of aid expenditure and the transparency of international aid. The report is included as part of the DFID Annual Report. It is debated annually in Parliament and scrutinized by the IDC as part of its oversight.

The British Treasury enters into three year Public Service Agreements (PSAs) with every government department; DFID is no exception. These agreements are based on a series of measurable targets and give departments a level of financial security over the short to medium term. The PSA has enabled DFID to make commitments over at least a three-year time frame, often for five. DFID is now signing ten year agreements with some countries, which include rolling three-year budgets. This has meant that U.K. aid has become significantly more predictable for many aid recipients.

³⁸ House of Commons Research Note 01/85, *The International Development Bill* (House of Commons, London, 2001), pp. 21; 26–7; 29.

³⁹ Strictly speaking the Act refers to the Secretary of State not DFID.

⁴⁰ International Development Act of 2002.

⁴¹ Owen Barder. *Reforming Development Assistance: Lessons from the UK Experience*. The Center for Global Development. October 2005.

A remarkable feature of the post-1997 Parliament is the strong support for a single anti-poverty objective for the U.K. aid budget, which buffers development policy from other competing foreign, security, and trade policy objectives.

Figure 1: The position of development within the U.K. Government since 1964



But the post-1997 regime of oversight is the result of the creation of a new department and the associated Parliamentary machinery, and is not entirely secure. In the United Kingdom, departments can be made and un-made by the executive, and along with them mechanisms for accountability, without serious Parliamentary resistance. The three main administrative variants since 1964 can be seen in Figure 1, which demonstrates the relative ease with which the relative importance of development can be changed within government and hence Parliament.

3.2 Legislative objectives in oversight

A remarkable feature of the post-1997 Parliament is the strong support for a single anti-poverty objective for the U.K. aid budget, which buffers development policy from other competing foreign, security, and trade policy objectives. At the same time, there is recognition that poverty reduction is linked to human security and development cannot occur without the cooperation of other governmental agencies, although the extent of legislative oversight of interagency cooperation is limited. The implications of this are explored below.

There is overwhelming support in Parliament for the U.K.'s aid budget to rise. The Labour

government's commitment to reach the UN target of 0.7 percent of GNI by 2013 is supported by the other major political parties.⁴² That this consensus exists at all is a remarkable feature of the evolution of the debate about international development over the past 11 years.

In laying out the objective of DFID as the provision of development assistance that contributes to poverty reduction, the International Development Act of 2002 frames Parliamentary oversight of DFID. There is no fundamental disagreement with this aim within Parliament, which is a change in itself from the pre-1997 situation. Parliament therefore focuses on the "how" rather than the "what."

The primary mechanisms for the oversight of DFID's activities are two select committees, the IDC and PAC. These committees play complementary roles. The IDC is broadly interested in influencing strategy and its implementation while the PAC holds DFID to account for the way it spends tax-payers money. As one Parliamentarian put it, "the PAC's interest is in whether the money is well spent, and so they pick areas where they think it is not. The IDC is interested in the theory, mission and philosophy of DFID."

3.2.1 The objectives of the International Development Committee

The IDC works in a way that is slightly different to the majority of other select committees. This is because DFID generates little legislation, has no associated public bodies, and the Secretary of State is rarely responsible for major public appointments. In addition, DFID does not implement policy alone. Instead it works with and

⁴² http://www.conservatives.com/Policy/Where_we_stand/International_Development.aspx, accessed December 5, 2008. Liberal Democrats (2008). *Pocket Guide to Liberal Democrat Policies*, Liberal Democrats, London.

through developing countries, multilateral bodies and NGOs. The committee, therefore, sees its role as relatively broad, to influence policy nationally and internationally as well as holding DFID itself accountable.⁴³

The committee reviews DFID's annual reports every year. It uses these reports, published in part in accordance with the International Development (Reporting and Transparency) Act, as a basis for an overview of DFID's work and its effectiveness. The IDC also publishes reports which focus on specific elements of DFID's work. The committee often focuses explicitly on specific policies or topics rather than on whole programs. By digging into policy issues, it expects to influence the way DFID works. Reports are chosen on the basis of topicality, their importance to the members of the committee, or where members think that the IDC view differs from that of DFID.

The IDC sees its primary role as influencing the way that DFID delivers aid and implements policy. For example, the IDC published "Delivering the goods: HIV/AIDS and the provision of anti-retrovirals" in 2005.⁴⁴ The IDC's aim with this report was to check DFID's progress since the July 2005 G8 summit in Gleneagles. At the meeting, G8 leaders agreed to provide "as close as possible to universal access to [HIV/AIDS] treatment for all those who need it by 2010." The report applauds DFID for its "important role" in securing the commitment and its position as the second biggest donor to the program. However, it warns that the prominent position of DFID in securing the money comes with extra responsibility for the agreement's success. Therefore, while the report advocates "the

importance of country ownership in the design of their strategy" it warns against this approach leading to "an abdication of responsibility for meeting the targets at a global level."

The IDC report supports the strategic and financial direction that DFID is taking on the Gleneagles agreement. However, the IDC suggests that the focus is now on the delivery of the program and is therefore looking to hold DFID to account for this. Meanwhile, the IDC's identification of a specific problem with the Gleneagles program in a domestic context helped it to move the issue further up the government agenda and therefore to lend its work in this area further credibility. DFID's willingness to accept recommendations and act upon them also shows the importance with which it treats the IDC's reports in this respect.

3.2.2. The objectives of the Public Accounts Committee

The PAC is the senior committee in the U.K. Parliament. The committee's underlying purpose is to ensure that resources voted by Parliament have been spent appropriately and have secured value for money. This purpose is no different for DFID than for any other government department. It uses reports produced by the NAO as the basis for its work. As one interviewee put it, "the NAO provides the meat and the PAC the theater."

The work of the PAC is focused on quantifying achievements in cost effectiveness terms after the fact. Therefore, its definition of effectiveness is narrower than DFID's definition of development effectiveness. Where the PAC finds defining cost-effectiveness difficult, it presses for better means of measurement to be identified. The PAC faces a larger challenge with DFID than for most departments because, as one parliamentarian put it, "there is no concrete product; we don't see the actual development." Given the inherent

⁴³ IDC (2008). *Work of the Committee in 2007; Third Report of Session 2007–08*. London, U.K.: International Development Select Committee.

⁴⁴ IDC (2005). *Delivering the Goods: HIV/AIDS and the Provision of Anti-Retrovirals First Report of Session 2005–06*. London, U.K.: International Development Select Committee.

Others express this view more starkly, disagreeing with DFID's gradual delegation of authority through budget support or the channeling of funds through multilaterals. Those with this view feel that the visibility of aid with a U.K. flag is important for these broader aims.

challenge that DFID faces in tracing its impact on development outcomes, the PAC often calls for better data-gathering and measurement. All this means that the PAC can find itself scrutinizing financial flows more, results and impact rather less. In the words of one interviewee, "the PAC just follows the money. It is not concerned in the quality of the project." Instead the PAC focuses on where the money goes and whether it was spent for the purpose which it was intended for. It, therefore, holds the government to account *ex post* when value for money is not obtained.

3.2.3 Other objectives

The primary aims of the IDC and Parliament are to ensure that DFID pursues its poverty reduction objective, and in many instances to support DFID in this pursuit. Parliament, either as a whole or as individual members, has subsidiary priorities.

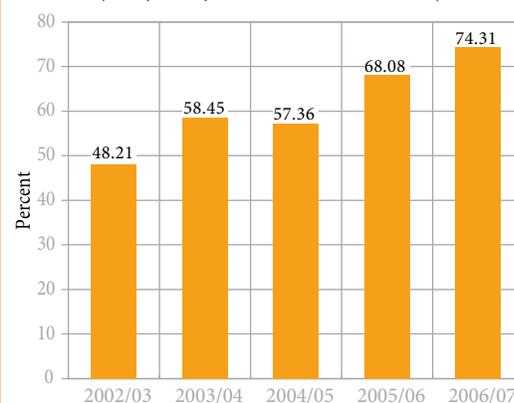
DFID targets 90 percent of its aid on low income countries. Progress has been made toward this goal as the share of U.K. bilateral aid going to low income countries has risen from 48 percent in 2002–2003 to 74 percent in 2006–2007 (see Figure 2).⁴⁵ This has implications for countries at or near middle income status with large poor populations. Some in Parliament are concerned because the United Kingdom has legitimate interests in these large countries and aid can assist with foreign policy objectives in these cases too. Others express this view more starkly, disagreeing with DFID's gradual delegation of authority through budget support or the channeling of funds through multilaterals. Those with this view feel that the visibility of aid with a U.K. flag is important for these broader aims. There is also a view expressed within Parliament that when responsibility is passed, accountability for the money, and the traceability of the impact that results, is reduced.⁴⁶

⁴⁵ DFID Annual Report 2008.

⁴⁶ See for example PAC, oral evidence, March 3, 2008.

From the perspective of DFID and development NGOs, there is an awareness that more needs to be done to explain and provide evidence for the effectiveness of aid provided in this manner.

Figure 2: Percentage of total U.K. bilateral aid to low income countries (GNI per capita below \$825 in 2004)⁴⁵



Source: DFID Annual Report 2008

The latter view confirms a concern of those most supportive of DFID both inside and outside Parliament that public support for the department's spending may reduce as the aid budget increases. A key demand from Parliament, the IDC in particular, is therefore that DFID should better demonstrate its development impact.

In its concern about the most effective way for the government to pursue its poverty reduction objective, the IDC is concerned about the coherence of policies across government. For example, in the report into HIV/AIDS, the IDC highlights a specific problem with the Aids treatment of foreign nationals who have no legal right to remain in the United Kingdom. The report blames a lack of "coherence" across Whitehall for achieving the goals set out by Gleneagles in this specific context.

3.3 Effectiveness of legislative structures and procedures

3.3.1 Parliamentary strengths

As has already been noted, there is more oversight of international aid and development by Parliament than there was before 1997. First, DFID is a separate department with a Cabinet level minister and Parliament has the IDC dedicated to scrutinize its activities and policies. In addition, Parliamentary questions on the floor of the House of Commons are longer and more regular than they were pre-1997. These structural changes have significantly increased the amount of time that Parliament dedicates to scrutinizing development and aid.

Second, the legislative framework within which DFID operates has focused on Parliamentary scrutiny. This has resulted in significant benefits. The International Development Act, by clearly specifying DFID's objectives, has helped build near universal agreement within Parliament about what the department should be doing. It has, therefore, helped to ensure that potentially competing objectives that may emerge from other foreign policy, trade, and national security priorities do not overwhelm development objectives. This factor was identified as significant by a number of the interviewees, "[the Act] has been hugely successful in taking foreign policy out of development."

As mentioned, DFID targets 90 percent of its aid on low income countries. It employs a transparent methodology, driven by the primary objective of alleviating poverty with a focus on the MDGs for guiding aid allocation decisions. This also helps provide for a more transparent and open oversight process by the Parliament.

Parliamentary scrutiny now focuses on two sets of issues: do DFID's policies help it meet the poverty objective, and does the taxpayer obtain value for money as this objective is met? Indeed, because

the Act provides such a strict mandate for DFID, the department takes advice from the Treasury Solicitor's office if there is concern that a particular policy, around climate change for example, might not be compliant with the Act's provisions.

