



**STUDY ON THE POLITICAL INVOLVEMENT IN SENIOR  
STAFFING AND ON THE DELINEATION OF  
RESPONSIBILITIES BETWEEN MINISTERS AND SENIOR  
CIVIL SERVANTS**

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## TABLE OF CONTENTS

ACRONYMS.....	4
INTRODUCTION .....	5
Overview .....	5
Methodology .....	7
CONTEXT.....	8
1. The public service is inherently political.....	8
2. Balancing values and making tradeoffs.....	9
2.1. A hierarchy of public service behaviours .....	9
2.2. The political/administrative interface .....	10
FINDINGS.....	14
3. Formal institutional arrangements.....	14
3.1. Codification of the Principles of Political Neutrality.....	14
3.2. Political involvement in the careers of senior civil servants.....	15
3.3. Formal delineation of the roles of politicians and public servants.....	19
3.4. Institutional oversight of the political/administrative boundary .....	21
3.5. Arm's-length agencies .....	22
4. Characterising problems .....	23
4.1. Turnover of staff following elections .....	23
4.2. Ministerial interference in management issues.....	24
5. The significance of informal conventions .....	25
6. Particular pressures for political responsiveness.....	27
CONCLUSION.....	30
7. Reviewing the findings.....	30
8. A tentative framework.....	31
8.1. Is there a problem to be solved? .....	32
8.2. Could this problem implicate the political/administrative interface? .....	32
8.3. Is the nature of the existing oversight arrangements fully understood?.....	32
8.4. Are the oversight arrangements, formal and informal, appropriate for the degree of political involvement envisaged in staffing issues?.....	33
ANNEX 1. REPORTED TRENDS .....	34
ANNEX 2 INSTITUTIONAL CONSTRAINTS TO POLITICAL RESPONSIVENESS WITHIN EXECUTIVE BODIES.....	43
ANNEX 3 HYBRID APPOINTMENT PROCEDURES: THE EXAMPLE OF BELGIUM.....	49
ANNEX 4 CIVIL SERVICE COMMISSIONS .....	51
ANNEX 5 THE QUESTIONNAIRE.....	58
ANNEX 6 THE TOP FIVE LEVELS AS INDICATED BY COUNTRY RESPONDENTS.....	64

ANNEX 7 COUNTRY RESPONDENTS ..... 65  
REFERENCES ..... 71

**Boxes**

Box 1. Pressure for political responsiveness in the United Kingdom ..... 11  
Box 2. Pressures for inclusiveness in Mexico ..... 12  
Box 3. Developments in oversight agencies in the United States ..... 13

## ACRONYMS

APA	Administrative Procedures Act (United States)
CSC	Civil Service Commission
ECIE	Executive Council on Integrity and Efficiency (United States)
GAO	General Accounting Office (United States)
GSA	General Services Administration (United States)
HRM	Human resource management
LOLF	La Loi Organique Relative aux Lois de Finances (du 1 <sup>er</sup> Août 2001) (France)
MSPB	Merit Systems Protection Board (United States)
OGE	Office of Government Ethics (United States)
OMB	Office of Management and Budget (United States)
OPM	Office of Personnel Management (United States)
OSC	Office of Special Counsel (United States)
PCIE	President's Council on Integrity and Efficiency (United States)
PSC	Public Service Commission
SELOR	Bureau de Sélection de l'Administration Fédérale (Belgium)
SGAE	Secrétariat Général des Affaires Européennes (France)
SSC	State Services Commission (New Zealand)

## INTRODUCTION<sup>1</sup>

### Overview

In their quest for legitimacy, democratic regimes find themselves having to balance two values that can be in some tension: fair and non-politically partisan public service delivery and, subject to the law, the responsiveness of public servants to the policies of the current executive.<sup>2</sup>

Neutrality, in the sense of political non-partisanship in public administration, is of course a precondition for ensuring that, regardless of their political orientation, citizens are treated fairly and in an equitable manner. Operationally it is delivered by emphasising professionalism, merit and competence amongst public servants. These values are important to the level of justice and continuity in public administration – arguably a significant determinant of how much trust citizens place in their system of government. At the same time public servants must be accountable to the government<sup>3</sup> for the effective delivery of its programme, and responsiveness of the administration to the government of the day within the law and the constitution is key to the effective implementation of government policies (Sossin: 2006).<sup>4</sup>

This report depicts the way in which different countries have developed institutional arrangements which balance these two concerns, to avoid the extremes of a self-serving public service immune to political leadership, or an over-politicised public service hostage to patronage and serving partisan rather than national interests.

Although informed by a systematic survey of expert respondents, the conclusions of the study are inevitably somewhat speculative for two reasons. First, day-to-day practice can differ strikingly from constitutional, legal or administrative theory – and without other survey data, it is hard to know how closely reported behaviours reflect reality.<sup>5</sup> Second, political neutrality is not a sharply defined goal – it is a broad judgment that can be made only over a considerable period of time. The tensions between the values of neutrality and responsiveness are not always evident in the short term. Political responsiveness can be enhanced by selecting staff on the basis of both merit and commitment to a particular policy programme. The question is whether those staff would just as willingly assist in the implementation of the policy priorities of a new government, and the next.

The study considers appointments to mainstream public service managerial positions. Other than for some occasional comparisons, it does not consider the appointment of political advisors outside of the usual public service hierarchy. In some settings this can be a significant body of staff.<sup>6</sup>

The report highlights that political involvement in administration is essential for the proper functioning of a democracy. Without this an incoming political administration would find itself unable to change policy direction. However public services need protection against being misused for partisan purposes, they need technical capacity which survives changes of government, and they need protection against being used to impair the capacity of future governments to govern.

In summary, the key findings of the report are:

1. While principles of public service neutrality in the sense of non-partisanship are espoused by all countries in the survey, this does not equate to an apolitical process for senior appointments.
2. Countries have a range of laws, conventions and procedures which spell out the division of responsibility between ministers and civil servants, and in some cases by prohibiting politicians or civil servants from being involved in certain areas.
3. There is diversity in the institutional oversight arrangements for enforcing limitations on political involvement in staffing matters and in complying with restrictions on functional roles.
4. Informal arrangements, and particularly long-standing popular conventions, are very significant when assessing arrangements for ensuring non-partisan public services.
5. Constraints on party political influence on the public service vary with constitutional type and administrative history – and that political involvement can be a rational response to situations where the executive faces structural arrangements which generate a multiplicity of principals who might block change. Put starkly, when there are multiple principals, the single political principal with some responsibility for the sector portfolio (minister, secretary in the United States, etc.) faces a distinctive incentive for politicization as it gives them a stronger handle on an otherwise unresponsive bureaucracy. This conclusion argues against the assumption that underpins much public management literature, which warns about the negative effects of political involvement and often suggests that purely administrative determination of staffing decisions is the preferred state and that any steps down the path of political involvement are intrinsically damaging to governance.

These findings appear to encompass both the *Rechtsstaat* continental European civil service traditions and the Anglo-Saxon “public interest” tradition.<sup>7</sup>

In offering a framework for any country level review of the political/administrative boundary, the report suggests that there are four key questions which merit consideration:

1. Is there a problem to be solved?
2. Could this problem implicate the political/administrative interface?
3. Is the nature of the existing oversight arrangements fully understood?
4. Are the oversight arrangements, formal and informal, appropriate for the degree of political involvement envisaged in staffing issues?

In each case, it provides the detailed lines of inquiry which can throw light on these questions.

There are three modest claims that the authors make for this study. First, it should assist in opening up an issue for discussion amongst practitioners in the OECD. There has been a tendency, particularly in Westminster-based systems, to assume that a completely apolitical appointment process is in some way the ideal, and that any evidence of political involvement is a departure from a preferred path. This study might provide some encouragement for those that note that the issues are rather more shaded than this would suggest and that the part played by informal institutions in support of merit and of separation between administrative and political roles is significant.

Second, and related, the study identifies a series of questions which will be pursued in future OECD surveys of human resource management within the public sector.

Finally, and consistent with its part-funding from the World Bank, the study may offer interested practitioners outside of the OECD a slightly more realistic overview of the nature of political involvement in the senior civil service than has been available to date.

## **Methodology**

This report draws on an empirical examination of how different national systems define the sphere and boundaries of political influence in the management of the public service. It does not assess whether these arrangements are, of themselves, “effective”. Such a judgement can be made only after observing a governmental system over a period of time, and assessing whether it earns a broader legitimacy and trust from its citizens or whether these ends have been undermined by a self-serving and politically unresponsive civil service, or by politically partisan patronage by ministers in their use of public resources.

The research for the report is based on:

- a literature review;
- a study of legal texts, constitutions, laws, regulations, codes of conduct;
- a survey and subsequent interviews with 12 country contacts (federal government of Belgium,<sup>8</sup> Denmark, France, Italy, Korea, Mexico, New Zealand, Poland, Sweden, the United Kingdom, the United States and South Africa). The countries selected offer diversity in regards to region and to political systems.

The country experts responded to a survey covering general arrangements, historic development, personnel management, the delineation of functional responsibilities, variations of terms during the period of elections and oversight arrangements. Those contacts were current or former high-level public servants, some of them the heads of general staffing or recruitment offices. It should be noted that they responded with experience and considered judgement, but did not speak formally on behalf of their respective governments. The survey focused on the appointment and management arrangements for the five most senior levels directly below the politically appointed minister.<sup>9</sup>

The study looks at various means by which the systems of government achieve a balance between political neutrality in the sense of non-partisanship and responsiveness of the public service. These include legal and conventional constraints on ministerial decision-making, the promotion of a culture of apolitical professionalism amongst public servants (however appointed), formal delegations and divisions of labour between ministers and public servants, openness of process, and oversight by legislative or judicial authorities.

Unless otherwise stated, the source for all tables within the report is the OECD survey of expert respondents undertaken between March and June 2006.

The research takes core ministries as the “base case”, but also examines whether and how agencies or other arm’s-length bodies diverge from this.

The research was significantly funded by the World Bank.

## CONTEXT

### 1. The public service is inherently political

Discussions about the relationship between bureaucrats and politicians frequently take Max Weber's model of bureaucracy as a starting point (Weber: 1980). Weber argued that the division of labour between politicians and bureaucrats would work best when there is a clear distinction between the two sets of actors. He saw administrators as instrumental and subordinate to politicians – as technical experts who should advise and efficiently execute the decisions of politicians as the sovereign representative. He saw “neutral competence” as a determining characteristic of the administrator.

However while politicians are in charge of defining the policies to be implemented by bureaucrats, Weber pointed out the danger that career civil servants might dominate politicians through their superior knowledge, technical expertise and longer experience, in contrast to the frequently changing ministers. This observation corresponds to what new institutional economics refers to as “information asymmetry” – the possibility that the “principal” may be thwarted in their efforts to control and direct the “agent”, because the agent is in a position to hide, or fail to reveal important information. The modern movement to formalise agreements on goals and reporting requirements between the political and administrative domains (and between the legislative and executive domains) can be seen as attempting to reduce this informational disadvantage.

Weber's theoretical model, often considered as an ideal type of bureaucracy, was, however, rarely found in practice. (Peters *et al*: 2004) argue that the public service is inherently a political creation, and, thus can never be made fully apolitical. Bureaucrats, in delivering a public service to the citizens, inevitably participate in the political role of deciding who gets what from the public sector (Christensen and Laegreid: 2004).

However, many authors claim politicisation has increased over the years, citing a “thickening” with added layers of political appointees even in countries that already possessed several politically appointed echelons such as the United States (Dunn: 1997; Light: 1995; Peters *et al*: 2004). (Aberbach, Putnam *et al*.: 1981; Aberbach and Rockman: 1994; Hart: 2006) similarly report a growing involvement of political actors in roles which are traditionally played by public servants.

Critics point to the negative effect this has on policy making. Politicians' options become more limited when civil servants do not feel free to deliver free and frank advice and do not “speak truth to power” undermining the key “challenge” function in policy assessment. Furthermore, they argue, it makes career civil service less attractive since the lead is taken by more and more political appointees (Campbell and Wilson: 1995; Dunn: 1997).

Others argue that this is not only understandable but to some extent necessary. Ministers in a legally appointed government have a legitimate right to control their government's organisation and reduce deflection from their policy direction. (Peters *et al*: 2004) observe that the delegation and deregulation of New Public Management reforms has in effect reduced the control of politicians over bureaucrats. However, because in the public eye ministers are still held responsible for the actions of their departments, ministers may seek to control their administration by appointing loyal followers whom they would trust to implement their policy decisions without tampering with them.