The Reporting and Transparency Act, in requiring DFID to report on an annual basis to Parliament, has helped to deepen scrutiny in some key areas of the government's commitment to development. Many see it as a critical bill because, without adequate information, accountability of the government to Parliament becomes more difficult. In turn, many note the importance of adequate accountability in order for Parliament to impact policy and strategy.

It is worth noting that the Reporting and Transparency Act would still operate even if DFID were absorbed into another government department as it provides a clear framework of reporting on the government as a whole. A requirement of this act is that DFID produces an annual report. The scrutiny of this by the IDC provides an important accountability function and the report in 2008 provides greater detail than the first in 2007 in relation to areas where Members of Parliament (MPs) have indicated an interest, for example aid effectiveness, and bilateral and multilateral aid. In addition, different government departments already have to report on certain aspects of international development.

The evidence sessions and reports of the two select committees are the strongest mechanisms for scrutinizing and influencing DFID. The primary reason for this is that the committees have the power to call people and documents. In addition, people are wary of not speaking the truth because they are speaking under oath. The government also has to respond to any recommendations that are made in reports. This brings an important feedback loop into the relationship with Parliament.

Within Parliament, visits to country programs are valued as a way of understanding effectiveness of DFID policies and programs.

A further strength of select committees is that they are able to cover broad areas of policy and programs, yet they also have the time to bury down into detail. Within Parliament, visits to country programs are valued as a way of understanding effectiveness of DFID policies and programs. Select committees are also generally seen as being less party political than the floor of the House.

The two select committees have different strengths. The PAC, with the weight of the NAO behind it, is able to scrutinize value for money effectively and therefore play a strong accountability role. Uniquely for a parliamentary body, the PAC can hold officials, and not just ministers, directly account for their actions in their role as financial Accounting Officers. DFID itself takes the inquiries and reports of the PAC and NAO very seriously. Fear lies at the heart of the PAC's effectiveness and the interviewees highlighted this: DFID knows that if it "wastes money it will be in for a rough ride and this drives a system of fiduciary responsibility through the system;" "[the PAC] is a distant permanent threat hanging over things;" and "the PAC is at the apex of scrutiny and fear is a driver of its effectiveness."

The PAC makes no claims to influencing DFID policy or programs though. The IDC is able to probe and influence broader issues of policy and development effectiveness.

Beyond the two acts and the select committees, different people within Parliament view different tools within their armory as more or less effective for scrutinizing the activities of DFID. That one or two procedures are not identified as the most effective appears to be down to two things.

First, different tools are effective for different types of scrutiny. Questions are good for obtaining specific pieces of information or detail about any aspect of development policy. While their information gathering potential is good, they are

not effective at influencing policy. Adjournment debates on the other hand are a good way for MPs with a specialist interest to make a contribution and receive a response from a minister. Similarly, debates may be held on select committee reports.

Beyond the select committees and the more *ad hoc* debates, some within Parliament value more informal mechanisms for influencing DFID policy. Time spent with a minister in the division lobby, or in an informal meeting can either ease the work of a select committee or impact directly on policy.

The second reason that people identify different tools as effective is that they don't necessarily have the same tools at their disposal. Those within the House of Lords, for example, have few procedures at their disposal beyond oral "starred" questions to the government and balloted debates. Informal channels, therefore, provide one way of increasing the reach of those concerned about development into DFID. For those in the Commons not on a relevant select committee a less formal structure such as an all-party group can provide a legitimate way to demand information or response from DFID, although they are variable in terms of membership and quality.

Parliament's power in relation to government departments derives from a number of sources. It has the power to legislate, though this is rarely the case in relation to DFID. Moreover, since the government almost always has an absolute majority in the Commons, which is the dominant chamber, it controls the legislative program. Parliament also has the power to affect the political environment within which DFID operates, and finally, particularly through the PAC, it has the power to name and shame. These powers are more effective because the government does not know what the select committees will investigate or what questions will be asked. Parliament has "the effect of keeping [DFID] on its toes."

In the end, within both Parliament and DFID, there is recognition that the government places the greatest emphasis on ensuring broad political support for what it is doing somewhat more than worrying about specific elements of parliamentary scrutiny. This means that there appears to be a greater respect for all of the parliamentary tools within DFID than there is in Parliament. This is because all have the potential to alter the political dynamic in relation to the support for its work. The government worries about Parliament's interest in detail because of its ability to affect the broader political environment.

It is important to note that Parliament is part of a wider web of accountability for DFID. Other mechanisms, such as the NAO and NGOs within the United Kingdom and the OECD/DAC outside, scrutinize the department in more detail than Parliament. The relationship between DFID and the Treasury, negotiated via the PSA is a particularly important relationship. There are as many resources devoted to this accountability relationship within DFID as there are to Parliament, yet Parliament has devoted very little time to scrutinize the PSAs, and it has a negligible role in determining these agreements.⁴⁷

Influence may also be brought to bear upon aid policy through party channels. While the government party almost always has a majority in the Commons, it cannot take it entirely for granted. If a particular policy provokes protest, public or private, from backbench MPs within the governing party, the government may choose for political reasons to reconsider its position. The law of "anticipated reaction" is an even harder to measure impact, but one which certainly exists.

⁴⁷ However, this may change; as part of its *Governance of Britain* reform program, the government has announced its intention to make possible annual parliamentary debates on the objectives of the Whitehall departments.

The government will rule out even taking certain courses of action in the first place if it would obviously provoke unrest or rebellion in its own parliamentary party.

Related to this issue of outside influence and public support is the fact that DFID operates a robust public outreach and education initiative aimed at raising awareness around the importance of global development—targeting the U.K. public and schoolchildren.

3.3.2 Parliamentary weaknesses

There are significant weaknesses in Parliament's ability to scrutinize DFID. Again though, where these weaknesses are perceived to lie depends in part on where an individual sits.

Parliament lacks two significant powers. Firstly, parliamentary scrutiny of the budget is severely limited, "the budget process is pathetic." Again, it is confined to the House of Commons. While it is possible to pick-up specific issues in the post-budget debate, line-by-line scrutiny is not possible and the vote is on the budget as a whole and not on the DFID departmental budget alone.

Secondly, access to information is a perennial problem, with Parliament often complaining that the government plays up the good stories. The Reporting and Transparency Act has improved the flow of information from DFID. The Act has one significant weakness though; it contains no provision for a debate on the annual report produced by DFID. Although in practice debates eventually take place, they are not guaranteed and can be delayed.

The government has made significant moves toward increasing coherence in the areas of development, foreign affairs, and defense. Two U.K. government white papers recommended that DFID not only focus on aid, but have the capacity to analyze a broad range of policies impacting development,

While it is possible to pick-up specific issues in the post-budget debate, line-by-line scrutiny is not possible and the vote is on the budget as a whole and not on the DFID departmental budget alone.

A change in government priorities, or a shift in the way it does business, could reduce the strength of the International Development Act if other departments gain a greater role in development.

including the environment, trade, agriculture, investment, good government and human rights, conflict prevention, debt relief, financial stability, drugs, migration, and cultural links.⁴⁸ In recognizing that conflict prevention is vital to promoting international security and stability, protecting human rights and reducing poverty, the United Kingdom has created the Global Conflict Prevention Pool and the African Conflict Prevention Pool.⁴⁹ These are additional to the three ministries' budgets and intended to facilitate coherent, cross-Whitehall solutions. However, Parliament's role in the creation and oversight of these "joined-up" approaches is virtually non-existent.

The IDC helps exercise "joined-up" scrutiny through its participation in the Strategic Export Controls Committee, along with the Defense; Business, Enterprise and Regulatory Reform; and Foreign Affairs Committee. This monitors the compliance of U.K. export policy with national and international norms. However, there is a specific gap in relation to the poverty reduction objective that could lead to reduced coherence across government. As has been highlighted above, the International Development Act has played a critical role in setting the overall objectives for DFID. The Act has a specific weakness in that it applies only to DFID and not to other government departments that have a limited but legitimate role in international development. This exposes a gap in overall government coherence in relation to the anti-poverty goal. A change in government priorities, or a shift in the way it does business,

could reduce the strength of the Act if other departments gain a greater role in development. The two conflict prevention pools that have been established by the government, mentioned above, fall between the three responsible committees and have not been scrutinized in any great detail in the last five years.

A critical weakness for all select committees is that they lack sufficient resources, particularly staff. This is despite an increase in numbers over recent years, and the establishment of the Scrutiny Unit, which supplies extra assistance when needed. The IDC, for example, has very knowledgeable clerks, but they are few in number. It is difficult, therefore, for them to develop a broad base of knowledge to support the committee in its inquiries. MPs, both on committees or otherwise, have limited time available to devote to scrutiny work within their complex multiple roles. More than one interviewee felt that the IDC would be better to focus its resources on fewer, more in-depth studies.

In addition, there is one press officer for every four select committees. MPs on the committees, therefore, find it difficult to publicize the findings of their reports widely in order to increase the political pressure on the government. Within Parliament at least there is a concern that most reports get a response from DFID, but no wider attention. This reduces their impact on the department because the broader political environment is not changed.

The resources in the House of Lords are even scarcer. They are limited to a sub-committee of the European Union Committee.⁵⁰ In addition, when there is no minister from the Lords within DFID the House is limited to questioning a minister from the Foreign Office or a whip rather than someone

⁴⁸ Department for International Development (1997). *Eliminating World Poverty: A Challenge for the 21st Century*, Cm. 3789. London: The Stationery Office; Department for International Development (2000). *Eliminating World Poverty: Making Globalization Work for the Poor*. Cm. 5006. London: The Stationery Office.

⁴⁹ The purpose of these pools was to bring together the resources of the Ministry of Defence, the Foreign Office and the Department for International Development, to permit a more strategic approach to conflict reduction.

⁵⁰ Foreign Affairs, Defence and Development Policy (sub-committee C).

with direct responsibility for the department's work. During 2006–2007, the Lords had an *ad hoc* committee, the Committee on Intergovernmental Organizations, but the Lords Liaison Committee has elected not to retain it. The lack of regular attention by the Lords on international development reduces the overall level of oversight of the department which Parliament as a whole is able to exert.

As noted above, the IDC has the power to scrutinize any aspect of DFID's activities, to call witnesses, issue reports, and even demand a response from the government. Despite this, they are powerless to force DFID to change if the government does not accept the recommendations from the committee's reports. Given the government majority it is never challenged.

3.4 Impact of oversight

DFID is widely seen as a model for development cooperation and the implementation of the Paris Declaration on Aid Effectiveness, which is the strongest commitment of the international community to aid effectiveness.⁵¹ A recent evaluation of DFID's ability to implement the Declaration found it to be strongly committed to three of the five principles, ownership, harmonization, and managing for development results. It also noted that aligning to recipient government systems and policies is DFID's preferred model of aid delivery. Finally, it found that DFID has committed to greater transparency and mutual accountability.⁵² DFID is one of nine donors covered in the 2008 Paris Monitoring Survey to have reported its aid as 100 percent

untied.⁵³ DFID is also committed to medium term predictability and it often signs three-year agreements with governments and even has some ten-year partnership agreements.⁵⁴

DFID's commitment to the Declaration is such that it appears to have internalized it. Its staff view it as a tool to help it deliver its corporate objectives, rather than as an externally imposed framework.⁵⁵ DFID staff are seen as leading the field to develop new ways to implement the Paris Declaration.⁵⁶

The picture painted is of a flexible organization that is committed to best practice in aid delivery. This raises the question of the extent to which Parliament has had an impact on DFID's progress in this respect, particularly given the analysis above of a dominant executive.

In many ways the passing of the International Development Act has been the most significant impact of Parliament on DFID; the Act has provided a clear framework within which DFID operates and Parliament scrutinizes its activities. This has led to a relationship between the two institutions that must be the envy of many government departments. But, the Act was inspired by, promoted and pushed by the Executive. Parliament's role in supporting it was therefore secondary, although the importance of the supportive political environment for DFID should not be minimized.⁵⁷

The most direct way that Parliament has impacted the Executive is in the passing of the Reporting and Transparency Act. This was a private

DFID is also committed to medium term predictability and it often signs three-year agreements with governments and even has some ten-year partnership agreements.

⁵¹ OECD/DAC (2006). *United Kingdom DAC Peer Review*, Paris.

⁵² N. Thornton and M. Cox (2008). *Evaluation of the Paris Declaration: DFID Donor Headquarters Case Study*. London, U.K.: Agulhas.

⁵³ OECD/DAC. (2008) *2008 Survey on Monitoring the Paris Declaration: Making aid more effective by 2010*, Paris, OECD/ DAC.

⁵⁴ OECD/DAC (2006).

⁵⁵ Thornton and Cox (2008).

⁵⁶ OECD/DAC (2006) and Thornton and Cox (2008).

⁵⁷ Thornton and Cox (2008), and study interviews.

members bill proposed by Tom Clarke, MP, and has had a significant impact on the reporting and accountability relationship between DFID and Parliament.

All interviewees agree that it is in the area of influencing the broad political environment in which DFID operates, through the first Act and its broad support for a rising aid budget, that Parliament has had its biggest impact. This is not insignificant; by providing an environment that is supportive of DFID's broad aims has enabled the department to focus on getting its policies right to meet the objective, rather than trying to meet competing objectives. The support has left DFID feeling freer to take risks and innovate in the way it delivers aid.

Parliament has found that the International Development Act's framework has allowed it to scrutinize DFID's individual policies and programs more effectively than it might otherwise have been able to. That said, interviewees found identifying specific impacts on DFID a challenge for a number of reasons.

First, Parliament's most potent power is its ability to set the political context. In an era where Parliament is supportive of DFID's broad aims but also concerned about whether public support for a growing aid budget will continue, members may feel constrained in the extent to which they can criticize the department. Secondly, some identified parliamentary impact in relation to the government's approach to countries such as Zimbabwe and Burma where there are concerns about human rights abuses. It is difficult to identify the extent to which parliamentary pressure in cases like these have led to a change in government policy. This is because Parliament does not have the power to demand that the government act, its demands are often not specific and the government's response will not follow directly after the parliamentary pressure.

Notwithstanding our major observation that Parliament's most significant impact on DFID is in relation to setting the broad political environment, it is also able to impact on policy too. That said, parliamentary impacts are often in relation to detail rather than broad changes in policy relating to a country program. One interviewee, for instance, noted that the PAC's report on general budget support (GBS) asked the government to quantify the risks related to this modality where it is used. DFID now does this, but it is not the sort of impact that is newsworthy, nor likely to stick in the mind of even the most committed DFID watcher.

Finally, no government likes to admit it has changed policy in relation to outside pressure, whether from Parliament or elsewhere. The indications from the interviews are that a more extensive survey of senior DFID staff would identify far more instances where DFID has changed policy or altered plans as a result of parliamentary scrutiny than this limited survey identified.

3.5 Conclusion

None of the interviewees, either inside or outside Parliament felt that Parliament has too much power. As one interviewee stated, "it would be hard to argue that the sort of scrutiny that DFID is receiving is too much." In the end, Parliament's most potent power over the Executive in relation to development is creating and maintaining the political environment. The government's objectives for international development over the past 11 years have been for a rising aid budget devoted solely to reducing poverty. Given the British system it is usually the case that a government policy is supported by a majority of Parliament. What has been particularly unusual in recent years is the broad support across all sides of the House for these international development objectives.

It is unlikely, therefore, that this support will quickly wane even with a change in the political composition of Parliament, and therefore the government, because all parties are behind the broad objective. This is also likely to mean that, despite the recent statements by Andrew Mitchell who shadows the DFID Secretary of State about DFID encroaching on the work of other departments, in the short to medium term international development will remain a Cabinet-level post. Parliamentary scrutiny of the government's activities in this area will remain at the current level for the time being.

We have already highlighted DFID's position as a lead donor in implementing the Paris Declaration. A higher proportion of its aid is provided through country systems using modalities such as general or sector budget support compared to other donors.⁵⁸ Despite their attraction in terms of promoting long-term development, these modalities come with some short- to medium-term risk in the form of allegations of corruption for example, putting DFID in a challenging position in relation to maintaining high-level political and broader public support for delivering aid in this way.⁵⁹ Getting the story about the impact of its aid more publicly known is going to become increasingly important for DFID.

⁵⁸ According to *The 2008 Survey on Monitoring the Paris Declaration* the United Kingdom ranks well above the donor average for the use of public financial management (PFM) systems in the government sector and programme-based approaches. Overall, DFID's spending on poverty reduction budget support averaged around £250 million per year between 2000/01–2002/03 in 20 countries (15 percent of bilateral expenditure). This increased to around £345 million in 2003/04 and is projected to rise to around £600 million by 2005/06. In some countries, this represents up to 75 percent of DFID's bilateral program.

⁵⁹ OECD/DAC (2006) and Thornton and Cox (2008).

The interviews conducted for this study confirm the challenge facing DFID. They suggest that support for the way that DFID *delivers* aid is not deep, one interviewee thought, “maybe 50 MPs maximum are interested in development.” While the majority of the members of the IDC are supportive of the Paris Declaration, of greater country ownership and moves toward aid modalities such as general budget support for example, this view does not appear to be shared by the majority of Parliament. The PAC, for example, is skeptical of delivering aid through channels which reduce U.K. control of spending, either via GBS or through multilateral channels.

Despite its relative lack of power, a change in the political balance in Parliament could impact directly on the way that DFID pursues the anti-poverty objective. Critical reports from the PAC on the value for money in delivering aid through certain modalities, combined with an IDC which probes more in relation to detail rather than overall strategy could lead DFID to become more risk averse and less willing to commit aid through channels over which it has less control. As one interviewee reflected, “when I said that Parliament had been supportive, it could have been much more risk averse to GBS or aid untying than it is. Parliament [currently] believes in the Paris Declaration and increasing aid.” An interviewee described the current period as “a golden age” for DFID; all golden ages must end though.

Despite their attraction in terms of promoting long-term development, these modalities come with some short- to medium-term risk in the form of allegations of corruption for example, putting DFID in a challenging position in relation to maintaining high-level political and broader public support for delivering aid in this way.

4 USAID AND CONGRESS: COMPLEXITY AND EFFECTIVENESS

As U.S. President John F. Kennedy stated nearly a half century ago, “no objective supporter of foreign aid can be satisfied with the existing program, actually a multiplicity of programs. Bureaucratically fragmented, awkward and slow, its administration is diffused over a haphazard and irrational structure covering at least four departments and several other agencies.”

4.1 Legislative structures and procedures

In 1961, the U.S. Foreign Assistance Act (FAA) was passed by the U.S. Congress, which reorganized U.S. foreign aid. Shortly after USAID was established by Executive Order, creating the first U.S. agency whose central objective was long-term economic and social development. It consolidated a number of entities with responsibility for development and remains the nation’s leading development agency.

U.S. President John F. Kennedy was driven to establish USAID by several factors: the recognition that foreign aid was a key instrument in dealing with America’s role in the world, the negative implications of the failure of developing countries on U.S. security and prosperity, and the perceived opportunity to bring underdeveloped countries into the industrialized world.

These reforms were also motivated by growing concerns that foreign assistance had become bureaucratic and fragmented. As President Kennedy stated nearly a half century ago, “no objective supporter of foreign aid can be satisfied with the existing program, actually a multiplicity of programs. Bureaucratically fragmented, awkward and slow, its administration is diffused over a haphazard and irrational structure covering at least four departments and several other agencies.”⁶⁰

Since the passing of FAA, there has been an expansion of aid legislation. This has created new and often overlapping mandates, initiatives, and agencies many of which impact USAID. An array of earmarks and directives has resulted in a bewildering structure and set of procedures under which USAID must operate. Even as U.S. foreign assistance has grown, USAID permanent American

⁶⁰ President John F. Kennedy, “Special Message to Congress on Foreign Aid,” March 22, 1961.

staff have declined in number from 4,058 in 1980 to 2,200 in 2008. As many as 26 overseas missions have closed, and training investments have declined.⁶¹ To administer increasing levels of ODA, USAID has turned to contractors to implement many of its projects.

4.4.1 Reforms under President Bush

To better understand the current legislative structures and procedures USAID faces, one must consider foreign assistance reform under the Bush administration. In March 2002, U.S. President George W. Bush announced the creation of the Millennium Challenge Account at the UN Financing for Development Conference in Monterrey, Mexico. This led to the establishment of the Millennium Challenge Corporation (MCC), a separate entity that allocates aid based on policy performance with respect to governance, investing in people, and economic freedom where projects are initiated by recipient countries.

Since 9/11, U.S. policy has shifted to recognizing that fragile states are focal points for U.S. foreign policy and that development is inextricably linked to national security. Reconstruction and development associated with operations in Iraq and Afghanistan led to increases U.S. foreign assistance. In addition to the MCC, the Bush administration created the President’s Emergency Plan for AIDS Relief (PEPFAR). As a result of these various initiatives, U.S. foreign assistance increased faster than at any time since the Marshall Plan.⁶² The United States continues to be the world’s largest donor in absolute terms providing \$26 billion in ODA in 2008 accounting for 22 percent of

⁶¹ J. Atwood, M. McPherson, and A. Natsios (November/December 2008). “Arrested Development: Making Foreign Aid a More Effective Tool.” *Foreign Affairs*, Vol. 87. New York, NY: Council on Foreign Relations.

⁶² C. Lancaster (2008). *Foreign Aid: Transformation or Chaos?* Washington, DC: The Center for Global Development.

aid worldwide, and even small changes in U.S. foreign assistance can have an important impact on the overall system.⁶³

In addition to establishing new programs to target specific issues like HIV/AIDS and introducing more rigorous and performance-based aid, the Bush administration sought to elevate development to an equal standing alongside diplomacy and defense in U.S. foreign policy. In the U.S. National Security Strategy in 2002 and 2006, weak, failing, or failed states were noted as among the leading sources of threats to the United States and development along with diplomacy and defense was recognized as a vital tool to addressing them.

During its second term, the Bush administration began to acknowledge that the system was severely outdated and unable to address wider foreign policy challenges. In January 2006, it launched a set of reforms also known as the “F process” in response. A new Director of Foreign Assistance (DFA) was created at the U.S. Department of State. The DFA is “dual-hatted” being both the Administrator for USAID and also holding the rank equivalent to a Deputy Secretary of State. The DFA has authority over USAID programs as well as the Department of States’ aid-related programs.⁶⁴

Although USAID is an independent federal government agency, it receives overall foreign policy guidance and detailed budget allocations from the Secretary of State. Under the F process a new Foreign Assistance Framework (FAF) was designed to align planning, budgeting, programming and results reporting between the U.S. Department of State and USAID. Its intent

⁶³ OECD/DAC (2009). *Development aid at its highest level ever in 2008*.