Rose (1976) offered the criticism that career civil servants were historically often not responsive enough to changes in the priorities of their political leaders. Responsiveness to the elected officials is now widely seen as a legitimate way of being responsible to the citizens (Dunn: 1997; Hood and Peters: 2004; Self: 1972). The “neutral competence” of civil servants is therefore complemented by the somewhat contrasting value of “responsive competence”.

## 2. Balancing values and making tradeoffs

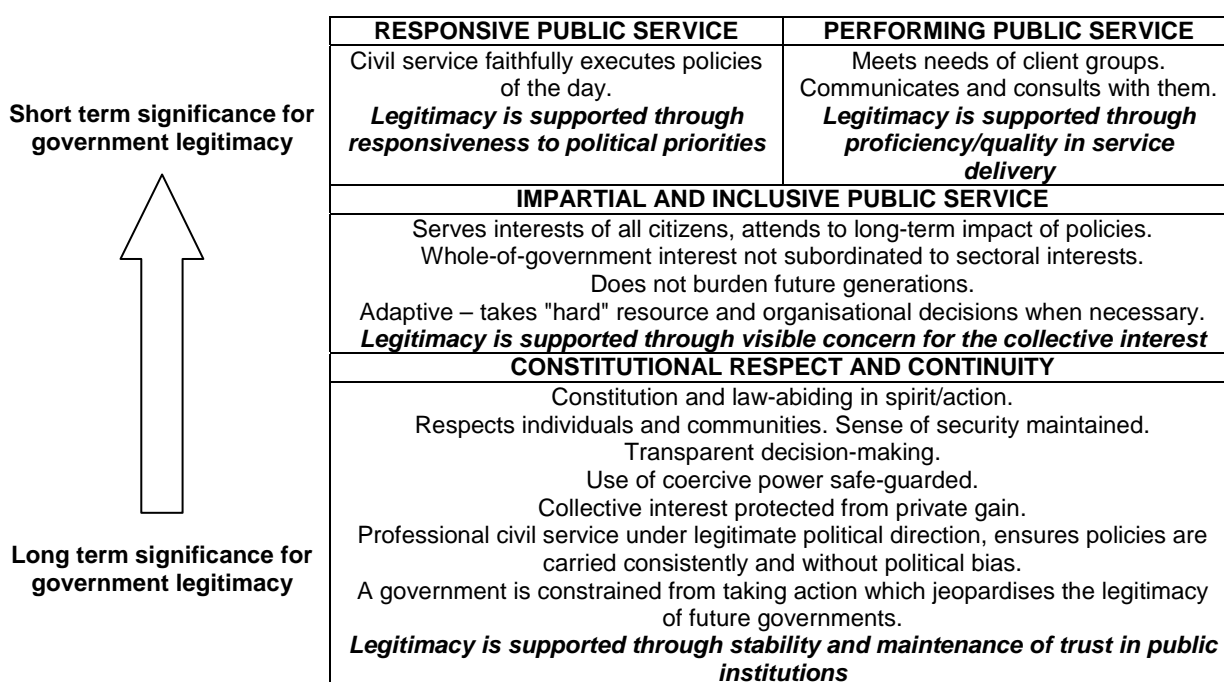
### 2.1. A hierarchy of public service behaviours

How would we know if the balance between fair and non-politically partisan public service delivery and the responsiveness of public servants to the policies of the current executive was about right? We could make the connection with public trust – but this is a rather slippery issue as trust is capable of many meanings and is very resistant to precision (OECD: 2005a).

Arguably, the balance is right when the resulting behaviour of the public service supports a perception of the legitimacy of government. Values such as probity or propriety are thus not just ends in themselves; their demonstration through the behaviour of public servants contributes to the public willingness to be governed (OECD: 2000).

If this is a key test, then there are several areas in which we might look for evidence of legitimacy-supporting behaviours as depicted in Figure 1.

Figure 1. Hierarchy of public service behaviours underpinning the legitimacy of government as an institution



Source: Developed from OECD (2005b).

These four domains of public service behaviours are in a hierarchy, with respect for the Constitution and institutional continuity as both the most traditional requirement on the public service, and also the area in which the legitimacy that they support is likely to be long-lasting. By contrast, earning legitimacy through quantitatively demonstrated “performance” measures is a relatively recent arrival on the scene – and the legitimacy that behaviours in this domain earn for government could be seen as somewhat more fragile.

Setting these out in more detail:

1. *Respect for the constitution and for institutional continuity.* Public service institutions do not have authority over political institutions, but they do act as a quasi-constitutional constraint on those institutions. Legitimacy derives from adherence to constitutional and legal requirements, regardless of the implications for the elected government.
2. *An impartial and inclusive public service.* Moving one step up the hierarchy, a demonstrable concern for the collective interest from the public service provides assurance that non-elected public officials do not exert power arbitrarily in their own interests, to support their friends, to harm their enemies, or act with impunity to deny citizens basic rights (for instance by unlawful detention, or denial of benefits), also provides a lasting legitimacy for governments (OECD: 2000). Impartiality in this sense is a widely recognised aspiration of the public sector. However, many commentators have associated this with representativeness on the basis that impartiality is all but impossible in practice without this.<sup>10</sup> Legitimacy in this sense can be undermined by arrangements which allow the public service and the public powers and resources they administer, to be used as party political tools – for example if political opponents are subjected to more active tax investigations than ruling party supporters, or if permits or licences for trade go only or mainly to the party faithful.
3. *A responsive public service.* It seems increasingly the case that governmental legitimacy can be improved through demonstrated responsiveness on the part of the public service to political priorities. Responsiveness to the elected officials is now widely seen as a legitimate way of being responsible to the citizens (Dunn: 1997; Hood *et al.*: 2004; Self: 1972). Rosenthal (1977) stresses the role modern media plays. In times of increasingly frequent public-opinion polls, e-mail, call-in radio and television surveys greater responsiveness is expected of legislators and subsequently of the government and its administration. This is most readily but perhaps most dangerously achieved by emphasizing political criteria in the selection, retention, promotion, rewarding and disciplining of public servants.
4. *A performing public service.* Finally, as Schick (2005) has pointed out, governments must increasingly earn their legitimacy through delivering on their service delivery promises. Garrett, Thurber *et al.* (2006) provide some examples of how an excessive concern for politically loyal senior executives to increase political responsiveness can undermine efficiency and service delivery.

## 2.2. *The political/administrative interface*

Managing the political/administrative interface is a key aspect of the tradeoffs that must be made. In industrialised democracies, the objectives of political involvement in senior appointments are usually politically responsive policy and implementation, rather than patronage in the form of jobs to party faithful or family members (Peters *et al.*: 2004). This is doubtless because there are other mechanisms, particularly transparency, which inhibit nepotism in those countries, although this is certainly not to suggest however that “jobs for the boys” has become extinct amongst governments of industrialised countries. Moving too

far down the path of politicised appointments opens up the risk that responsiveness will be achieved at the expense of the other key behaviours of the public service (OECD: 2003).

In countries with weaker governance systems, politicisation in civil service recruitment and management presents greater risks, and exposes the system to the associated problem of senior officials lacking the competence to carry out their functions.

**Box 1. Pressure for political responsiveness in the United Kingdom**

The pressure to find mechanisms that encourage responsiveness in the administration has arguably been particularly strong in the Westminster model as the distinction between political and administrative appointees within the traditional career civil service is very clear resulting in what many consider to be a public service that is particularly resistant to political priorities.

In the United Kingdom the most senior levels are occupied by professional career officials who, for a long time, have held the monopoly of advice to the government. Campbell *et al.* (1995) claim that in no other system ministers are so dependant on bureaucrats. Fast-track civil servants write answers to Parliament and speeches for ministers. Neutrality in the sense of non-partisanship is strongly valued and civil servants are expected to work for any government with the same commitment. (Campbell *et al.*: 1995) have noted that the same officials have had to enact contradictory policies for subsequent Labour and Conservative governments, for example the nationalisation and then privatisation of ports, leading them to conclude that civil servants in the Westminster model should not only be politically neutral but politically "promiscuous".

Historically, critics have argued that the resulting generalist approach has led to amateurism (Lord Fulton (chair): 1968). Ministers have often voiced a concern about their strong dependence on civil servants and reported that they feel that civil servants are insufficiently responsive. Conversely, civil servants have often reportedly felt their advice was ignored. At the end of the 1980s, these tensions were particularly strong and Campbell *et al.* (1995) note that Prime Minister Thatcher explicitly identified what she saw as an unresponsive civil service as an obstacle to implementing her policy changes. Through the Next Steps Programme the Thatcher Government created agencies outside the traditional civil service. None of the chief executives came from the traditional fast track whose members have held top positions so far and, as James (2003) reports, one-third were recruited from outside the civil service. Responsiveness to government priorities was a priority and James (2003) observes that ministers sometimes intervened *ad hoc* on a day-to-day basis when they felt it necessary. In his survey, the staff of the Benefits Agency, for example, complained about unjustified interference of the department of Social Security, including the minister.

The original focus of the Next Step agencies was responsiveness in service delivery. However, by the mid-1990s, policy analysis and advice had increasingly been contracted out also. Policy units were introduced, with some half of their staff recruited from outside of the civil service. Campbell *et al.* (1995) argue that such measures and the rise of think tanks have broken the monopoly of civil servants over policy and allowed the politicians to regain dominance over the administration.

Schick (2005) has pointed at the risk that responsiveness and service delivery performance could be achieved at the expense of the long-term and more fundamental foundations of legitimacy (stability and trust in the public institutions and concern for the collective interest). Flexibility and service delivery are popular – but as Figure 1 highlights, they do not by themselves sustain the legitimacy of government. In fact, if they are achieved by unconstrained political involvement which erodes the impartiality and inclusiveness of the public service and the degree to which it is seen to respect the constitution, then they undermine the longer term legitimacy of the government.

### Box 2. Pressures for inclusiveness in Mexico

The case of the administrative reform in Mexico in 2003 is an example of how a deeply politicised public service is seen to undermine the legitimacy of government because of its exclusion of key actors. Before the reform public officials were hired in a way that excluded followers of opposition parties and merit criteria were neglected in the selection process.

Octavio (2004) reports the widespread concern about "the lack of a true democracy" in Mexico. Gault and Klinger (2004) characterise the situation in Mexico since the 1920s as a one-party system with, in addition, power strongly centralized in the executive branch. Philip (2003) differentiates three phases: pre-1994 as authoritarian; 1994 to 2000 as democratisation; and from 2000 on as a democratic phase. This successful democratisation has been strengthened by the reform of the public service in 2003.

Prior to the reforms, the upper level of the bureaucracy comprised about 2 700 political appointees, with connections. The President chose his cabinet secretaries and they would choose their own immediate subordinates, who would then select theirs. High-level bureaucrats belonged to groups of allies known as "*camarillas*", bureaucratic politicians who moved from one short-term posting to another, building their career on political stances.

This situation led to widespread problems of corruption and led to rising criticism from international agencies and donor countries. The election of Vicente Fox in 2000 was the first change of power since the 1910 Revolution. In the following years, Congress agreed a major reform of the public service introducing a career-based merit system for mid and high levels of the public service.

Approved in April 2003, the Professional Career Service Law (*Ley de Servicio Profesional de Carrera*) decreed that, following a procedure that assessed performance, and competencies, around 42 000 bureaucrats will be given "tenure". Since 2003 their further advancement and the recruitment of new administrators depends on merit criteria judged by collegiate bodies formed by public officials from within the agency, the Selection Committees. The number of purely political appointees was reduced to a few hundred.

The beginning of this reform movement can be found in independent agencies such as the statistics agency (*Instituto Nacional de Estadística Geografía e Informática*) which was considered as a "Weberian island" within the Mexican spoils system. The set up of the Federal Electoral Institute staffed by a professional career civil service as early as 1990 led to more efficient oversight of elections and to some observers it seemingly served as a model for subsequent broader administrative reform.

Further examples are the independent and highly reputed Central Bank (*Banco de México*), an autonomous institution since 1994, and the Diplomatic Service, which was created as a career civil service in the 19<sup>th</sup> Century.

While in the United Kingdom independent agencies in the framework of the Next Step strategy were seen as a means to enhance responsiveness of the administration, the Mexican agencies were associated with steps towards increased political neutrality within a newly created career civil service.

Under any combination of arrangements, the institutional arrangements for oversight can be dauntingly complex, as Box 3 suggests for the United States. Further details are provided in Recent developments leading to re-examination of the political/administrative boundaries in Annex 1. Reported Trends.

### **Box 3. Developments in oversight agencies in the United States**

The 1970s saw the creation of the Federal Elections Commission, the Office of Government Ethics (OGE), the Merit Systems Protection Board (MSPB), and the Office of Special Counsel (OSC). Also in the late 1970s a system of Inspector General offices was created. The 1980s witnessed the establishment of the President's Council on Integrity and Efficiency, and the strengthening of OGE and OSC. The 1990s have seen the establishment of the Office of Federal Financial Management within the Office of Management and Budget and the reauthorization of the independent counsel law.

A second development has been the use of disclosure as a tool for achieving greater accountability on the part of public officials. A public financial disclosure system for all three branches of government was established by law in 1978. The 1989 Ethics Reform Act provided for an improved system of confidential financial disclosure. These financial disclosure systems, which apply the principle of transparency to the financial interests of public officials, are a basic tool for identifying potential conflicts of interest and working out appropriate remedies.

A third development has been the promulgation of more detailed rules to govern the conduct of government officials in both the executive and legislative branches. Standards of Conduct for the executive branch recently issued by the Office of Government Ethics provide specific guidance on such questions as gifts, conflicting financial interests, impartiality, seeking employment, misuse of position and outside activities.

*Source:* Gilman (2003).

## FINDINGS

### 3. Formal institutional arrangements

#### 3.1. Codification of the Principles of Political Neutrality

The principle that civil servants should undertake their duties in a manner that serves the collective rather than a partisan interest is espoused by all countries in the survey, either by entrenching the principle within the Constitution, a law or regulation, or by limitations on political involvement in administration, or by strong conventional or customary support.

**Table 1. Principle of political neutrality in administrative actions**

	Principle of political neutrality spelled out in Constitution, law or regulation	Administrative law places limits on political involvement in public service administration
<b>Belgium</b>	Yes	Yes
<b>Denmark</b>	No	Yes
France	Yes	Yes
Italy	Yes	Yes
Korea	Yes	--
Mexico	Yes	Yes
<b>New Zealand</b>	Yes	Yes
Poland	Yes	Yes
<b>Sweden</b>	No <sup>11</sup>	Partly <sup>12</sup>
<b>United Kingdom</b>	Yes	Yes
United States	Yes	Yes
South Africa	Yes	Yes

**Note:** **Bold** = strong public or customary support of the principle of political non-partisanship.

The legal framework and principles of political neutrality are usually present, but expressed in many different ways. Country respondents generally agreed that the laws and/or associated conventions did establish the principle of apolitical public service. Denmark and Sweden are both countries with strong administrative law which is very specific about how government policies are to be executed and, while most countries had laws which asserted political non-partisanship as a positive value, for these countries political non-partisanship was seen as the logical consequence of clearly defined administrative processes.<sup>13</sup>

Political non-partisanship is entrenched in the constitution for Korea and Italy, but most countries spell out the principle in civil service laws or codes that define political non-partisanship as a value. In the United Kingdom, a Civil Service Code and Civil Service Management Code also sets out various restrictions on involvement in political activity. In France certain categories of civil servants face more severe restrictions than the general public service. For example members of the military are not allowed to belong to any association of a political nature.<sup>14</sup>

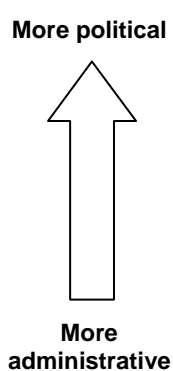
Of the countries assigning less importance to political non-partisanship of public servants (though still acknowledging it), the United States have a strong constitutional framework in which the relatively powerful role of the legislature imposes an external constraint on the public service, which is not so present

in other countries. In Italy, another country with less customary support of the principle, legal arrangements limiting political involvement in public service administration have been introduced for the first time in 1993. However, the direction of change for direct political control of the public service has been reversed several times in recent years.

### 3.2. Political involvement in the careers of senior civil servants

While there is near universal agreement on the general principle of political non-partisanship, it is not necessarily equated with an apolitical process for senior appointments. The survey showed there is wide diversity in the level of involvement by politicians in the appointment and management of senior civil servants. It is important to note that in the tables that follow, the fact that a politician is involved in appointments or dismissals does not, *per se*, make that appointment or dismissal political or partisan. For example, the Swedish Constitution requires that all appointments to posts in the public administration should be made “on objective grounds such as skills and merits” even though they might be made by politicians.

**Table 2. Who appoints?**



Country	Level 1	Level 2	Level 3	Level 4	Level 5	Special political advisors outside normal hierarchy
United States	Political	Political	Political	Political-hybrid	Political-hybrid	Political
Sweden <sup>15</sup>	Political	Political	Political	Political	Adm.	Political
Italy <sup>16</sup>	-	-	Political	Political	Adm.	Political
South Africa	Political	Political	Hybrid.	Hybrid.	Adm.	--
Mexico	Political	Political	Adm.	Adm.	Adm.	Hybrid
France	Political	Hybrid	Hybrid	Hybrid	Adm.	--
Belgium	Hybrid	Hybrid	Hybrid	Hybrid	Hybrid	Political
Poland	Political	Hybrid	Adm.	Adm.	Adm.	--
Korea	Political	Adm.	Adm.	Adm.	Adm.	--
New Zealand	Hybrid <sup>17</sup>	Adm.	Adm.	Adm.	Adm.	Hybrid
Denmark	Hybrid	Adm.	Adm.	Adm.	Adm.	--
United Kingdom	Adm.	Adm.	Adm.	Adm.	Adm.	Political

Notes:

Adm. = administrative.

Hybrid refers to a procedure in which administrative selection criteria are combined with political considerations. The situation in the United States is referred to as political-hybrid as purely politically driven appointments coexist with administratively determined Senior Executive Service appointments at some levels – and in some agencies most if not all senior managers are political appointees.

On this measure, the countries sampled diverge significantly, with the biggest contrast being between the United States where most senior appointments are directly made by politicians, and Denmark and the United Kingdom where there are no politically-driven appointments at all (apart from political advisers outside of the normal hierarchy).

Most senior levels in the public service in the United States serve “at the pleasure of the President” and can in principle be dismissed readily. The dominant role in most appointments is played by the Personnel Office of the White House which is run by politically selected administrators, appointed by the President. The only non-political actor involved is the FBI which conducts a background check on candidates but which has no other direct influence in the appointment procedure. Exceptionally, in the case of a conflict of interest, the Office of Government Ethics may be involved.

Political involvement in the appointment procedures in Sweden and Italy is only slightly shallower. In these countries, public servants are appointed administratively at level 5 and below.

Conversely, in the United Kingdom even the most senior positions are filled by administratively appointed career officials who are expected to serve any elected minister with the same commitment (see Box 1).

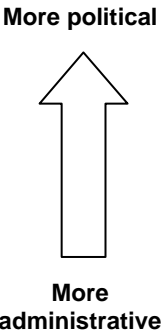
As far as the intermediate systems are concerned, there are two types. One can be seen in the Mexican system which draws a clear line between different levels of senior civil servants where the higher ranks are appointed politically and the lower ones using an administrative procedure.

The second type is illustrated by the systems in the federal government of Belgium where senior civil servants – unlike staff working in the political cabinets – are appointed by a hybrid procedure. For example at level 1 (position of Chairman of the Board), administrative selection criteria like merit and experience are combined with a final political decision. Typically there is first an administrative selection procedure made by the *Bureau de Sélection de l'Administration Fédérale* (SELOR) which establishes a shortlist of suitable candidates from which the minister makes the final choice. During the administrative procedure, SELOR puts together a jury which consists of high level civil servants as well as human resources, management and technical experts from the public and private sector. They engage in a complex procedure in which applications are studied and interviews evaluated and which leads to a shortlist that is then presented to the minister (see Annex 3: Hybrid Appointment Procedures: The Example of Belgium).

Appointment is the most powerful personnel instrument that politicians can wield – although appointing political sympathisers does not guarantee they will follow a party line, just as administrative appointment does not necessarily prevent the courting of political favour. Potentially, influence could also be exerted through management procedures such as for dismissal, promotion or even transfer to another position. In most cases the power of dismissal rests with the same body that makes appointments. In Westminster systems, transfer is sometimes used to move senior public servants who for one reason or another are not able to work effectively with a particular minister. This is sometimes referred to as when “the face doesn’t fit”.



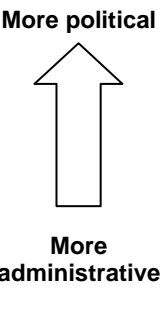
**Table 3. Who dismisses?**



Country	Level 1	Level 2	Level 3	Level 4	Level 5	Special political advisors outside normal hierarchy
United States	Political	Political	Political	Political	Political	Political
Italy	-	-	Political	Political	Adm.	Political
South Africa	Political	Adm.	Adm.	Adm.	Adm.	--
Mexico	Political	Hybrid	Adm.	Adm.	Adm.	Political
Poland	Political	Hybrid	Adm.	Adm.	Adm.	--
France	Political	Hybrid	Hybrid	Hybrid	Adm.	--
Belgium <sup>18</sup>	Hybrid	Hybrid	Hybrid	Hybrid	Hybrid	Political
New Zealand	Hybrid	Hybrid	Adm.	Adm.	Adm.	Hybrid
Sweden <sup>19</sup>	Hybrid	Hybrid	Hybrid	Hybrid	Adm.	Political
Korea	Political	Adm.	Adm.	Adm.	Adm.	-
Denmark	Hybrid	Adm.	Adm.	Adm.	Adm.	--
United Kingdom	Adm.	Adm.	Adm.	Adm.	Adm.	Political

The picture emerging from the overview of appointment arrangements is more or less replicated in looking at dismissal procedures. However, in the case of South Africa, the autonomy of administrators on levels 2, 3 and 4 is strengthened. All are appointed by a political or hybrid procedure, but can only be dismissed through a purely administrative process.

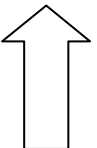
**Table 4. Who promotes?**



Country	Level 1	Level 2	Level 3	Level 4	Level 5	Special political advisors outside normal hierarchy
United States	Political	Political	Political	Political	Political	Political
Italy	--	--	--	Political	Political	--
South Africa	--	Political	Hybrid	Hybrid	Hybrid	--
France	Political	Hybrid	Hybrid	Hybrid	Adm.	--
Mexico	Political	Hybrid	Adm.	Adm.	Adm.	--
Poland	Political	Hybrid	Adm.	Adm.	Adm.	--
Belgium <sup>20</sup>	--	--	--	Adm.	Adm.	Political
Korea	Political	Adm.	Adm.	Adm.	Adm.	-
New Zealand	--	Adm.	Adm.	Adm.	Adm.	--
Denmark	Hybrid	Adm.	Adm.	Adm.	Adm.	--

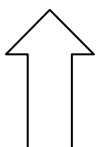
In South Africa, the strengthening of administrative autonomy identified in Table 3 is somewhat attenuated by the promotion arrangements. Table 4 indicates that although administrators on levels 2, 3, and 4 cannot be dismissed on political grounds, their career advancement does depend on political considerations. The same observation is valid in Italy where an administrator at level 5 can be appointed to level 4 and an administrator at level 4 can be appointed to level 3.

**Table 5. Arrangements for transfer to another position at the same level**

	Country	Level 1	Level 2	Level 3	Level 4	Level 5	Special political advisors outside normal hierarchy
<p>More political</p>  <p>More administrative</p>	United States	Political	Political	Political	Political	Political	Political
	Italy	--	--	--	Political	Adm.	-
	South Africa	Political	Hybrid	Hybrid	Hybrid	Adm.	-
	Mexico	Political	Hybrid	Adm.	Adm.	Adm.	Political
	Poland	Political	--	--	Adm.	Adm.	--
	France	--	Hybrid	--	Hybrid	Adm.	--
	Belgium <sup>21</sup>	--	--	--	Adm.	Adm.	Political
	Korea	Political	Adm.	Adm.	Adm.	Adm.	-
	Denmark	Hybrid	Adm.	Adm.	Adm.	Adm.	-
	United Kingdom	Adm. <sup>22</sup>	Adm.	Adm.	Adm.	Adm.	Political

It can be argued that the United Kingdom case indicates that arrangements for transferring an administrator at level 1 to a position at the same level can potentially be open to political involvement – but any replacement will have to be administratively chosen.