⁶⁴ The Millennium Challenge Account and the Office of the Global AIDS Coordinator remain outside the authority of the Director of Foreign Assistance, but the DFA is tasked with providing other U.S. aid programs “guidance.”

was to provide clarifying, focused goals that are specific to each country’s circumstances and reduce fragmentation in overall U.S. foreign assistance.⁶⁵

This restructuring was driven by then-Secretary of State Condoleezza Rice’s “transformational diplomacy” efforts, which sought to leverage foreign assistance to help countries transform and graduate from aid dependency. It should be noted that unlike the MCC and PEPFAR, the F process reforms did not required any changes in legislation because they have not created a new entity, but have instead shifted posts and lines of authority. While State’s involvement in negotiating USAID’s budget with Congress accelerated under the F process, its influence over USAID began even earlier.⁶⁶

Two important Congressional actors are appropriators and authorizers. Appropriators effectively have the “power of the purse” and appropriate, or allocate, funds. Authorizers establish a policy framework for agencies to operate within, examine the effectiveness of agencies and programs, and can create and eliminate them. However, they both share certain Congressional powers and oversight responsibilities.

4.1.2 The role of appropriators

Each year, on or before the first Monday of

⁶⁵ In addition to consolidating planning, budging and operations of USAID and the U.S. Department of State, the Office of the Director of Foreign Assistance was to develop a coherent, coordinated U.S. government foreign assistance strategy. This included guidance for foreign assistance delivery through other U.S. government agencies and creating multiyear country-specific assistance strategies and annual country-specific operational plans.

⁶⁶ The U.S. Department of State was given responsibility for U.S. foreign assistance programs in Central and Eastern Europe in 1989 and in the former Soviet Union in 1992, with USAID placed in a subordinate role. Eventually, in 2001, the U.S. State Department took over USAID’s account and its direct relationship with the Office of Management and Budget. See J. Atwood, M. McPherson, and A. Natsios (November/December 2008). “Arrested Development: Making Foreign Aid a More Effective Tool.” *Foreign Affairs*, Vol. 87. New York, NY: Council on Foreign Relations.

The United States continues to be the world’s largest donor in absolute terms providing \$26 billion in ODA in 2008 accounting for 22 percent of aid worldwide, and even small changes in U.S. foreign assistance can have an important impact on the overall system.

Appropriators have considerable influence over foreign assistance. They effectively control the budgetary allocations at the agency and program levels for foreign assistance.

February, the President submits a detailed budget request to the U.S. Congress for the upcoming year. It includes foreign assistance which is covered in the International Affairs (Function 150) Budget Request. The U.S. House of Representatives and Senate Budget Committees each draft a budget resolution. This sets targets for the total limits (“budget authority”) for a few, broad accounts in the President’s budget request, including International Affairs. Then the process moves to the committees: the appropriators and authorizers.

Foreign assistance is discretionary spending which must be renewed each year.⁶⁷ The jurisdiction for discretionary funds falls under the House and Senate Appropriations Committees, where the money is allocated for programs. The full committees receive an allocation based on the budget resolution. Appropriators from each chamber in turn break these amounts into allocations for their respective sub-committees responsible for various jurisdictions. The Appropriations sub-committees on State, Foreign Operations, and Related Programs (one in the House and one in the Senate) are primarily responsible for the annual funding of foreign assistance. As a result of the process, they each receive a budget ceiling within which to draft legislation.

After the House and Senate subcommittees vote on the legislation they then send the bills to the full House and Senate Appropriations Committees to vote on them. The bills then go to the full House and Senate floors. The House and Senate bills will not necessarily match. If this is the case they must be resolved in conference. Once reconciled, a single bill is voted on in the full House and Senate. The bill is then signed by the President and only then

⁶⁷ According to the Congressional Research Service, discretionary spending by the federal government is defined as non-entitlement spending that is authorized through appropriations acts.

does it become law (see Figure 3).

Appropriators write legislation that impacts USAID in several ways by: specifying the purpose for which funds may be used; defining specific funding levels, for the agency, specific program or division; setting time limits on the availability of funds; limiting funding contingent on certain allotments for specific programs; and enacting measures and committee reports stipulating how USAID’s budget can be re-programmed.⁶⁸

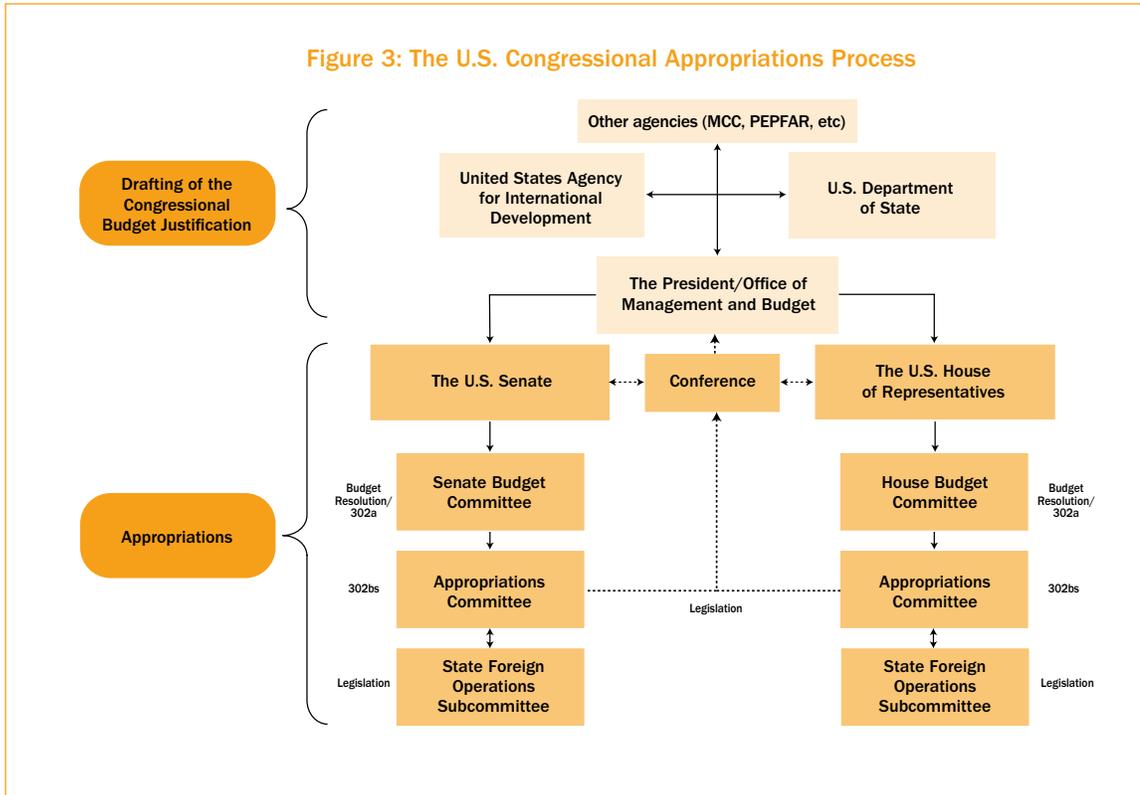
Earmarks may be added while the bills are considered at each stage. Earmarks play a central role in shaping USAID and are not without controversy. The term itself is contested.⁶⁹ In a narrow definition, it can mean the allocation of resources to a specific non-federal entity, private or public (meaning state or local entity). In the broadest definition, earmarks can mean any changes to a Presidential request by Congress i.e. new directives or conditions being added to programs, resources for specific countries, or activities called for beyond the President’s requests. Earmarks can also be anything that places conditions on the proposed funds.

Appropriators have considerable influence over foreign assistance. They effectively control the budgetary allocations at the agency and program levels for foreign assistance. Although the appropriations process appears to focus largely on allocations of money, its oversight extends beyond just determining funding. Appropriators conduct

⁶⁸ Congressional Research Service (2007). *Congressional Oversight Manual*. Washington, DC: Congressional Research Service.

⁶⁹ According to the Congressional Research Service, there is no standard definition of an earmark accepted by all practitioners or observers of appropriations bills. *The Congressional Quarterly’s American Congressional Dictionary* defines every appropriation as an earmark. According to the Office of Management and Budget, earmarks are specific funds for projects, activities, or institutions in the bill not requested by the President, but are added-on by Congress.

Figure 3: The U.S. Congressional Appropriations Process



public hearings to review the International Affairs Budget and request testimony from Department of State, USAID, MCC, Peace Corps, Treasury and Overseas Private Investment Corporation (OPIC) officials. They can hold non-public meetings or briefings with USAID officials, representatives from other agencies, NGOs, foreign governments, and experts, and also less formal one-on-one meetings.

4.1.3 The role of authorizers

The U.S. Senate Foreign Relations Committee and the U.S. House Foreign Affairs Committee are the primary authorizers of foreign assistance (including through USAID). Authorizers have the statutory power to create new programs and agencies, reauthorize them once they have reached a term limit and eliminate them. They have an important

role in shaping and determining policy and gauging the performance of foreign assistance because they assess USAID's effectiveness and take actions to improve policy.

Authorizers also possess non-statutory mechanisms: committee hearings, reports accompanying legislation, floor debates, and communication with Executive agencies. Similar to appropriations committees, authorizing committees have recourse if USAID fails to comply with these non-statutory recommendations as they can employ sanctions or make these requests statutory.

Congress can only appropriate funds for programs that have been authorized, that is, given a legal basis. Funding can only be appropriated up to the level that has been authorized. This is an important dynamic between authorizers and appropriators.

Despite the proliferation of aid legislation, authorizers have been less engaged, at least until recently; the FAA, which is the statutory basis for USAID, has not been comprehensively reauthorized since 1985.

Unfortunately, authorizers are often unable to agree on legislation that creates new programs, or alters or renews existing programs.⁷⁰ In this case, the appropriations bill becomes the vehicle for moving such legislation forward to the President. One USAID interviewee stated that the problem is not oversight—it is the budget process. Despite the proliferation of aid legislation, authorizers have been less engaged, at least until recently; the FAA, which is the statutory basis for USAID, has not been comprehensively reauthorized since 1985. This critical issue will be explored below.

4.1.4 Other Congressional procedures

Congressional Notifications (CN) and holds are two other procedures that impact on USAID. CNs oblige USAID to inform, advise, and consult relevant authorizing and appropriating committees about changes in levels of funding previously justified to Congress. Appropriations and authorizing committee chairmen of the majority party, in either the House or the Senate, can place a “hold” on a CN and stop a specific action on the part of an Executive agency.⁷¹ This has had a tremendous impact in the case of aid. The notification process can be either vague or very specific in scope based on Congressional interests. For example, Congress may direct USAID to notify it about operations in Colombia, Pakistan, or Sudan broadly or when funding amounts change for Child Survival and Disease programs by 10 percent or more.⁷²

⁷⁰ This began in the 1980s when during the Reagan administration tensions grew between the White House and Congressional authorizers which made it increasingly difficult to authorize legislation. Politically sensitive issues, such as abortion and family planning, also played a role in this.