**Table 6. Arrangements for performance assessment**

	Country	Level 1	Level 2	Level 3	Level 4	Level 5	Special political advisors outside normal hierarchy
<p>More political</p>  <p>More administrative</p>	United States	Political	Political	Political	Political	Political	Political
	France	Political	Political	Political	Hybrid	Hybrid	--
	Italy	--	--	Political	Adm.	Adm.	Not applicable <sup>23</sup>
	South Africa	Political	Hybrid	Hybrid	Hybrid	Adm.	
	Poland	Political	Hybrid	Adm.	Adm.	Adm.	--
	Belgium <sup>24</sup>	Political	Hybrid	Adm.	Adm.	Adm.	Political
	Mexico	Political	Hybrid	Adm.	Adm.	Adm.	Political
	New Zealand	Political	Adm.	Adm.	Adm.	Adm.	Hybrid
	Denmark	Hybrid	Adm.	Adm.	Adm.	Adm.	
	Korea	Hybrid	Adm.	Adm.	Adm.	Adm.	--

Arrangements for performance assessment confirm the overall picture seen in relation to appointment and promotion procedures. Again it shows the potential of using the different levers for some balancing as, despite the political considerations taken into account in promotions, the performance assessment which precedes such promotion decision is based on administrative or hybrid procedures – attenuating the purely political character of such decisions to some degree (see levels 2 and 3 in Mexico, level 5 in South Africa). However, performance assessment can also be used as a counterweight measure in the reverse sense. While appointments, dismissal, promotion and transfer place France in a middle position depicting a balanced picture from political (level 1) to hybrid (levels 2, 3 and 4) and on to administrative (level 5) arrangements, a shift towards political or hybrid proceedings can be noted in regards to performance assessment. This places France close to the situation of systems with more political involvement such as the United States and Italy. As France has a strong tradition of equal and non-partisan access to the civil service, this might be seen as a balancing lever to ensure responsiveness to the minister’s political agenda.

### 3.3. Formal delineation of the roles of politicians and public servants

#### 3.3.1. Restrictions on public servants

As noted above, the principle that civil servants should undertake their duties in a manner that serves the collective rather than a partisan interest is, in one way or another, espoused by all countries in the survey. The study showed that countries have a range of laws, conventions and procedures which seek to ensure that partisan politics are excluded from administration by spelling out the division of responsibility between ministers and civil servants, and in some cases by prohibiting politicians or civil servants from being involved in certain areas.

Table 7 highlights the key legal restrictions on the political actions of public servants. It indicates that the United States, Korea and South Africa have the most comprehensive restrictions on the rights of civil servants to engage in political activities.<sup>25</sup> The numerous restrictions in Mexico and Poland are the result of relatively recent changes in policy towards a merit-based career civil service. In Mexico, following the election of a new government, several concrete rules were established for the first time in 2003/2004, shaping the principle of political non-partisanship.<sup>26</sup>

In total, seven of the 12 countries legally prevent civil servants from engaging in high profile political activity and in Sweden such activity is restricted by long-standing convention. Half of the countries limit administrators from standing for public office.

**Table 7. Laws, codes or customs which limit political actions of public employees**



Country	Standing for public office?	High profile party political activity?	Other party political activity?	Trade union activity?
United States	<b>Yes</b>	<b>Yes</b>	Yes – except the many political appointees, as long as they separate party from public activities	<b>Yes</b>
Korea	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	Only lower grades
South Africa	<b>Yes</b>	<b>Yes</b>	<b>Yes</b> – public employees may not preside party meetings or speak at them	No
Mexico	Yes	Yes	Yes	Yes
Poland	Yes	Yes	Yes	Yes
United Kingdom	Yes	Yes	Yes	No
New Zealand	No	<i>Yes, Senior public servants</i>	No	<i>Yes, Senior public servants</i>
Italy	Yes <sup>27</sup>	No law – but avoided by convention	No	No
Sweden	No	No law – but unacceptable to the public by convention	No	No
France <sup>28</sup>	No	No	No	No
Denmark	No	No	No	No
Belgium	No	No	No	No

Note:

**Bold** = limits are for all public employees.

Non-bold = limits are only for those holding civil service status.

*Italic* = limits are only for senior civil servants.

### 3.3.2. Restrictions on politicians

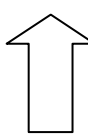
In considering politically partisan actions by politicians in the administration, Table 1 showed that only one country, Sweden, does not place legal limits on political involvement in public service through the Constitution, law, regulation or administrative law – and here, political non-partisanship is strongly supported by custom and convention. Sweden also has a long established system of delivering public services through agencies with strong protection against involvement by ministers.

The functional areas which are outside of ministerial oversight in Westminster countries (New Zealand and the United Kingdom) concern statutory decision rights in specialised areas such as land registration, or in areas of importance to governance such as the head of the electoral commission, and the State Services Commissioner. In the United Kingdom this assignment of statutory responsibilities is recorded for the accounting officer role of senior public servants. This way of rendering some administrative decisions politically neutral was not noted by the other countries. It may be a feature of the Westminster system only, where this might be construed as a counterweight to the wide legal discretion given to ministers for public administration matters.

**Table 8. Constraints on administrative actions of politicians**

Country	Civil servants hold administrative responsibility not subject to ministerial oversight?
New Zealand	Yes
United Kingdom	Yes
Denmark	Yes
Belgium <sup>29</sup>	Yes (with exceptions)
United States	Yes, but those are rare exceptions
France	No
Sweden	No
Mexico	No
Poland	No
Italy	No

**Most  
restrictions**



**Least  
restrictions**

An interesting finding is that some countries like New Zealand and Sweden have conventions which support the principle of “free and frank” advice to ministers as a dimension of political non-partisanship, while for other countries like Mexico and Korea the convention is rather the opposite, that a civil servant should not give contrary advice to ministers.

### 3.3.3. Particular issues arising in election periods

During changes of government, the public service, in the absence of an elected government, has a constitutionally important role in providing continuity. There are significant risks. On the one hand, a politicised administration can take action to tip the electoral balance. On the other, a government seeing the prospect of electoral defeat might seek to take administrative action to affect adversely the prospects of any in-coming government. Most countries therefore have rules and conventions both to inhibit inappropriate political decisions, and to ensure that the public service plays a care-taking role only and does not use the absence of political direction as an opportunity to push its own agenda. As James (2006) notes, not having adequate rules could not only harm the legitimacy of the government but also the public servants themselves. The perception that officials arbitrarily supported the former government could create incentives for a new government to remove those public servants.

The United Kingdom, federal government of Belgium and New Zealand each operate under a law or convention that no high-level appointments are made in the lead-up to an election. This may be explained by the fact that in these countries the role of ministers in senior civil service appointments is restricted.

Such a provision may be unnecessary in countries where any pre-election appointments could be easily undone by the incoming government. In Italy, the civil service law states that heads and boards of non-ministerial or departmental agencies appointed by the government in the last semester before a general election can be removed by the new government.

**Table 9. Special arrangements before elections**

High level appointments are ...	
<b>Restricted</b>	<b>There are no restrictions</b>
Belgium (by convention) Italy New Zealand (by convention) United Kingdom	Denmark France Korea Mexico Poland Sweden United States

With the exception of the United States and Belgium, respondents noted that there are conventions for the public service to provide information to prospective members of an incoming government fairly. New Zealand, which recently moved from a first-past-the-post to a proportional representation electoral system, has restrictive “caretaker” provisions for public servants in the government formation period.

**Table 10. Special arrangements between elections and the formation of a new government**

<b>Civil servants face additional restrictions on activities that might be construed as political</b>	<b>Civil servants must provide impartial advice and information to all prospective members of the government</b>	<b>There are no restrictions</b>
Denmark New Zealand United Kingdom – from the announcement of the election	New Zealand – when the election does not yield a clear result Sweden – information to the new government as soon as its identity is known United Kingdom	Belgium (federal government) France Korea Poland Mexico United States – not applicable: government comes into office with the presidential election

### **3.4. Institutional oversight of the political/administrative boundary**

Respondents were asked about the relative importance of the influence of other branches of government in ensuring an appropriate delineation between politics and administration.

Five of the eight countries answering this question considered that the legislature was most important and for one of these, the United States, the role was *ex ante*.<sup>30</sup> There, for 1 500 of the most senior civil service appointments, the executive’s nominations have to be approved by the Senate before they can proceed. This is a very powerful check on the executive’s power to appoint.

New Zealand as a Westminster tradition country, and Denmark, which has many of the features of a Westminster system, did not rate the legislature as important. In the case of New Zealand, this is consistent with the general perception of Westminster countries having relatively weak parliaments. For those two countries, the most important oversight body was the Auditor General.

No respondent in this sample assigned importance to the role of the judiciary. However some countries, especially Sweden, gave high importance to the law itself in ensuring the delineation. In Belgium oversight is the responsibility of an administrative court, the *Conseil d'Etat* which forms part of the executive branch but takes fully autonomous and may nullify any administrative act.

Arguably an important factor may be whether administrative law allows wide discretion, as in the Westminster systems, or whether it is prescriptive as in many systems in continental Europe. It would appear that where control is exerted through more prescriptive administrative law, there are fewer other mechanisms for constraining political influence.

**Table 11. Institutional oversight arrangements**

Country	Legislature		Judiciary		Auditor General		Other institutions	
	Active or infrequent	<i>Ex ante</i> or <i>Ex post</i>	Active or infrequent	<i>Ex ante</i> or <i>Ex post</i>	Active or infrequent	<i>Ex ante</i> or <i>Ex post</i>	Active or infrequent	<i>Ex ante</i> or <i>Ex post</i>
Belgium	None		None <sup>31</sup>		None		Conseil d'État	<i>Ex post</i>
Denmark	Infrequent	<i>Ex post</i>	Infrequent	<i>Ex post</i>	Active	<i>Ex ante</i> and <i>ex post</i>	Active and infrequent	<i>Ex ante</i> and <i>ex post</i>
France	None	None	Infrequent	<i>Ex post</i>	Infrequent	<i>Ex post</i>	-	-
Italy	Infrequent	<i>Ex post</i> <sup>32</sup>	n/a	n/a	Active <sup>33</sup>	<i>Ex ante</i>	n/a	n/a
Korea	Active	Both	Infrequent	<i>Ex post</i>	Infrequent	<i>Ex post</i>	Active-constitutional court, election management commission	<i>Ex post</i>
Mexico	Active	<i>Ex post</i>	Infrequent	<i>Ex post</i>	Active	<i>Ex ante</i> and <i>ex post</i>	Active	<i>Ex ante</i> and <i>ex post</i>
New Zealand	None	None	Infrequent	<i>Ex post</i>	Active	<i>Ex post</i>	Infrequent -Governor General in Executive Council	<i>Ex post</i> Governor General in Executive Council
Poland	Infrequent	<i>Ex post</i>	Infrequent	<i>Ex post</i>	-	-	-	-
Sweden	Active	<i>Ex post</i>	None	None	Not yet	<i>Ex post</i>	None	None
United States	Active <sup>34</sup>	<i>Ex-ante</i>	No role	-	No role	-	<i>Ex ante</i> <sup>35</sup>	-

The missing variable in this review of formal oversight arrangements concerns the degree to which the convention of political neutrality is internalised and held as a strong public value. The case of Sweden seems to provide the key insight that politicisation can be constrained with relatively few formal rules is because of the deep internalisation of these values. The significance of the popular acceptance of the convention of political neutrality is explored further below.

### 3.5. *Arm's-length agencies*

The arrangements for oversight of arm's-length agencies are clearly distinctively different and this could be a useful subject for further work (see Table 12 and OECD: 2002). It seems likely that the differences arise from the fact that such bodies tend to be more heavily engaged in implementation than policy, and with high managerial delegation, are therefore less exposed to politicisation. However in at

least two countries (the United Kingdom and New Zealand) the governing boards of many such bodies have real decision-making, as opposed to advisory, powers. In these cases the risk of inappropriate political involvement moves from the appointment and management of the senior executive to the appointment and dismissal of board members.

**Table 12. Special arrangements for arm's-lengths agencies**

Country	Do arrangements limiting political involvement apply to arm's-length agencies?	Do personnel procedures differ in arm's-length agencies?	Oversight arrangements apply to non-departmental arms-length public bodies with equal force, less force, more force?
Belgium	Yes	Yes	Less force
Denmark	Not relevant	--	Equal force
France	-	No	Equal force
Italy	Yes	No	Equal force
Korea	Yes	--	--
Mexico	Yes <sup>36</sup>	Yes	Equal force
New Zealand	Yes	No	Less force
Poland	No	Yes	Less force
Sweden	No	Yes	Equal force
United Kingdom	Yes	Yes, not as strict	Less force
United States	Yes	Yes	Not at all

#### **4. Characterising problems**

In considering potential difficulties at the political/administrative interface, two likely candidates emerge as potentially indicative of an imbalance between the arrangements for ensuring fair and non-politically partisan public service delivery and those that ensure the responsiveness of public servants to the policies of the current executive: high turnover of staff following elections and ministerial interference in management issues.

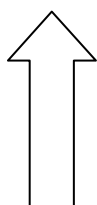
##### **4.1. Turnover of staff following elections**

In considering the change of staff, at senior levels the United States is an extreme case. However, in the senior civil service (non-political appointees largely but not entirely below the top five levels investigated in this study) only 1-2% is typically changed following elections. By contrast, the political appointees at the top five levels are exchanged on a large scale even if a newly elected president belongs to the same party as the previous one (Savoie: 1994). Turnover is not dependent on party-membership as much as on loyalty to the elected president. In the transition from the Reagan to the first Bush presidency, for example, there was a turnover of 97%. The federal government of Belgium and Denmark are extreme in the other direction; in Belgium however, staff of the ministerial cabinets (political appointees) change with governments.

**Table 13. Public servants change with change of government**

Country	Are there levels/positions of public servants who change with change of government?	If senior civil servants are selectively changed for political reasons are these changes...
United States	Yes	Widespread
Italy <sup>37</sup>	Yes (levels 3)	Widespread (levels 3)
Mexico	Yes	Significant (levels 1 and 2)
Poland	Yes (level 1, Cabinet)	Significant
Korea	Yes (level 1, vice ministers)	--
France	Yes (level 1, Cabinet)	Few
Belgium	No <sup>38</sup>	Few – only one position
United Kingdom	No <sup>39</sup>	Not applicable
New Zealand	No	--
Denmark	No	If any, very few
Sweden	No	Few - extremely rare

High turnover



Low turnover

**Table 14. Percentage of senior civil servants who changed jobs for any reason, including transfers<sup>40</sup>**

Country	Level 1		Level 2		Level 3		Level 4		Level 5		Special political advisors outside normal hierarchy	
	A	B	A	B	A	B	A	B	A	B	A	B
United States	6	100	6	100	6	100	6	100	6	10	-	-
Mexico	55	100	55	100	55	70	55	70	55	70	55	100
Italy	-	-	-	-	-	100	0 <sup>41</sup>	0	-	0	-	100
France	-	-	2-6	1-5	2-6	1-5	-	-	-	-	-	-
Belgium	0	0	0	0	0	0	0	0	0	0	0-100 <sup>42</sup>	0-100
Denmark	0	0	0	0	0	0	0	0	0	0	-	-

High turnover



Low turnover

A= recent re-election of an existing government or election won by the governing party.

B= recent election of a new government.

Mexico and Italy offer two interesting half-way positions. In Italy there is a sharp distinction between the level 3 which is completely exchanged and levels 4 and 5, where staff stay in post. In Mexico, the turnover is more tapered. The top two levels are completely exchanged, and the turnover in lower levels is also relatively high – with 70% of the administrators being exchanged following the election of a new government.

#### 4.2. Ministerial interference in management issues

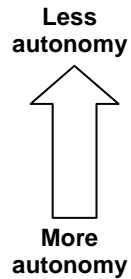
Respondents considered that the United Kingdom and New Zealand have less interference in management responsibilities and more demarcated responsibilities that are set outside of the oversight of the minister. Elsewhere, respondents considered that ministers tend to interfere in the management responsibilities of high level administrators occasionally or, in countries like Italy, Poland and Denmark, even frequently.

Overall, the degree of autonomy senior civil servants enjoy tends to be a stable arrangement in most countries. With the exception of the United States, Poland and Mexico this matter does not change with a change in government. As the system in Mexico has recently been reformed from a deeply politicised spoil system to a very different, politically neutral career system such stability has not yet been reached. Mexico is still in a state of transition with some political key players leaning towards the former politicised system and others towards the new career system.



**Table 15. Administrative actions of politicians**

Country	Ministers tend to interfere in management responsibility of senior civil servants?	Degree of involvement by politicians in administrative matters changes with changes of government?
Italy	Frequently to seldom	No <sup>43</sup>
Poland	Frequently	Yes
Denmark	Frequently	No
United States	Frequently to seldom	Yes
Belgium	Frequently to seldom	No
Mexico	Seldom	Yes
Sweden	Seldom	No
France	-- <sup>44</sup>	No
United Kingdom	Seldom	No
New Zealand	Never	No

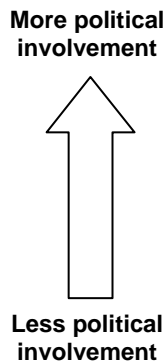


**5. The significance of informal conventions**

Table 16 summarises previous responses to provide a broad overview of the involvement of politicians in key staffing decisions in the countries studied. As one would expect, political involvement in one dimension of human resource management is a strong predictor of political involvement in others.

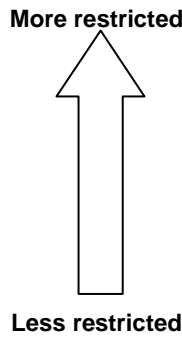
**Table 16. Overview of political involvement in staffing**

Country	Appointment	Dismissal	Promotion	Transfer to another position	Performance assessment
United States	High	High	High	High	High
Italy	High	High	High	High	Medium
South Africa	High	Medium	High	High	High
Mexico	Medium	Medium	High	Medium	Low
France	Medium	Medium	Medium	Medium	High
Poland	Medium	Medium	Medium	Medium	Medium
Belgium	Medium	Medium	Medium	Medium	Medium
Sweden	Medium	--	--	--	--
New Zealand	Low	Medium	Low	--	Low
Korea	Low	Low	Low	Low	Low
Denmark	Low	Low	Low	Low	Low
United Kingdom	None	None	--	Low	--



The similarities between the rankings in Table 16 and Table 17 suggest that more extensive involvement in staffing matters by politicians tends to be associated with more formal delineation of the respective roles of politicians and public servants.

**Table 17. Overview of restrictions on functional responsibilities**



Country	Restrictions on political activities of public servants	Restrictions on administrative activities by politicians
Korea	High	High
United States	High	Medium
South Africa	High	--
Poland	High	Low
United Kingdom	Medium - High	--
Italy	Medium	Medium to High
Mexico	Medium - High	Medium
New Zealand	Medium	Medium
Belgium	Low	Low
France	Low	Low
Denmark	Low	Low
Sweden	Low	Low

The United States provides the starkest example of the association between political involvement in senior staffing issues and restrictions on functional responsibilities through the staff confirmation role of the Senate and the “line by line” *ex ante* involvement of the House of Representatives in public expenditure.<sup>45</sup>

The interesting finding here concerns the exceptions. Although Korea has a distinctly different traditional career-based civil service<sup>46</sup> with little political involvement in staffing decisions, it has established very strict rules even prohibiting their public servants to join a party or any other political organisation. In Sweden, despite higher levels of political involvement, staffing restrictions on the political activities of public servants are low. In Italy medium restrictions on political activities are associated with medium to high restrictions on administrative activities by politicians, who reportedly tend to interfere in managerial responsibilities by senior civil servants

The respondents were asked to assign relative weights to various factors in ensuring the separation of politics from administration, including the active development of a culture of political neutrality for the civil service. The results are not reproduced as the striking finding is how much they vary and that each issue is considered by some of the respondents to be of major significance. In sum, boundaries are often overseen by formal political institutions, however this is not always the case and broader popular support for political neutrality in administration is significant.

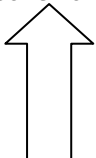
Overall, it appears that more extensive involvement in staffing matters by politicians is associated with more formal delineation of the respective roles of politicians and public servants, unless, as in the case of Sweden, there is a long-standing and well-recognised popular acceptance of the convention of political neutrality.

Korea highlights the significance of such popular conventions in a different way. As was noted above, it displays very strict rules concerning the delineation of roles even though this seems unnecessary given the low level of political involvement in staffing decisions. This seemingly highlights the somewhat tentative popular acceptance of the significance of political neutrality in the public service.

## 6. Particular pressures for political responsiveness

Table 18 summarises the data to highlight issues that are often associated with particular concerns for responsiveness of public servants to the policies of the current executive.

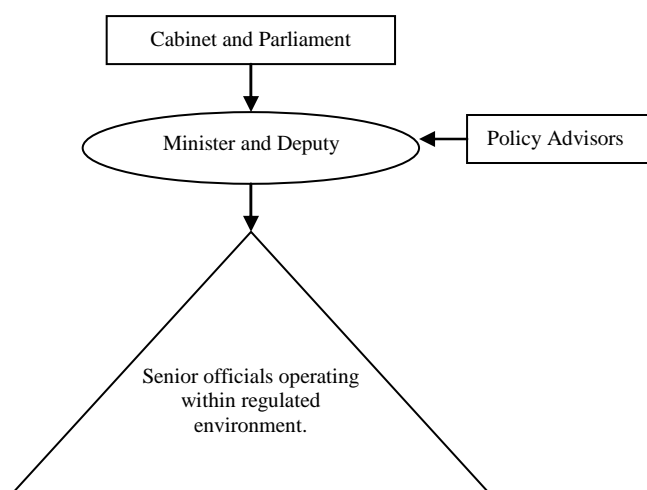
**Table 18. Issues associated with strong concern for political responsiveness**

<p style="text-align: center;">Suggestive of strong push for political responsiveness</p>  <p style="text-align: center;">Less suggestive</p>	Country	Turnover of staff following elections	Reported ministerial interference in management issues
	Italy	Medium	Frequent to seldom <sup>47</sup>
	Poland	Medium	Frequent
	United States	High	Frequently to seldom
	Mexico	High	Seldom
	Korea	Medium	--
	Denmark	Low	Frequent
	France	Low	--
	Belgium	Low	Frequently <sup>48</sup> to seldom
	Sweden	Low	Seldom
	United Kingdom	Low	Seldom
	New Zealand	Low	Never

One way to interpret this is to examine the types of arrangements for providing political control over executive bodies.<sup>49</sup>

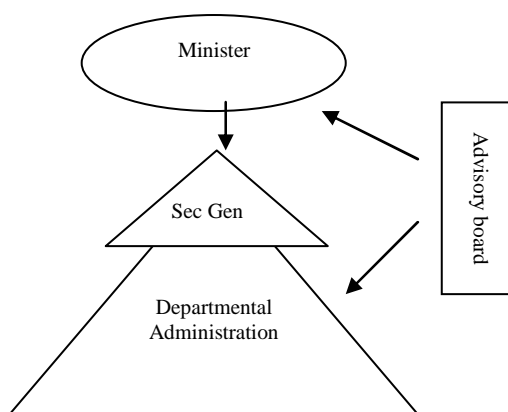
The “Few Principals” model, most readily captured in the Westminster systems, provides a structure for ministries and departments that is closest to the Weberian idea of a bureaucracy (Gerth and Mills: 1958; Rheinstein: 1968). In such systems, and in stylised term, a single principal, the minister, has responsibility for policy, and makes those decisions based on information provided by professional and impartial career civil servants. In reality of course there can be a layer of politically appointed advisors who support ministers in their policy-making. Sweden is a more complex case because of the strict division of powers between the Parliament, the government and the administration, and independently managed agencies for all implementation of parliament and government decisions. However, within both ministries and agencies, the managerial arrangements are relatively unconstrained by other veto players and so it falls within this category.

**Figure 2. The "Few Principals" model**



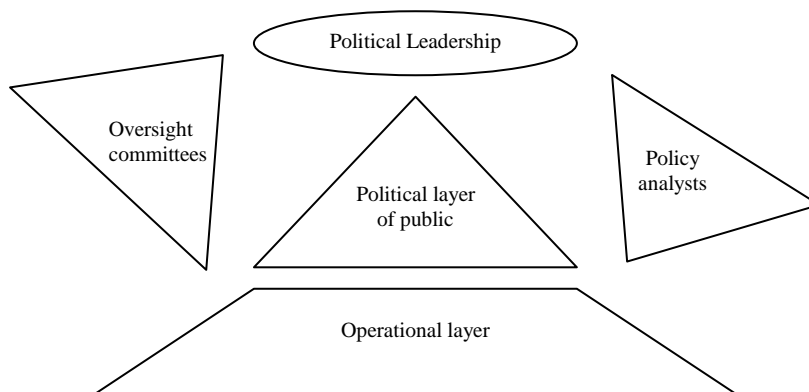
The “More Principals” model, unlike the Westminster model, somewhat weakens the authority of the minister over the department, as her control is mitigated through a powerful Secretary General or equivalent with an extensive armoury of administrative law. At the same time, advisory boards from outside the government oversee and provide policy advice. This model is most readily recognised in continental Europe, especially France.