⁷¹ Not every member of the U.S. Congress can exercise a hold. CNs are a statutory requirement to notify Congress. Holds are not recognized in law.

⁷² USAID (2000). “Requirements for Congressional Notification: FY 2000 Operating Year Budget (OYB).”

Appropriators and authorizers also may use non-statutory mechanisms such as committee reports, letters to heads of agencies, and other communications to reflect their expectations and demands. USAID ignores holds and other non-statutory devices at its peril; Congress may limit funds or flexibility in the future.

Congress also has the power to confirm senior USAID officials nominated by the President. This is true for other agencies responsible for U.S. foreign assistance programs. This authority rests with the Senate. This represents an opportunity for part of Congress to assess the suitability of the President’s nominees for leadership positions as well as how they intend to manage policy and programs.

Committees and subcommittees may also launch investigations, an authority that has its roots in British Parliament and colonial assemblies, to assess if USAID is operating in a manner consistent with legislative intent, gauge public perceptions of programs, determine quality of service delivery, and identify misconduct, fraud, or waste. Committees can pursue investigations and *ad hoc* hearings. They can also initiate staff reports to examine issues that involve USAID. Congress’s investigative powers include issuing subpoenas, taking depositions, and requesting support from Congressional support agencies, consultants, or federal agency staff to help with inquiries. For instance, the Government Accountability Office (GAO) serves to help provide analysis and information during investigations.⁷³

⁷³ In addition to the International Affairs Budget request, numerous other reports and audits act as tools for Congressional oversight. For instance, the USAID Office of Inspector General is responsible for periodic auditing and may conduct investigations, inspections and other reviews of the agency. Congress may access this information as well.

4.2 Legislative objectives in oversight

From a Congressional perspective, foreign assistance is an instrument for achieving a variety of goals: strengthening fragile states, national security, promoting democracy, mitigating conflict, alleviating poverty, opening export markets, providing humanitarian and disaster relief, and addressing global challenges such as health, climate change, and crime. During the Cold War a major strategic rationale behind U.S. foreign assistance was straightforward: to help fight Communism. This objective was shared by Congress and the Executive. It helped anchor the two branches to a single strategic vision which built support for foreign assistance in Congress and publicly. It offered an overarching framework to guide aid policy.

There has been an accumulation of foreign assistance legislation in the United States on top of the Foreign Assistance Act of 1961. For instance, since the end of the Cold War, there have been numerous new pieces of legislation with a variety of focus areas and goals (see Box 1). As a result of newly created programs, many activities already funded by USAID are replicated elsewhere across government. The cumulative effect is that U.S. foreign assistance now, in total, has at least 140 broad priorities. There are at least 400 specific directives on how to implement the priorities.⁷⁴ In addition, there are at least 25 government departments, agencies, and programs delivering foreign assistance which operate under this legislative labyrinth. This makes policy coherence very difficult.

The F process created the FAF to guide USAID and the U.S. Department of State as they pursued reforms. Its cross-cutting objectives are: Peace and Security, Governing Justly and Democratically,

⁷⁴ Oxfam America (2008). *Failing the Cardozo Test: Why U.S. foreign assistance legislation needs a fresh start*, Oxfam. Based on commission research conducted by Dechert LLP.

Box 1: Additional legislation governing U.S. foreign assistance since 1989

- Support for East European Democracy (SEED) Act of 1989
- Freedom for Russia & Emerging Eurasian Democracies & Open Markets Support Act of 1992
- South African Democratic Transition Support Act of 1993
- Tropical Forest Conservation Act of 1998
- International Religious Freedom Act of 1998
- Torture Victims Relief Act of 1998
- Silk Road Strategy Act of 1999
- African Growth and Opportunity Act
- Global Aids and Tuberculosis Relief Act of 2000
- Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000
- Famine Prevention and Freedom from Hunger Improvement Act of 2000
- Victims of Trafficking and Violence Protection Act of 2000
- Millennium Challenge Act of 2003
- United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003
- Microenterprise Results and Accountability Act of 2004
- Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005
- Senator Paul Simon Water for the Poor Act of 2005

Investing in People, Economic Growth, and Humanitarian Assistance. Based on progress toward these objectives, countries fall into five different stages of development.⁷⁵ The overall primary objective of the framework is to help countries graduate and advance through these stages of development.

However, according to one senior USAID official “the confounding problem between Congress and USAID is the lack of clarity between the two in terms of what the strategic objectives

⁷⁵ The various accounts within the U.S. Department of State and USAID (among others) are mapped against each of these categories and then against various stages of country development in the Framework. Types of countries are: 1.) countries that are rebuilding, 2.) developing countries, 3.) transforming countries, 4) sustaining partnership countries, and 5.) restrictive countries.

The cumulative effect is that U.S. foreign assistance now, in total, has at least 140 broad priorities. There are at least 400 specific directives on how to implement the priorities.

Whether the United States has a specific earmark for poverty reduction or not seems less relevant than the fact that the United States does not have an overarching goal or even a set of goals to design a strategy for aid.

are.” While helping to align high-level priorities against agencies and accounts, the FAF is seen as too broad and unfocused. One USAID official explained that it “intertwines poor countries, poor people and strategic allies.” The FAF’s *objectives* have come to represent a set of activities or accounting devices—not so much goals. It helps to illustrate broadly what U.S. aid is doing, but does not help guide resource allocation toward specific unifying objectives.

The FAF seems to be the by-product of an unstructured, informal, and nonstrategic conversation between Congress and the White House. Some interviewees contend that there was no serious conversation between the two branches on this subject at all. It was formulated with little consultation with Congress. It failed to address the “obscene conglomeration of objectives” for foreign assistance. As one senior USAID official put it, “this confused guidance has been sustained for too long and we cannot continue to design foreign assistance policy in a manner that’s akin to letting a thousand flowers bloom.”

The proliferation of objectives has been a by-product of conflicting priorities between Congress and the Executive relating to foreign assistance. On the one hand, the Executive has sought to pursue its policy objectives by creating Presidential Initiatives and avoiding Congressional limitations by funding them outside the International Affairs Account agencies. This created new channels for funding innovative development programs, but also led to additional accounts and earmarks. In addition, it has complicated USAID operations which are often relied on to help implement new initiatives.

On the other hand, Congress pursues its own priorities through directives and earmarks that may not be consistent with those of the Administration. While the competition for earmarks is not new, it has accelerated in recent years and has led to an accumulation of objectives, directives, and agencies

on top of old legislation and institutions. Excessive earmarking can deplete resources for core programs, increase administrative and reporting costs, and weaken policy coherence. Both branches have played a role in complicating the U.S. aid system.⁷⁶ “Poverty reduction” is neither a stated objective nor an earmark for USAID. One interviewee stated that there is an understanding that poverty reduction is a “residual” of the agency’s operations after the other objectives are fulfilled. Others noted this residual was actually economic growth, governance, and capacity building or funds flexible enough to be programmed around country-determined priorities. USAID operations are largely driven by major accounts and sector-focused earmarks covering a diverse range of topics from infrastructure to microfinance, from biodiversity to anti-corruption. “USAID is expected to do a bit of everything and is expected to everywhere.” Foreign aid, according to some, assumes “pixie dust” like qualities as it is spread around the world in the absence of a coherent framework.

Accordingly, the question over whether the United States has a specific earmark for poverty reduction or not seems less relevant than the fact that the United States does not have an overarching goal or even a set of goals to design a strategy for aid. DFID pursues the goal of poverty reduction specifically focusing on the MDGs and targeting the poorest countries of the world. Many different kinds of programs could fall into the definition poverty reduction and DFID programs address a variety of issues from peacebuilding to global health.

⁷⁶ Conflicting priorities between the Congress and the Executive that cause this problem in U.S. foreign assistance are driven not only differing development priorities, but also differing political and foreign policy motivations. One interviewee attributed this expansion of earmarks and executive directives to the ever-increasing, diverse set of interests of the United States in a more complicated and interdependent world. Both Congress and the Executive often share these same concerns, but the fundamental problem remains that they do not share in a common agreement on a development strategy to address their mutual concerns.

But, DFID's activities occur within a well-defined legislative framework and in the context of a broad understanding across the Parliament and DFID on the country's development strategy and goals. In this regard, earmarks, directives, and Presidential Initiatives themselves are not so much a problem; it is their excessiveness that is a symptom of this larger systemic problem.

Another systemic problem highlighted by some Congressional and USAID officials is the mixing of geopolitical and diplomatic priorities with development priorities. According to one senior USAID official, the blending of strategic and military support for U.S. friends with development aid to the poor "causes chaos within the system." The two primary accounts in question are the Economic Support Fund (ESF), which is intended to support short-term foreign policy and national security imperatives, and the Development Assistance Account (DA), which aims to support longer-term economic development activities.⁷⁷ Interviewees did not see anything wrong with foreign aid helping friends and allies as such. Rather it is unclear when, how much, and under what circumstances the United States provides aid for geostrategic purposes versus when the U.S. funds development across a broad spectrum of countries remaining consistent with U.S. foreign policy. Given that the poor require long-term predictable funding, some expressed concerns about development funds falling prey to short-term geopolitical priorities.

This question of achieving an appropriate balance between geopolitical and development-focused aid has led some to question the current aid reform process. The F process was initiated to ensure that foreign assistance complemented wider foreign policy and national security objectives and to better

coordinate and integrate the U.S. Department of State and USAID aid programs. Ironically, although the Bush administration sought to elevate development alongside diplomacy and defense, some would argue these reforms have eroded USAID's independence under the weight of the U.S. State Department's mission.

4.3 Effectiveness of legislative structures and procedures

4.3.1 Congressional oversight strengths

Unlike the United Kingdom, the United States generates significant legislation on aid and the Congress seems to have a broader range of oversight tools including not just hearings and informal questioning, but also investigative powers and can employ other government agencies to address outstanding questions both in Washington, DC and in the field.

Public hearings are generally viewed positively among Congressional staff and USAID officials alike, but smaller private meetings and one-on-one conversations are considered even more useful. They provide a more informal environment for honest and frank discussions. They foster better understanding and trust between Congress and USAID. However, such meetings are not formalized and are driven by circumstances rather than strategy.

There seems to be general consensus on the need for accountability to taxpayers. According to USAID officials, Congressional concerns over accountability have largely been helpful. There is strong Congressional support for accountability systems and reporting through controllers, the Inspector General, the GAO, as well as regular oversight, and informal and formal discussions with Congress. The USAID Office of Inspector General is responsible for periodic auditing and may also conduct investigations, inspections and other

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⁷⁷ Other primary accounts, such as the Global Health and Child Survival Account, are also "dueling" with the ESF account.

The Foreign Assistance Framework is too generic and does not provide unifying objectives that would allow USAID to effectively rationalize accounts, budgeting, operations, and resources.

reviews of the agency. Congress actively ensures proper accounting, financial and performance management and, more recently, much needed improvements in human capital at USAID. Similar to DFID, there is a web of accountability that impacts USAID through reports by other agencies.

An annual USAID Agency Financial Report is produced for Congress. It outlines USAID's mission and organizational structure, program performance, analysis of systems, controls, and legal compliance, and financial statements. The report fulfills compliance with seven different pieces of legislation related to financial and management oversight. In 1993, Congress passed the Government Performance and Results Act, which led USAID to adopt result-based management practices. Other donors have initiated similar systems. USAID has produced a number of rigorous studies through its Impact Evaluations Series. It participates in the OMB's President's Management Agenda, which assesses and tracks operational performance and management. It also participates in the Program Assessment Rating Tool (PART) another OMB program, which generates score cards for specific programs.

The MCC represents one example of how consensus between Congress and the Executive on aid objectives can create conditions for building trust, understanding and greater discretion in aid policy implementation. The creation of the MCC criteria is viewed as an important tool for oversight according to some Congressional staffers. The MCC employs objective, independent indicators to determine a country's suitability for funding (known as the MCC criteria). It pursues poverty reduction through economic growth, encourages local ownership, and focuses on results. Country ownership and focusing on results are two of the MCC's founding principles, which are also included in the Paris Declaration on Aid Effectiveness. There is a strong emphasis on monitoring and evaluating

in MCC programs. Unlike assistance appropriated under the FAA as amended, MCC funding is untied and not subject to "Buy America" provisions.

4.3.2 Congressional oversight weaknesses

The lack of an agreed strategic vision between Congress and the Executive was consistently mentioned in interviews as a source of many of these problems. As one senior administration official put it, "we face an almost completely broken process... the system is formless and chaotic." There are at least 25 U.S. government departments, agencies, and programs delivering foreign assistance. Only USAID and the U.S. Department of State fall under the F process. This makes policy coherence very difficult. The Foreign Assistance Framework is too generic and does not provide unifying objectives that would allow USAID to effectively rationalize accounts, budgeting, operations, and resources. Congressional engagement has been weak regarding the F process and from a Congressional perspective, given the number of agencies involved there is uncertainty over who is in charge of U.S. development policy.

While there is significant financial and management performance information on USAID, Congressional staff perceive a dearth of tools and measures to assess development outcomes from foreign assistance. Other staffers contend that Congress is wholly uninterested in development results and impact. These staffers view the appropriations process as narrowly focused on financial allocations. This is a numbers game in other words and Congress is only concerned with inputs, not outputs or outcomes. Congressional accountability, according to one USAID official, is simply answering the question "did you meet what was put in the appropriations bill?" Congressional oversight does not involve an overall transparent and objective system of evaluation based on development outcomes to help inform the budget

allocation process. Some interviewees noted that there is relatively less oversight in terms of gathering information from USAID missions and going into the field compared to previous decades.⁷⁸

Congressional staff and USAID officials also see a gap between Congressional expectations for measures needed for oversight and the necessary funding required to produce such information. Some seem to perceive that USAID may be reluctant to engage with Congress or be forthright with information as this could lead to new procedures, processes, and reporting requirements imposed on it without new funding. Some interviewees indicated that this was indicative of a level of distrust between Congress and USAID.

There are important deviations from the legislative process that negatively impact USAID's effectiveness. Friction between Congress and the Executive has led to greater reliance on appropriators for enacting legislation. It has been easier to appropriate funds rather than pursue more rigorous scrutiny of U.S. foreign assistance programs that would come from reauthorizing the FAA. Returning to the important dynamic between authorizers and appropriators, authorizers are supposed to authorize the appropriation of funds for particular accounts.⁷⁹ But this is not happening and it has not since 1985.

Supplemental appropriations, normally used in emergencies, are increasingly employed by Congress to allocate funds for the wars and reconstruction

⁷⁸ Despite the launching of the HELP Commission, reports such as the U.S. Senate Committee on Foreign Relations' *Embassies Grapple to Guide Foreign Aid* and other recent efforts by Congress around U.S. foreign assistance, there is limited engagement with USAID missions on any consistent basis that feeds into the budget process. New ethics and other rules also make traveling for Congressional staff more challenging.

⁷⁹ Any deviation from what has been authorized on the part of appropriators can be subject to a point of order and language in foreign assistance legislation that says that appropriations in excess of amounts authorized cannot be obligated or expended.

in Iraq and Afghanistan for instance. They do not automatically include overhead costs and this has implications on USAID's capacity. There are a number of views on why this happens. Some contend that supplementals have a negative impact on USAID planning and budgeting, while others argue that it is incumbent on the Executive Branch to identify administrative costs associated with supplementals. There is some evidence that OMB tends to deny these additional administrative resources and Congress often has to add the funds that OMB denies.

The fact that there are a number of different perspectives on this matter reveals another area of misunderstanding among key stakeholders involved in foreign aid legislation. Overall, most seem to agree that the use of supplemental bills has weakened the normal legislative process. These bills may receive less rigorous oversight as they are processed quickly through the Congress in light of a "national emergency." It should be noted that the Obama administration is seeking to limit the practice of supplementals to only unforeseen emergencies and incorporate funds back into the base budget.⁸⁰

The fiscal year begins October 1, but the Foreign Operations bill is frequently not completed by then; it may be delayed for a few weeks or even longer. This is characterized by an extended period of brinkmanship between Congress and the White House where each games for funding consistent with their particular policy priorities. When Congress cannot agree on the budget, it uses continuing resolutions that carry funding over from the previous fiscal year. While this phenomenon is not limited to the Foreign Operations bills, the implementation of foreign aid programs is greatly

⁸⁰ While President Obama's FY09 supplement submitted to Congress in April does not reflect this goal, the administration plans to incorporate the full costs of the wars in Iraq and Afghanistan in the FY10 base budget.

impacted as a result of budget uncertainty with implications on aid effectiveness.

As a result, from October until as late as July, USAID may operate without budget clarity thus putting its operations into utter disarray. Congress can pass a continuing resolution so the money does not run out. However, far from being a solution to a budget impasse, these resolutions have a deleterious impact on USAID. The Agency must tell staff to hold expenditure until the outcome of the budget is certain. Strategic planning, programmatic, management, and staffing (i.e., hiring and firing) decisions are severely undermined. This obviously has additional implications on USAID implementing partners and partner governments and further erodes predictability in financing.⁸¹ Additional delays may be caused by negotiations between the Congress and the Executive over “soft earmarks” and directives—a process that some interviewees contend is unproductive.⁸²

When appropriators and authorizers work together they often do so in pursuit of new single-issue bills that are timely, have interest group backing, and resonate with Congress. Narrow issues, like water and microfinance, often garner public support more easily compared to more fuzzy issues like economic growth and governance. Congress thus works outside the baseline budget and simply legislates new programs and agencies into being. The process has, therefore, been reactive and *ad hoc*, creating duplicative objectives and institutions. Some new programs are quite important, but they

⁸¹ It should be noted that supplementals and continuing resolutions are a challenge for many agencies—not just USAID.

⁸² Hard earmarks are statutory minimum funding levels. Soft earmarks represent language in legislation that strongly suggests funding for a program. Directives derive from committee reports. The lack of clarity sometimes over these non-statutory items or differences in report language between the House and Senate can prolong negotiations.

do not resolve the bigger systemic problem of complexity in the U.S. aid system.

On a more technical note, the Operating Expense Account (OE) was established in 1976 as a separate account to ensure against runaway overhead costs in foreign assistance. As program funding and the number of programs have grown, OE funds have not kept pace.⁸³ The use of program funds to cover the shortfalls in overhead costs has become normal practice. Congress has granted permission to apply program funds to the OE, on an annual and sometimes two-year basis, but this has always been under restrictions and by request. Moreover, program funds cannot be used to pay for USAID staff and help build internal capacity; they can only go to contractors. This is disruptive to what should be a normal budgeting process that allocates administrative overhead alongside programmatic funds. Among all the U.S. agencies and programs in the 150 Account, USAID is the only one with a separate OE.

Generally, Congress expects interagency cooperation from USAID and other agencies overseeing foreign assistance programs. Despite Congress's limited engagement in the F process, the U.S. Department of State and USAID are increasing coordination through DFA-led Operational Plans.⁸⁴ USAID implements the MCC's Threshold

⁸³ According to the HELP Commission, the average amount of program funds that the Agency managed between 2002 and 2006 was \$11.8 billion, which represented a 46.8 percent increase over the average program funds obligated from 1997 to 2001. Over this same period, OE obligations only rose by 7.8 percent.

⁸⁴ According to the GAO, the Office of the Director of Foreign Assistance has been developing annual Operational Plans (OP) to combine expenditure and performance plans and reporting for State and USAID foreign assistance projects worldwide and provide descriptive information about other U.S. government agencies' aid programs; it is also piloting a program for five-year country assistance strategies (CAS) intended to provide a comprehensive view of all U.S. foreign assistance activities in every country.

programs. The agency has also been working with various U.S. Combatant Commands to create a system for synchronizing their respective Theater Security Cooperation Plans with USAID Operational Plans.⁸⁵

However, according to the 2006 OECD/DAC Peer Review of the United States and GAO reports, overall the United States does not coordinate foreign assistance across its agencies very well.⁸⁶ There is evidence of tensions across various programs resulting in separate agendas at the field level.⁸⁷ Interagency cooperation is often limited to USAID serving as a vehicle to transfer funds to other agencies as directed by Congress.

Some USAID interviewees stated that earmarking and limited attention to global cooperation in aid by Congress makes coordination with other donors more difficult and USAID participation in multilateral or joint frameworks challenging. The United States is sometimes unable to participate in country level donor and partner dialogues because of excessive earmarking or because U.S. foreign assistance is channeled through other specialized agencies that may have less interest or capacity to participate in policy coordination discussions.

As mentioned, DFID operates a strong public outreach and education effort. USAID mission directors and staff meet with local media and stakeholders to educate local populations on the purpose and impact of U.S. foreign assistance.

⁸⁵ Committee on Foreign Relations United States Senate. Richard G. Lugar, Ranking Minority Member. *Embassies Grapple to Guide Foreign Aid*. Washington, DC, November 16, 2007.

⁸⁶ OECD/DAC (2006). Peer Review of the U.S.; GAO *Afghanistan: Key Issues for Congressional Oversight*, GAO-09-473SP. Washington, DC, April 2009.

⁸⁷ Committee on Foreign Relations United States Senate. Richard G. Lugar, Ranking Minority Member. *Embassies Grapple to Guide Foreign Aid*. Washington, DC, November 16, 2007.

However, there is standard appropriations language that prohibits expenditures within the United States to promote foreign assistance. This has had a kind of “chilling impact” at USAID and has likely discouraged public outreach.⁸⁸

4.4 Impact of oversight

As the largest donor in the world, the United States is a leader in international development. It can influence global action toward implementing multilateral commitments on aid effectiveness. The United States endorsed the Paris Declaration principles and the AAA and seeks to improve policy coherence in foreign assistance. The United States has shown progress during 2005–2007 in increasing the amount of aid in program-based approaches, coordinating technical assistance with country programs, reducing parallel project implementation units, or PIUs, untying aid, and making disbursements that are on-schedule and recorded by government.

However, in the same period the United States experienced setbacks in the use of country systems, coordination between donor missions, and aid flows recorded in country budgets.⁸⁹ In some of the areas where the United States made progress it was from a low base. Slow progress may be attributed to the fact that Congressional oversight of USAID and other agencies responsible for development programs focuses other objectives in preference to host-country partnership, donor coordination, or U.S. participation and leadership in the ODA system.

⁸⁸ According to the GAO, USAID funds all domestic and some foreign audience communications out of limited agency operating expenses. There is no stand-alone budget for agency communications other than the operational budget amount allotted to USAID’s headquarters public affairs bureau through the annual budget process.