**Figure 3. The "More Principals" model**



The “Multiple Principals” shows more fragmentation in political authority over executive bodies. Participation of interest groups is facilitated and the legislature is actively involved in public administration matters and assumes a control function, as does the judiciary. This model is characterized by deep political penetration into the department with non-public service appointments and the absence of clear boundary between political appointments and public service appointments. The United States exemplifies this tradition.

**Figure 4. The "Multiple Principals" model**



Annex 2 provides further details. It reviews the range of actors that comprise the principals in these stylised models. It notes that principals can be considered as veto-players whose agreements are a condition for the successful policy implementation within a ministry – in effect competing with the minister to act as a principal in relation to key “agents” within the ministry.<sup>50</sup> Loosely defined in this way, the following institutions can act as competing principals:

1. the legislature;
2. other ministries or departments;

3. veto players deriving authority from legal frameworks or professional rules;
4. special inspection bodies.

Table 19 shows that, unsurprisingly, the perceived need for strong political responsiveness as defined above in Table 18 is strongly correlated with the multiplicity of principals for ministries and departments.

**Table 19. Structural elements and the push for political responsiveness**

<b>Countries</b>	<b>Principals</b>	<b>Turnover of staff following elections and reported ministerial interference in management issues</b>
New Zealand	Few	Low
Korea	Few	Low
Sweden	Few	Low
Denmark	More	Low
Belgium	More	Low
France	More	Low
Italy	More	Medium
Mexico	Multiple	Medium
United States		High

## CONCLUSION

### 7. Reviewing the findings

Five key findings emerged.

*The first finding of the study is that while principles of public service neutrality in the sense of non-partisanship are espoused by all countries in the survey, this does not equate to an apolitical process for senior appointments.* Of course the fact that a politician is involved in appointments or dismissals does not make the decision politically partisan.

Most systems are intermediate systems. In some cases a clear line drawn between senior staff appointed politically and lower ones appointed using an administrative procedure. In others, senior staff are appointed by a hybrid procedure in which administrative selection criteria like merit and experience are combined with political considerations. In one case (the United States), purely politically driven appointments coexist with administratively determined appointments at some levels – and in some agencies most if not all senior managers are political appointees.

Political involvement in one dimension of human resource management is a strong predictor of political involvement in others.

*The second finding is that countries have a range of laws, conventions and procedures which spell out the division of responsibility between ministers and civil servants, and in some cases by prohibiting politicians or civil servants from being involved in certain areas.*

The degree of these formal restrictions varies with the United States and Korea seemingly the most restrictive on the roles of civil servants, and with Denmark, the federal government of Belgium and Sweden the least. Formal restraints on politicians' actions are the greatest in New Zealand and the United Kingdom, and the least in Sweden, Mexico and Poland.

In many cases, particular formal restrictions apply during changes of government.

*The third finding was the variety of institutional oversight arrangements for enforcing limitations on political involvement in staffing matters and in complying with restrictions on functional roles.* The variations in the ways in which the legislature and judiciary are involved, and the diversity of roles played by the Auditor General, *Cour des Comptes* and other bodies such as the Constitutional Court, election management commission, Governor General, *Conseil d'État* make it clear that there is nothing that approaches a single model.

*The fourth finding was the significance of informal arrangements, and particularly long-standing popular conventions.*

The study revealed that there are major variations in the turnover of staff following elections, and in reported ministerial influence in administrative matters. In considering the change of administrative staff, at senior levels the United States is particularly high and the federal government of Belgium and Denmark

reportedly very low. In considering ministerial interference in management issues, the United Kingdom and New Zealand have less perceived interference in management responsibilities in contrast to Italy, Poland and Denmark.

These differences are only partly explained by formal arrangements. While in general more political involvement is associated with more restrictions on roles, the exceptions suggest the significance of informal conventions. Overall, it appears that more extensive involvement in staffing matters by politicians is associated with more formal delineation of the respective roles of politicians and public servants, unless, as in the case of Sweden, there is a long-standing and well-recognised popular acceptance of the convention of political neutrality.

*The fifth finding is that constraints on party political influence on the public service vary with constitutional type and administrative history.* In this sample, countries with a very strong executive, most notably Westminster-style systems, have such constraints within the executive itself through independent appointment arrangements. In countries where the executive is more constrained in its authority, having to co-exist with the veto power that derives from administrative law or the power of the legislature, there is greater political influence on personnel matters. The interpretation offered by the paper is that political involvement is a response to situations where the executive faces structural arrangements which generate a multiplicity of principals who might block change. Put starkly, when there are multiple principals, the single political principal with some responsibility for the sector portfolio (minister, secretary in the United States, etc.) faces a distinctive incentive for politicization as it gives them a stronger handle on an otherwise unresponsive bureaucracy. If correct, this suggests that some degree of political involvement in staffing decisions is widespread, and is a reasonable strategy as it is one way to obtain responsiveness to political priorities within ministries and departments that might otherwise resist, not least because they are subject to pressures from other competing principals.

This situation of multiple principals is primarily a constitutional point. However, arguably, countries that are recently emerging from political transition such as from a spoils system or from a strongly authoritarian government are also situations of multiple principals because of the depth of extra-constitutional capture by special interest groups. Thus constitutional type and administrative history are probably both implicated in creating the context for politicisation.

This conclusion argues against the assumption that underpins much public management literature, which warns about the negative effects of political involvement and often suggests that purely administrative determination of staffing decisions is the preferred state and that any steps down the path of political involvement are intrinsically damaging to governance.

## **8. A tentative framework**

There is likely to be continuing evolution of the political/administrative boundary. In general those surveyed consider that their historical trend is towards less politicisation – despite the prevalence of political advisory posts, position-based employment arrangements, and arm’s-length public bodies (see Annex 1). In principle, the movement could be either way. In public services which are not strongly checked by the legislature, the sheer technical demands of public service management may make politicians more disposed towards meeting credible requirements for merit and competence, when making political appointments. In others, the pace of new government initiatives in response to increasing social change may lead to the conclusion that a public service that was previously considered sufficiently responsive is in fact creating bottlenecks to rapid policy change.

There seem to be four key questions which merit consideration in any review of the political/administrative boundary.

**8.1. *Is there a problem to be solved?***

In many areas of public administration, the issues are sufficiently nuanced and uncertain to apply the general maxim that things that are not broken need not be fixed. The framework used by this study suggests key areas of inquiry for assessing whether there are grounds for concern:

1. Does the public service function adequately as a quasi-constitutional constraint on political institutions, ensuring adherence to constitutional and legal requirements, regardless of the implications for the elected government?
2. Is the public service inclusive or are there concerns that it and the powers and resources it administers can be used as party political tools?
3. Is it responsiveness to changing political priorities?
4. Does it deliver on its service delivery promises?

**8.2. *Could this problem implicate the political/administrative interface?***

1. Is there distinctively high turnover of staff following elections?
2. Is there unwarranted ministerial interference in management issues?
3. Is there insufficient political traction over public service policy implementation?

**8.3. *Is the nature of the existing oversight arrangements fully understood?***

Table 20 offers a stylised approach for setting out the contribution of the formal and informal arrangements for providing oversight of the political/administrative boundary.



**Table 20. Stylised representation of the contribution of formal and informal arrangements**

Restrictions on political involvement in staffing and functional responsibilities ↑ More formal ↓ Less formal	Independent appointment body	France New Zealand United Kingdom	Belgium Italy Korea Mexico Poland United States			
	Hybrid appointment procedures					
	Formal delegations of responsibilities					
	Reliance on management culture to delineate roles in practice	Denmark Sweden				
	Reliance on popular culture to inhibit misuse of political appointments					
	Wider culture supports apolitical professionalism	High transparency of administrative action	Judicial review	Ex post invigilation by Auditor General or Cour des Comptes, reinforced by legislature	Legislature has strong ex ante role in appointments	
	Emphasis on formal and informal			← External oversight →		Emphasis on formal

**8.4. Are the oversight arrangements, formal and informal, appropriate for the degree of political involvement envisaged in staffing issues?**

We note that some pressures for political involvement emerge from the political structures, with situations of multiple principals giving rise to particular pressures for deeper political involvement. Where an executive is left with few levers through which to enforce policy, some increase in the risk of the misuse of political influence may be a price worth paying in the wider governance interest.<sup>51</sup> However, the counterbalance for such political involvement is heavily dependent on the wider social context, and when there is strong popular support for a neutral, apolitical public service, informal arrangements can be very effective. Conversely, when such popular support is yet to form or otherwise absent, particularly strong formal oversight arrangements are necessary.

*In sum, the study suggests that more political influence in staffing matters may work well, if there are other checks and balances overseeing functional responsibilities, and may be essential if the alternative is very weak political traction on the public service. Getting the balance wrong could provoke an unexpected backlash. In particular, a too strictly drawn Weberian boundary between ministers and public service may provoke pressure for alternative or duplicate systems to increase political responsiveness.*

The devil however is in the detail and the risk is that countries under the banner of promoting more responsiveness will be tempted to increase the level of political involvement in administration without paying attention to the checks and balances which ensure this does not harm deeper legitimacy issues such as inclusiveness, respect for the constitution and continuity.

## ANNEX 1. REPORTED TRENDS

### Reported trends in politicization

Many respondents noted that the overall tendency in their system leans towards less political control. In some cases scandals or incidents have led to major changes in political control in administration. The federal government of Belgium, for example, has engaged in the Copernicus reform following two scandals, the Dutroux and the Dioxine affairs, which led to a large citizen's movement. In 2001 the Copernicus reform wanted to strengthen the cooperation between ministers and their senior civil servants with the aim of regaining public confidence in the public service. A key element has been to introduce a "mandate system" for senior civil service positions, to increase the accountability of top management and provide a clearer delineation of responsibilities between political and administrative functions.

However, one of the key reforms that Copernicus sought was to remove the large political cabinets, which were considered overstaffed and responsible for politicization of the system. This reform has failed and ministerial cabinets are still in place with control over setting strategic goals. Cabinet staff are still politically appointed and these form a significant group with currently 797 such appointments, significantly more than the number of executive senior civil servants (173 members in August 2006).

**Table A1.1. Perceptions of changing political control**

<b>Countries moving towards less political control for executive Senior civil service positions</b>	<b>Neutral</b>	<b>Countries moving towards more political control</b>
(Poland, until 2005) Mexico New Zealand United Kingdom <sup>52</sup>	Belgium Denmark France Korea Sweden	Italy (since 2000) United States

In Italy, there was widespread public criticism of corruption at the national and local levels. In the early 1990s, a number of corruption scandals uncovered inappropriate relationships between politicians and business companies. The consequent criticism has led to major reforms. In 1993, the principle of delineating functions between politicians and senior civil servants was established for the first time. In the late 1990s the principle was reinforced by several additional decrees. The reform movement lasted for about a decade emphasizing a clear cut between political and administrative actors. Since the early 2000s, there are some signs of a reversal in this trend.

Similar experiences in Mexico led to the newly elected government introducing a neutral career-based civil service in 2003/2004.

In Denmark, in the mid-1990s a minister had reportedly asked civil servants to act illegally. A subsequent court case showed that there was no clear guidance for civil servants concerning their right or their obligation to refuse to implement an illegal order from the minister. In 2005 a Code of Good Public Governance for Senior Public Officials was established. This code specifies that each senior public official ought to define clearly his or her specific managerial space in relation to the minister.

The most important impact on the involvement of political actors in the United States was provoked by the Watergate scandal. Between 1977 and 1979, many institutions were created as a direct consequence of this affair, including the Office of Government Ethics, the Inspector General, and the Office of Special Council. The law in regards to the delineation of responsibilities between the two sets of actors changes constantly.

There are countervailing trends. In the United States, President Clinton allowed the public servants to involve in more partisan political activities than his predecessors. In Korea, where even ministers traditionally came from the pool of career bureaucrats, a movement towards politicisation in the appointment of ministers can be observed with more ministers coming from outside the career civil service. This has been linked to the recently strengthened status of the legislature. As a consequence of the public management reform movement in New Zealand, some incidents have been reported where arm's-length entities wanted to act politically, disregarding their obligations for impartiality.