⁸⁹ OECD/DAC (2008). Given that USAID is responsible for less than half of total U.S. ODA, these figures cannot be entirely attributed to USAID.

The United States is sometimes unable to participate in country level donor and partner dialogues because of excessive earmarking or because U.S. foreign assistance is channeled through other specialized agencies that may have less interest or capacity to participate in policy coordination discussions.

Whether it is participating in international efforts like Gleneagles or responding to the changing political and economic climate in a recipient country, USAID must be able to shift its priorities and resources and adapt to new circumstances.

Congressional oversight of USAID has led to greater accountability systems and reporting that focus on financial and management performance, and increased transparency. However, there are differences in opinion over the definition of “accountability” between Congress and USAID. There is more interest in inputs than outputs or results in Congress. Accountability for USAID staff seems to extend beyond U.S. taxpayers and also include greater attention to development impacts and a level of commitment to international agreements, such as the Paris principles.

USAID employs monitoring and evaluation (M&E) systems and it participates in several government-wide performance assessment programs. But, by and large, the budget process does not involve any systematic application of evaluations based on development outcomes that informs the allocation of funds.⁹⁰ The mixing of funds across different accounts (e.g., health programs into ESF) also makes measuring success or failure difficult.⁹¹ The share of USAID programs evaluated is limited and the funding simply too small to have the necessary effect. They are not feeding back into program design and implementation in any meaningful way.⁹² There remain problems with assigning attribution and linking indicators back to programs,

⁹⁰ During the budgeting process performance monitoring is conducted. However, there is little room for consideration of impact evaluation in the budget process in any comprehensive manner to determine if programs, some of which have been active for years, are producing results and in turn should be funded or not.

⁹¹ For instance, all health programs for countries such as Egypt, Pakistan, Jordan, Palestinians, Afghanistan, and Iraq go through ESF. This may confuse evaluation in terms of national security versus development objectives. As chairman and ranking member of the House Committee on Foreign Affairs, Lee Hamilton recommended splitting Egypt’s program into a DA component (program aid) and ESF (cash and other non-project aid) precisely for this reason.

⁹² N. Eberstad, and C. Adelman (2008). *Foreign Aid: What Works and What Doesn’t*. Washington, DC: American Enterprise Institute.

projects, and overall agency performance.⁹³ The fact that Congressional oversight focuses more on fiscal accountability and less on development impacts (both short and long term) makes efforts to measure success and failure difficult.

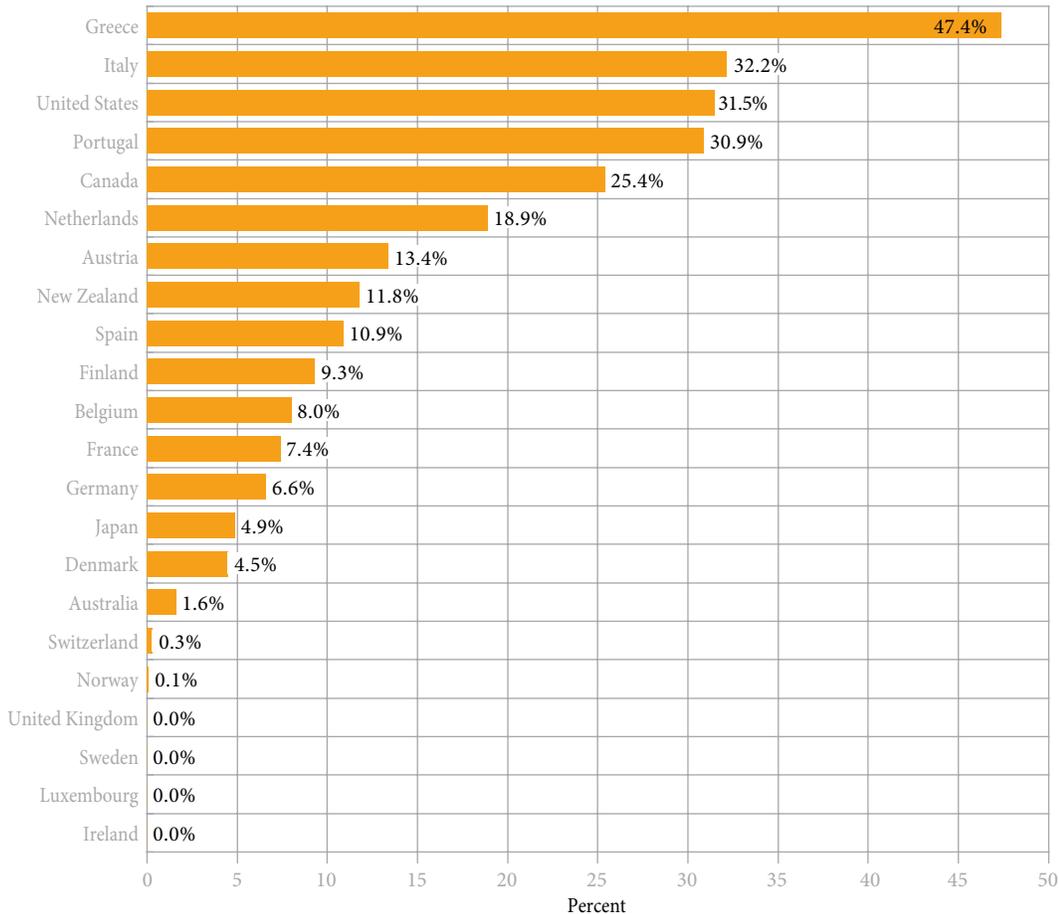
Whether it is participating in international efforts like Gleneagles or responding to the changing political and economic climate in a recipient country, USAID must be able to shift its priorities and resources and adapt to new circumstances. There is limited capacity to anticipate as well as monitor various evolving risks and opportunities in the development field proactively. Budgets are often reacting to major initiatives like G8 meetings. All USAID interviewees identified procedures for reprogramming, CNs, and legislative holds as debilitating. These mechanisms can differ across Congress and the Executive, between the House and the Senate and between appropriators and authorizers. It is argued that the informality of some of these procedures limits USAID’s ability to program based on country needs and evolving circumstances. The Congressionally-launched HELP Commission stated that these procedures are “at best unwieldy and at times unworkable” and recommended the adoption of common procedures.⁹⁴

Over the years the number of statutory requirements for submission of CNs has been on the rise. Appropriations committee reports now may include tables allocating funding for foreign operations accounts, by country and sometimes by program. Deviations from these tables can be made only subject to a CN. This can result in time-consuming negotiations and delays with implications on programming even after the enactment of the

⁹³ C. Lancaster (2007). *Foreign Aid: Diplomacy, Development, Domestic Politics*. Chicago, IL: The University of Chicago Press.

⁹⁴ *The HELP Commission Report on Foreign Assistance Reform*, 2007.

Figure 4: 2007 Donor Countries Percentage of Tied Bilateral Aid⁹⁵



appropriations act. For some, this is viewed as effectively reopening the appropriations process.

Tied aid is a particular problem. As mentioned, when there is limited discretion given to the Executive over aid policy, this can make it vulnerable to protectionist tendencies that undermine effectiveness. According to the OECD, the United States is one of the leading donors that ties aid (see Figure 4).⁹⁵ However, consistent with global trends,

this has declined from 37 percent in 2006 to 31 percent in 2007.⁹⁶ Tied aid represents accountability to specific constituencies and not necessarily accountability to the poor and broader U.S. national interests, especially when considering that poverty is the predominant characteristic of weak and fragile states. Although contracted aid projects undoubtedly

⁹⁵ OECD DAC, Table DAC 7b used to report the tying status of bilateral ODA commitments.

⁹⁶ Note that the United States revised its methodology and these new numbers started being reported for 2006. Based on previous estimates from the OECD/DAC, United States tied aid was 54 percent in 2007.

have a place in development and in some sectors may be necessary, such as infrastructure, tied aid is generally recognized as ineffective and costly. One of the main negative consequences is the overpricing of goods and services to cover the cost of shipping, for instance. On average these additional costs range from 15 to 30 percent and as much as 40 percent or more for food aid.⁹⁷

Tied aid and excessive earmarking undermines the ownership principle underlying the Paris Declaration. The sheer number of earmarks, their level of specificity, and the rigidity they impose on USAID is perceived as unhelpful and detrimental. Most USAID officials agreed that this makes it difficult to build a development budget from the bottom-up based on country priorities. They also stated that they do have some—albeit limited—room to maneuver; if USAID country staff is given funding say for basic education, they make every effort to learn what the country-level priorities are in basic education and their operations are informed by those priorities.⁹⁸

Foreign assistance is discretionary and the annual appropriations process—as conducted currently—makes aid flows unpredictable. Congressional emphasis on activities with short-time horizons can potentially weaken aid effectiveness given that many development challenges are longer-term efforts, such as the empowerment of women, governance, democracy, and institutional capacity.

⁹⁷ E. Clay, M. Geddes, L. Natali, and D. te Velde, D. (2008). *Thematic Study The Developmental Effectiveness of Untied Aid: Evaluation of the Implementation of the Paris Declaration and of the 2001 DAC Recommendation on Untying ODA to the LDCs, Phase I Report*. London, U.K.: Overseas Development Institute.

⁹⁸ USAID guidance (ADS 201.3.4.2) states that “in progressive reform-oriented countries, their own national development strategy should provide a basis for developing a U.S. assistance plan that respects partner country leadership, is strongly supported in country, and helps strengthen partner country capability to implement the plan.”

These are often more difficult to measure. This is not to say that short-term, highly visible, and easy to grasp projects are not important. It is a question of effective policy choices and allocating resources effectively based on clearly defined objectives.

4.4.1 Successful cases Congressional impact on USAID

Based on interviews with Congressional and USAID staff, a few accounts stand out as having been seen as success cases. Some accounts have gained Congressional support and legislative flexibility. The Development Fund for Africa and Support for East European Democracy programs are considered two such examples. The Development Fund for Africa had more flexibility, fewer restrictions, and greater focus on longer-term performance. It was based on a bargain between the Executive and the Congress; USAID was given authority to program where it viewed meaningful impact was possible and allocate funds based on performance, and promised results to Congress. Unlike the less consistent funding of DA, Congress is seen as having maintained the integrity of these accounts and allowing them to sustain reasonably consistent funding. USAID’s International Disaster and Famine Assistance account and its Office of Transition Initiatives were also noted as benefiting from fewer restrictions and a higher degree of flexibility.

4.5 Conclusion

The United States has endorsed the Paris principles and AAA and is seeking to improve policy coherence in foreign assistance. Yet, there has been no real meaningful discussion between Congress and USAID on these efforts to help the United States boost accountability, results, and international cooperation.⁹⁹ Some argue this is partly because

⁹⁹ Executive branch briefings to Congress have included mention of the PD and AAA and Congress has provided written questions on these two agreements.

there is no policy bureau specifically tasked with leading such an effort. From a Congressional perspective, there is uncertainty over who is actually in charge of U.S. development policy despite the F process. Under U.S. aid reform both the policy and evaluation functions left USAID, but were not reestablished under the new arrangements.

USAID officials perceive themselves as having recognized that, where appropriate and feasible, money should be placed in host-country hands and ownership is vital for effective development. They also understand that this is not easy especially when the host-country is fragile, lacking the capacity to implement programs and provide oversight itself and suffering from severe corruption. They see Congress as sometimes having little appreciation of the complexities of operating in such an environment and the long-term nature of economic development and the challenge of measuring results.

While both Congress and USAID appear to accept the need for robust accountability and reporting systems that ensure financial and management performance, there are differences of opinion over investing in measuring results for development outcomes. USAID's impact evaluation studies and other similar efforts have not informed the budget process on a systemic basis. There is a gap between Congressional expectations for such measures and the actual funding they provide for them.

Although there is emphasis on interagency cooperation in Congressional oversight of USAID, there is little attention given to how USAID cooperates with other donors to reduce costs, limit the burden on the aid recipient, and improve aid effectiveness. The level of tied aid and excessive earmarks reflect accountability to narrow domestic constituencies and not for cost effective, more sustainable and locally-owned aid. Clearly, concerns over corruption and accountability must

be addressed and in some cases local ownership may simply be too difficult. However, tied and project aid makes alignment with local priorities and coordination with other donors very difficult.

USAID does not have much discretion and is constrained by the multiplication of objectives, mandates, programs, and agencies created under a mountain of legislation offering little in terms of strategic direction. The Bush administration took important steps to reform foreign assistance, rationalize its goals and create new innovative instruments to deliver aid in more effective ways. However, for good reasons, dynamic initiatives such as the MCC have effectively wired around what has been viewed as a problematic aid system. The competing priorities of Congress and the Executive continue to produce new legislation, delay and prevent consensus on a strategic vision for U.S. development efforts.

Informal meetings help to build trust, but these are not occurring at the senior levels needed to produce systemic change in the system. Earmarks, CNs, limited administrative and evaluation funding, and deviations from the legislative process seem to impact USAID capacities and feed into distrust. While some larger issues like budget delays and continuing resolutions may not be resolved in the context of improving U.S. foreign assistance, many of these other problems could be addressed under an agreed national development strategy between the Executive and the Congress to help rationalize priorities, accounts and the budget process.

While both Congress and USAID appear to accept the need for robust accountability and reporting systems that ensure financial and management performance, there are differences of opinion over investing in measuring results for development outcomes.

There is increased awareness of the diminishing capacities of the United States' development and diplomatic resources, and authorizers are considering legislation to tackle these problems. This could help increase focus on the effectiveness of USAID so that the oversight process matures into something more than allocations of funding.

Authorizers have become more engaged in the process more recently and there have been several hearings on the importance of more effective aid. There is increased awareness of the diminishing capacities of the United States' development and diplomatic resources, and authorizers are considering legislation to tackle these problems.¹⁰⁰

This could help increase focus on the effectiveness of USAID so that the oversight process matures into something more than allocations of funding. If the FAA is to be rewritten authorizers will have to be behind the process.

There is growing recognition that the system is broken within the Congress, U.S. government, the development community and even in the Pentagon, which is increasingly looking to U.S. civilian agencies to help with efforts in Iraq and Afghanistan. Organizations such as the Modernizing Foreign Assistance Network have called for adopting a core set of principles such as elevating global development as a national interest priority and a set of priority actions, including a "grand bargain" between the Executive Branch and Congress.

There are incentives to keeping the status quo where U.S. foreign assistance objectives remain blurred and non-strategic with limited provision

for evaluation to feedback in the budget process. Given the large number of agencies engaged in foreign assistance in the U.S. system, obviously some agencies may benefit at the expense of others as a result over various levels of discretion and managerial flexibility.

For now, the lack of an agreed vision for foreign assistance is the fundamental flaw in the Congressional–USAID relationship. The absence of a strategy is associated with the proliferation of earmarks and initiatives due to competing policy priorities, the multiplication of programs and objectives, and an accumulation of legislation that provides little guidance for USAID to follow and against which Congress can hold it accountable. Until such a vision is developed, debated, and legislated, U.S. foreign assistance will continue to be seen as "letting a thousand flowers bloom" where USAID must be everywhere and pursue a whole range of objectives.

¹⁰⁰ U.S. Senate Foreign Relations Committee Chairman John Kerry. "Diplomacy and Development in the 21st Century." Speech at Brookings Institute, May 21, 2009.

5 DIFFERENT SYSTEMS, COMMON THEMES: LESSONS LEARNED

The unfolding of the current financial crisis will have a number of effects within the global economy. For those interested in development, one of the biggest fears will be that it places increased pressure on donor country finances leading to a reduction in aid budgets at a time when many poor and fragile states may face geo-political instability along with rising poverty. There is also a significant danger that the pressure on aid budgets will impact negatively on the limited gains in aid effectiveness that the international community has made since the Paris Declaration was endorsed.

The Declaration commits donors to greater cooperation with each other, alignment with partner country systems and country ownership by funding recipient government priorities. The Declaration pushes donors toward working with, and through, other actors in the system. On the one hand, donor coordination may reduce waste duplication and improve stewardship of taxpayer money while alignment and the use of country systems may help build local capacities necessary for long-term development. On the other hand, one effect of this is to make the attribution of every unit of aid to a development result, the construction of a school or the saving of a certain number of lives for example, more difficult. This in turn makes the justification of the aid program at home more challenging.

This study explores the extent to which the relationships between legislatures and executives impact donor effectiveness and progress toward the Paris Declaration's targets. The literature review highlights the need for legislatures to find the right balance between political control, on the one hand, and ensuring that government agencies have enough *afforded discretion* to pursue their mission effectively on the other. This insight appears to explain the differences between DFID and USAID in terms of managerial flexibilities, aid effectiveness, and to various degrees likely performance on the Paris

principles. It represents the major conclusion of this study.¹⁰¹

Every government department in the United Kingdom is scrutinized by its own select committee. Tony Blair's decision to create a new government department with a Cabinet level minister has therefore considerably increased the time and attention that Parliament has paid to scrutinizing the aid budget since 1997. In addition, the consensus around one overarching objective for U.K. aid has meant that parliamentary scrutiny of DFID has achieved considerable focus. The PAC has concentrated on tracking the spending of U.K. aid and on ensuring value for money while the IDC has focused on questions of whether DFID is using the right instruments to achieve the overarching objective. Parliament has deliberately afforded DFID considerable discretion in the way it delivers aid because it trusts that DFID is doing its best to meet its legal obligations.

The U.K. case highlights the strong political consensus around aid. The debate is less about "what" U.K. aid will do and more about "how" it will achieve the agreed goals. The political consensus has coalesced around the reduction of poverty and pursuit of MDGs, which provides a kind of buffer against other competing foreign policy, trade and security objectives. The aid allocation model is relatively simple and transparent. The relatively greater understanding and appreciation of the role of DFID across other agencies allows for a degree of cooperation on development.

Our interviews in Parliament suggest that support for DFID is broad, but not deep. There is strong support across the political spectrum for the

The debate is less about "what" U.K. aid will do and more about "how" it will achieve the agreed goals.

¹⁰¹ Although USAID represents less than half U.S. ODA, the broader problems identified in this study likely account for the overall performance of the United States.

The effect of this systemic complexity has been to make it harder for Congress to scrutinize the system as a whole and therefore to hold it to account. This undermines transparency and accountability to taxpayers.

increasing aid budget. However, there are hints that there is considerable disquiet about the extent to which DFID is delegating authority to other actors rather than delivering aid in a form that its impact can be more easily evaluated. This is not an important concern while public support for the aid budget in the United Kingdom is strong, but the political environment could change. One implication is that the conversation between DFID and Parliament about aid and aid effectiveness has not been deep enough. The inability of Parliament to hold DFID effectively to account leads to a lower level of understanding of what it is trying to do. The agency's discretion may be reduced if the political climate changes.

Unlike the current situation in the United Kingdom, the U.S. body politic by contrast does not share the same sense of a strategic vision and arguably has not since the end of the Cold War. USAID's role in the interagency process is more limited—not simply because it has a different status but also because overall U.S. development policy lacks a strategic vision and a more coherent basis in legislation. This weakens the United States' ability to align other important government policies that impact development and to forge greater policy coherence. Mini-bargains between the Executive and Congress have occurred in the cases of the MCC and the Development Fund for Africa, but with little impact on the overall aid system.

The model for allocation of U.S. aid in its entirety is complex and obscure. There are competing objectives between different arms of government and within Congress. Unlike the United Kingdom, where wider policy space has been created for development, the boundaries are less clear between development and other competing foreign policy and commercial objectives, as illustrated by the weak demarcation between the ESF and DA

(and health programs) and levels of tied aid. This appears to have had a number of effects which contrast starkly with the situation in the United Kingdom.

First, despite efforts to elevate development alongside diplomacy and defense, the former remains subordinated in the system. This means that moves to implement aid effectiveness principles are swamped by the higher priority objectives. Second, the U.S. aid system has become increasingly complex in order to fund objectives not covered by existing structures. This complexity makes policy coordination and coherence very difficult and weakens transparency. Third, the budget has become an annual battleground where Congress and the White House play brinkmanship in order to get the best deal in relation to their competing objectives. This causes unpredictability in disbursements with all the problems for recipient governments that flow from this. Fourth, without shared objectives between Congress and the Executive for aid, earmarking, tied aid, and informal procedures, such as holds, undermine flexibility and weaken USAID's ability to adapt to changing circumstances in countries. Fifth, to maintain Congressional and public support for aid programs there is greater focus on narrow issue areas, leading to more account and programs and adding to the complexity of the system. The cumulative effect is to reduce USAID's discretion thus impacting on its ability to deliver aid effectively.

In the United States, the situation has had the effect of not only reducing aid effectiveness, but also of reducing the effectiveness of Congressional scrutiny of aid spending. The effect of this systemic complexity has been to make it harder for Congress to scrutinize the system as a whole and therefore to hold it to account. This undermines transparency and accountability to taxpayers.

One agency—the MCC—does illustrate that, although it was on a much smaller scale, a bargain between the Congress and the Executive that leads to more effective aid can be achieved. Importantly, central to the Executive’s concept behind the MCC was measuring results, which Congress supports, encourages, and requires. This allowed the MCC the discretion to pursue more effective approaches to development, untie aid and make longer-term aid commitments. If any new bargain is to be achieved on a grand scale in the United States, evaluation will likely play an important role if the process seeks to build the trust necessary for such flexibilities and greater agency discretion to be granted.

Accordingly, the overall conclusion of the study is that the legislature and the executive must *forge* and *sustain* a sense of shared objectives for the spending of the aid budget, including shared principles and approaches on how development is done more broadly. (See *Key Findings on page 9.*) The **major recommendation** arising from this analysis is to broaden the conversation in three ways beyond current stakeholders in order to achieve this:

- Build and maintain a strong national consensus on strategic objectives for aid recognizing the importance of agency afforded discretion to accomplish these objectives, moving past narrow sector-specific and agency-specific interests and technical aspects of meeting the Paris indicators discussed by a few people in the agencies and development NGOs.
- As part of a national discussion, expand the responsibility for aid effectiveness beyond aid agencies to include other executive agencies whose primary mission is not global development and, importantly, legislatures to ensure the best use of taxpayers’ hard-earned money and increase transparency.
- Strengthen dialogue between donor country legislators, aid practitioners, and policymakers from developing countries to deepen the understanding of the legislative impact of aid policy on aid recipient countries and on donor coordination.

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