### Reported trends arising from other public management reforms

In the literature, some authors have investigated the influence of reforms such as agencification, deregulation of personnel matters, performance management and the shift in power to lower-echelons. Those measures, Peters and Pierre (2001) argue, were in part intending to regain political control over the bureaucracy by breaking the monopoly of the civil service, destroy well established “villages” within the administration, opening it for outside applications and decentralising its structure.

However, paradoxically, some reforms are reported to have achieved the contrary by increasing the powers of non-political officials and thus creating new areas of conflict, introducing more contractual employees who are more concerned about performance targets than the government as a whole. Offering the prospect of private company alternatives to senior officials by facilitating movement between public and private sector employment may make them less responsive to conform to the demands of politicians.

Toonen (2001) agrees with Peters *et al.* (2001) that the recent public governance reforms share the objective to break “closed shops” and wish to create more competition, checks and balances, transparency and open villages. However, the effect this had on the delineation of political responsibilities varies significantly between jurisdictions.

Table A1.2 indicates whether the reform movements towards more contractual staff and towards more arm-length agencies are considered to represent an increasing or decreasing political influence.

**Table A1.2. Different employment trends and impact on politicisation**

Country	Is there a tendency towards...				This tendency is generally seen as:
	More politically appointed staff	More contractual staff	More arm's-length agencies	None of these	1. increasing political influence 2. reinforcing political non-partisanship 3. having neither effect
Belgium	-	<sup>53</sup>	Yes	-	Having neither effect
Denmark	-	Yes	Yes	-	Having neither effect
France	-	Yes	-	-	Having neither effect
Italy	Yes	Yes	Yes	-	Increasing political influence
Korea	-	Yes	-	-	Having neither effect
Mexico	-	-	-	Yes	Reinforcing political non-partisanship
New Zealand	-	-	Yes	-	Having neither effect
Poland	Yes	-	-	-	Increasing political influence
Sweden	Yes <sup>54</sup>	Yes	-	-	Having neither effect
United Kingdom	-	-	-	Yes	Having neither effect
United States	Yes	Yes	Yes (until 1960-70s)	-	Increasing political influence

Of the four countries which have increased the number of political appointees (Italy, Poland, Sweden and the United States) three have also increased contractual staff and two arm's-length agencies. In three of these states this trend is perceived as increasing political influence. However, most country respondents

considered that public management reforms did not have an effect on political involvement. Mexico recently chose a path contrary to the general employment trends by introducing a career-based civil service. Not increasing contractual staff and arm's-length agencies in Mexico is consequently seen as a way to reinforce the principle of political non-partisanship.

**Table A1.3. Term contracts and politicisation**

<b>Country</b>	<b>Where there are limited term contracts are appointments, dismissals or transfers for political reasons, more likely, less likely or as likely as before</b>
Belgium	As likely as before <sup>5b</sup>
Denmark	As likely as before
France	More likely
Italy	Less likely
Mexico	Less likely
New Zealand	As likely as before
Poland	As likely as before
Sweden	As likely as before
United States	Political appointees serve "at the pleasure of the president" and can always be asked to leave

Two of the countries mentioned above (Italy, United States) as well as France also report an increased use of limited term contracts, where dismissals or transfers for political reasons are likely.

### **Recent developments leading to re-examination of the political/administrative boundaries**

Suggestions of partisanship and unresponsiveness from the public service are relatively commonplace in all OECD member countries. In offering a few examples of the lines of argument which have evolved in Sweden and the United States, the purpose of this section is not to suggest that these are particularly extreme cases. The intention of this section is rather to illuminate how the conflicting concerns about partisanship and unresponsiveness inevitably implicate the administrative/political interface and lead to different arrangements for oversight of the appointment and management arrangements for senior staff with an emphasis on formal and informal arrangements respectively.

#### ***Sweden***

##### *Concerns*

There are few cases reported in Sweden where the public service has been used in an inappropriate way for party political purposes. Even those public service appointments, which are made by the government, those on the highest public service level of the Director General, are generally based on merit, include opposition party members and usually the nominee's competencies are widely recognised.

In the 1970s almost all Director General positions had been filled with apolitical candidates. However, during the last decade, while it is not necessarily an affiliation with the governing party that is required, party political backgrounds have become more important and in some cases have become subject to criticism. Molander, Nilsson *et al.* (2002, p.10) noted that: "Over the last three decades, an increasing percentage of senior administrators in the Government Office and the agencies have a political background as members of some political party, whereas the enrolment of the population at large in political parties is rapidly falling." They speculated about a risk that that the distinction between the political and administrative levels is blurred by the fact that individuals belonging to these categories sometimes change positions – politicians become senior civil servants and vice versa.

There have been about five appointments where the government's choice has been widely considered inappropriate and the candidates unsuitable for the respective assignment. The subsequent public uproar led to the removal of those public servants. One prominent example was the appointment of a person with strong political connections as Director General of the Swedish Board of Agriculture. The person was widely seen as unsuitable for the position and, after all second level heads of the Board declared their opposition to her, a new position was offered and accepted. Other cases leading to some criticism regard occasional public relations campaigns of the government where the opposition suspects that public money is used to support the governing party indirectly.

The most recent concern about responsiveness of the bureaucracy to the rapid implementation of political priority programmes emerged from the actions of the bureaucracy following the Tsunami disaster. An active public debate questioned the capacity of the public service to react adequately to such a catastrophe as it was generally acknowledged that ministries and agencies did not react sufficiently fast in assisting Swedish and non-Swedish citizens in the affected countries. It transpired that defence and rescue agencies had no authority to spend money on the necessary operations without a decision of the government as a whole. The development agency could only help in selected countries as they were only allowed to become engaged in countries that were officially recognised as aid recipients. Sri Lanka had that status but Thailand did not, thus hindering the development agency from helping in this heavily affected country.

The context is that the Director-Generals and Deputy Director Generals in the Government Office are not appointed for limited terms. They cannot be removed unless there is a disciplinary action against them which is extremely rare. They usually stay until they accept an alternative post or retire. A minister that wanted to replace one would, pragmatically, have to make an attractive offer. The result is that staff turnover at the senior levels is very low (see Table 14).

#### *Implications for the administrative/political interface*

As with the United States, the conflicting concerns about patronage and responsiveness have led to a series of inquiries suggesting the degree to which there is a frequent need for fine-tuning of the administrative/political interface. This takes a particular shape in Sweden because of the administrative tradition of assigning considerable autonomy to the administration, and the widely valued independence of the implementing agencies. The ministries are relatively small – the ministries have together about 4 000 employees – and are mainly providing information for the ministers and drafting government decisions. Government instructions to state agencies must be in writing, adopted at a formal meeting of ministers and made public. This transparency is regarded as the prime protection against political misuse of administrative powers. In addition, a recent proposal of the Ministry of Finance aims at strengthening the internal audit and evaluation processes in about 50 important agencies. According to this proposal these agencies will have to analyse their businesses practices regularly and provide the government with a written guarantee that their internal control is satisfactory.

When the debate concerning the political/administrative interface emerges, it tends to raise questions about whether the agency arrangement prevents sufficient political authority in the decision-making process, with the government unable to control the agencies to ascertain that appropriate action is taken when political decisions are to be implemented.

**Table A1.4. Recent inquiries concerning the political/administrative interface in Sweden<sup>56</sup>**

The Commission on Public Administration ( <i>'Förvaltningsutredningen'</i> )	A parliamentary committee analysed the autonomy that Sweden's administrative tradition assigns to the administration. It asked the question whether the political level has full control over the administrative apparatus, in particular in relation to the paragraph in the Constitution that prohibits political interference in agency decisions concerning individuals or legal personalities.  The committee recommended that the controllability aspect should be upgraded.
The Committee on governance of agencies ( <i>'Verksledningskommittén'</i> )	The committee on agency governance focused on the internal workings of agencies, in particular the relationship between the Director-General and the board of an agency. It analysed alternatives for ensuring political influence over administration and other forms of channelling popular influence, such as lay representation on agency boards.
The Commission on Public Administration Policy ( <i>'Förvaltningspolitiska kommissionen'</i> )	The Commission undertook a broad review of problems in public administration – governance, control and audit, appointment policies, civil servant ethics, etc. It identified general problems of governance, inadequate control of large resource flows (notably transfers), and a need for increased transparency in decision-making in general as well as concerning appointments.
The Cost of Government ( <i>'Vad kostar det att regera?'</i> )	The report analyses the Government Office from a number of different angles – size, tasks, efficiency, etc.
Internal Government Office studies	The Government Office has produced a large number of internal studies. They concern a range of subjects relevant to the present discussion – supply of competence, personnel policy, the merging of the ministries into one single agency, etc.

Overall, and in contrast to the formal and extensive institutional checks and balances system of the United States, Sweden has a highly informal system with few rules or institutions in charge of guaranteeing merit and the proper delineation of responsibilities between ministers and in the senior public service. The principle of political non-partisanship of the public service is not spelled out in the Constitution, law or regulation. However, a Government Act states the principle of government by law, and requires that all appointments are made on objective grounds such as merit and skills. The informality and the deeply consensual basis for the neutrality of senior positions means that the inquiries in many ways are the response, as they refresh the informal culture and provide a steer which is widely accepted.

**Table A1.5. Oversight institutions in Sweden**

The Parliament's Constitutional Committee	<p>Since 1634 Sweden has a constitutional division of powers between the Parliament, the government and the administration. There is no Constitutional Court. Instead, Parliament is the supreme authority on constitutional interpretation.</p> <p>As there is no Constitutional Court, the Parliament's Constitutional Committee is in charge of reviewing and debating the government's appointments of Director Generals and this means in effect that the opposition has access to the relevant papers.</p> <p>As the Constitutional Committee is not a court it cannot sanction the government in the event of wrongdoings and can only publish a critical statement.</p> <p>The only ultimate sanction would be a vote of non-confidence of the Parliament as a whole, which is a rather unlikely possibility as the government usually has a majority in the Parliament that could reject any such vote.</p>
The Supreme Audit Agency	<p>The Supreme Audit Agency has a supervisory body which is elected by the Parliament and it is managed by three national auditors who are appointed for seven years and cannot be reappointed so that their independence is guaranteed. To date, the Supreme Audit Agency has shown no interest in the questions of merit or appropriateness of potential political interference in administrative management issues.</p>
Strong popular and management culture in support of merit and delineation of roles	<p>The most effective instrument to guarantee merit and proper delineation of roles between political and administrative actors is the popular support and a solid management culture favouring those principles. Popular reaction led to the removal of about five Director Generals considered not possessing the required skills.</p>

***United States***

***Concerns***

Watergate undoubtedly had the most wide-ranging political and institutional consequences of any recent political scandals concerning partisan actions. Watergate refers to a series of events in which the Executive abused its powers in order to undermine the opposing party and the movement against the Vietnam War. The scandal took its name from burglaries of the headquarters of the Democratic National Committee in the Watergate Hotel in Washington, D.C. where five men tried to repair wiretaps that were not working. Many new laws, institutions and oversight arrangements have been created as a direct consequence of the problems revealed by the subsequent inquiry. The Office of Government Ethics, the Inspector General and the Office of Special Council were all created in the period from 1977 to 1979. New campaign financing laws, several amendments to the Freedom of Information Act, and laws requiring new financial disclosures by key government officials have also been adopted.

More recently, there have been discussions about alleged party political usage of the public service in the preparation of the Iraq war.

The most evident expression of concern about the unresponsiveness of the administrative machinery is, of course, during election campaigns. Such concerns can inevitably contain some proportion of rhetoric with little or no specific policy content (Fishel: 1985). However, it can also highlight specific political concerns with very specific programmatic substance, such as the 1980s concern to devolve responsibility for education fully to the state level. These concerns have been well documented by researchers.<sup>57</sup>

*Implications for the administrative/political interface*

Perhaps the starkest expression of political frustration with the perceived unresponsiveness of the bureaucracy was from Richard Nixon, who asserted in his presidential memoirs “I regretted that during the first term...we had failed to fill all the key posts in the departments and agencies with people who were loyal to the President and his programs....I was determined that we would not fail in this area again...” (Nixon: 1978, p.768). This point was made against a context of a public service in which there is extensive turnover amongst political appointees following the election of a new president, even if he belongs to the same party as his predecessor. As was noted earlier, in the handover from the Republican Reagan administration to the Republican Bush (senior) administration, there was a turnover of about 97%.

**Table A1.6. Recent initiatives impacting on the political/administrative interface in the United States<sup>58</sup>**

Federal Elections Campaign Act of 1974	This statute set limits on contributions by individuals, by political parties, and by political action committees. It also established an independent agency, the Federal Elections Commission, to enforce the law, facilitate disclosure, and administer a public campaign-funding program.
Ethics in Government Act of 1978	The act established the Office of Government Ethics within the Office of Personnel Management and charged it with providing overall leadership of ethics programmes. It established a comprehensive public financial disclosure system. It also enacted procedures for the appointment of a special prosecutor with authority to conduct independent investigations and prosecutions of government officials and thereby remove politics from the administration of justice in certain highly sensitive cases. Finally, it strengthened the post-employment restrictions on former officials of the Executive branch.
Inspector General Act of 1978	This act established Offices of Inspector General within a number of executive branch departments and agencies. The Inspectors General were given a significant degree of independence (as well as subpoena power) to carry out their responsibility for the detection and prevention of fraud, waste and mismanagement in government programmes.
Civil Service Reform Act of 1978	This legislative measure created the Merit Systems Protection Board (MSPB) to oversee the personnel practices of the Executive branch and protect the integrity of the federal merit systems. It protects the democratic rights of public servants including the right to exercise free speech without fear of retaliation and the right to exercise union activities and it prohibits a number of improper personnel practices including acts of reprisal against whistleblowers. Their complaints would be received by the Office of Special Counsel, an investigating and litigating office, which has been provided with enlarged powers. The act such as participating in officer elections and inspecting collective bargaining agreements.
Federal Managers' Financial Integrity Act of 1982	This act required ongoing evaluations of the adequacy of internal accounting and administrative control of executive agencies. Agencies were required to report on any material weaknesses in their internal control systems.
Office of Government Ethics Reauthorisation Act of 1988	This law established a separate executive agency which had been removed from the Office of Personnel Management in order to ensure the effectiveness of ethics programmes, to clarify the offices' mandate and to increase its independence.
Whistleblower Protection Act of 1989	This law established the Office of Special Counsel (OSC) as an independent agency within the Executive branch that litigates before the Merit Systems Protection Board. The 1989 enactment stated that the primary role of OSC was the protection of federal employees, especially whistleblowers, from prohibited personnel practices.
Office of Federal Procurement Policy Act Amendments of 1988	These amendments contained new provisions to ensure the integrity of the federal procurement process, treating four areas: <i>i</i> ) post employment; <i>ii</i> ) seeking employment; <i>iii</i> ) gratuities; and <i>iv</i> ) disclosure of information. A wide range of rules also covers contractors, subcontractors, consultants, experts and advisors.
<i>Executive Order 12668 of 25 January 1989</i>	The order established a Commission on Federal Ethics Law Reform to review existing federal ethics laws, regulations and policies and to "make recommendations to the President for legislative, administrative, and other reforms needed to ensure full public confidence in the integrity of all federal public officials and employees". In March 1989, the Commission submitted its report making 27 recommendations dealing with issues during employment, post-employment restrictions, financial disclosure, structure of federal ethics regulation, and remedies and enforcement mechanisms.



Ethics Reform Act of 1989	<p>It expanded the coverage of post-employment law so that it covered Members of Congress and top congressional staff. The act made changes in the areas of trade and treaty negotiations, the representation of foreign entities and in the public financial disclosure system as well as the criminal conflict of interest statutes.</p> <p>It prohibits public servants from soliciting or accepting gifts from certain prohibited sources and authorized the supervising ethics office to issue implementing regulations. The act limits outside earned income to a maximum of 15% of the annual salary and imposes employment restrictions on covered senior officials.</p> <p>Finally, it banned the receipt of honoraria by public servants or a Member of Congress. Honoraria were defined as a payment of money or anything of value for an appearance, speech or article. This provision was declared unconstitutional by the Supreme Court insofar as it applied to certain executive branch employees.</p>
<i>Executive Order 12674 of 12 April 1989</i>	<p>This executive order sets forth 14 principles of ethical conduct. The first one states that public office is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain. The order prohibited full-time non-career officials in the executive from receiving any earned income for any outside employment.</p> <p>It directed executive branch agencies to conduct annual ethics training for certain covered employees and directed the Office of Government Ethics (OGE) to promulgate a clear set of Executive branch standards of conduct. They cover gifts, conflicting financial interests, impartiality, seeking employment, misuse of position and outside activities.</p>
Chief Financial Officers Act of 1990	<p>The act aims at improving the financial management within the Executive branch and preventing losses through fraud, waste, abuse and mismanagement of government programs and established an Office of Federal Financial Management to set financial management policies. It also established the position of Chief Financial Officer within the cabinet departments and certain large agencies.</p>
Hatch Act Reform Amendments of 1993	<p>It places restrictions on the political activities of government employees. The 1993 law relaxed some of the restrictions on federal civilian employees to allow greater participation, as private citizens, in the political process. At the same time, it continued to protect federal employees and the general citizenry from improper political solicitations.</p>
Congressional Resolutions on Gifts	<p>The House and the Senate adopted rules to restrict drastically the acceptance of gifts. The definition of gift is comprehensive and covers any item of monetary value, including gifts of services, transportation, lodging and meals.</p>
Lobbying Disclosure Act of 1995	<p>The bill addresses concerns about undue influence by special interests. It requires lobbyists to register and to report on the identity of their clients, the issues they are lobbying on, and the amount of money they are being paid. It also restricts post-employment of the US Trade Representative and the Deputy US Trade Representative who are barred for life from representation of certain foreign entities after they leave office.</p>

Note: Italicised initiatives were developed by the Executive.

However, in practice the concerns about partisanship outweighed those concerning unresponsiveness and this led to some significant pushing back against political involvement. The consequence has been, as Gilman (2003) notes, that there have been significant new government offices or agencies established to promote ethics and financial integrity in government programs and operations. Following their establishment, a number of these agencies have subsequently been strengthened and given enhanced authority. These newer developments added to the longstanding arrangements which sought to enhance the independence of a few particular positions. In particular, by tradition Inspector Generals in customs and the Controller General are not changed following elections, even though it is in principle possible to exchange them after a new President comes into office. The Head of the Office of Government Ethics is appointed for five years. In order to give the post holder some independence from the President, the tenure has been deliberately set for one year longer than the four years of the legislature. See Table 14 for more details of the turnover of staff following elections.

In sum, as Table A1.6 highlights, this is a contested area of public policy and the political/administrative interface remains the subject of frequent interventions and reforms.

**Table A1.7. Oversight institutions in the United States**

The Executive Office of the President	The Office of Government Ethics (OGE) works closely with the White House Office in the process of clearing presidential nominees to Senate confirmed positions. It participates as a member of two interagency groups located within the Office of Management and Budget (OMB): the President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE). Both groups are charged with promoting integrity and effectiveness in federal programs. Also located within OMB is the Office of Federal Procurement Policy, which has responsibility for providing overall direction of procurement policy and leadership in the development of procurement systems of the executive agencies. OGE coordinates with the Federal Acquisition Regulatory Council on the issuance of regulations under the Procurement Integrity Act. OGE also maintains a close liaison with OMB regarding legislation with ethics implications.
The US Department of Justice	The responsibility for bringing both criminal and civil actions to enforce the federal conflict of interest statutes resides with the Public Integrity Section within the Criminal Division of the US Department of Justice and the Offices of the United States Attorneys. As with all other agencies, OGE is obligated by statute to refer to the Justice Department cases that may involve possible violation of the criminal conflicts statutes. OGE also consults with the Office of Legal Counsel in the Department.
Inspectors General	The investigation of fraud, waste and mismanagement is generally conducted by an agency Inspector General. S/He may investigate allegations of violations of ethics rules and laws as well as other federal statutes and regulations.
Merit Systems Protection Board	Each individual agency initially reviews allegations of violations of ethics rules. However, an employee may appeal an adverse action to the Merit Systems Protection Board (MSPB). Administrative decisions of the MSPB establish authoritative precedent regarding the appropriate disciplinary sanction for violations of administrative rules, including violations of the standards of conduct.
Office of Special Counsel	Regulation of political activity, on the part of federal employees, is carried out by the Office of Special Counsel (OSC). It investigates and rules on allegations that employees have violated restrictions on political activity. In addition, OSC investigates cases of reprisal for "whistle blowing" and other prohibited personnel practices.
General Services Administration	The General Services Administration establishes policy for and manages government property and records. It has responsibility for regulations on the proper use of government property, equipment and vehicles. GSA consults with OGE on regulations issued by GSA on the acceptance by agencies of gifts of travel. Agency reports regarding the use of travel reimbursement authority are filed with the Office of Government Ethics.
Office of Personnel Management	The Office of Personnel Management (OPM) has general responsibility for federal personnel law throughout the executive branch. OPM has responsibility for certain conduct-related areas such as nepotism and gambling. OGE consults with OPM in connection with the issuance of regulations.
Federal Elections Commission	The Federal Elections Commission is an independent agency that oversees the public financing of Presidential elections, provides for public disclosure of campaign finance activities, and administers the law with respect to limits and prohibitions on contributions and expenditures made to influence federal elections, <i>i.e.</i> the Presidency, the US Senate, and the US House of Representatives.
General Accounting Office	The General Accounting Office (GAO) is an investigating and auditing arm of the Congress and is not in the Executive branch, but has a significant impact on ethics matters within the Executive. It issues opinions by the Comptroller General, which deal with a wide range of ethics-related subjects including frequent flyer benefits, appropriations law and various fiscal matters. GAO performs audits of federal programs and issues reports on its findings.

## ANNEX 2 INSTITUTIONAL CONSTRAINTS TO POLITICAL RESPONSIVENESS WITHIN EXECUTIVE BODIES

This annex reviews the range of actors that comprise the principals in the stylised models depicted in the earlier discussion of Section 6. Principals can be considered as veto-players whose agreements are a condition for the successful policy implementation within a ministry – in effect competing with the minister to act as a principal in relation to key “agents” within the ministry.<sup>59</sup> Loosely defined in this way, the following institutions can act as competing principals:

1. the legislature;
2. other ministries or departments;
3. veto players deriving authority from legal frameworks or professional rules;
4. special inspection bodies.

This annex provides further explanations of each of those potentially competing principals in the policy implementation process, before summarising four country examples to illustrate in which systems the respective institutional actors may more readily adopt a veto position.

### **Competing principals**

#### *The legislature*

Responsiveness of civil servants towards the minister is likely to be significantly affected by the location of authority for determining the agency’s budget. If the budget is formulated with little involvement from the minister who issues policy directives to the public servants, their motivation will not be enhanced by any possibility that agency or programme funding will be enhanced by exemplary policy implementation. In particular, if budget preparation is significantly undertaken by the legislature, the minister’s position towards her or his administration might be weakened as public servants would be inclined to give the interests of the legislator priority. Thus, authority in budget preparation gives the legislator a potential veto position.<sup>60</sup>

**Table A2.1. Budgetary authority of legislatures**

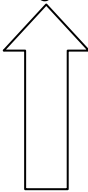
Parliament has:  Many budgetary rights    Few budgetary rights	Country	Index	Veto position
	United States	10	Strong
	Sweden	9	
	Italy	7	
	Denmark	4	Medium
	Belgium	4	
	France	4	
	Korea	4	
	Mexico	3	Weak
	United Kingdom	1	
	New Zealand	0	

Source: Results of the Survey on Budget Practices and Procedures (2003).

In order to assess the extent to which the legislator might be motivated to make use of this quasi-veto position in practice, two further indicators are helpful:

1. *The remit of audit bodies.* Audit bodies generally report to the legislature. The more mandates they are vested with the more reasons they could give the Parliament to use their ability to determine budgetary allocations.
2. *The degree of parliamentary/legislature contact with interest groups and lobbyists.* Extensive contact between the legislature and interest groups or lobbyists gives members of Parliament an informational advantage and, again, might provide incentives to use their authority in budget formulation. If, on the contrary, lobbyists mainly turn to ministers or civil servants, the legislature does not have this incentive.

**Table A2.2. Motivation for the legislatures to exert veto powers**

Motivation to exert veto:  High    Low	Country	Audit bodies: number of mandates /a	Index of parliamentary contact with interest groups /b	Motivation to exert veto
	New Zealand	--	5	High
	United States	5	4	
	Denmark	4	--	
	Sweden	3	3	Medium
	Italy	3	2	
	United Kingdom	3	1	
	South Africa	3	--	
	Belgium	2	1	Low
	France	1	0	

Note:

Index of parliamentary contact with interest groups is defined as follows:

5= only with Parliament, 4 = mainly with Parliament, 3= partly with Parliament, 2= mainly with ministers, 1= mainly with civil servants, 0= only with civil servants

Sources:

a/ OECD/World Bank Budget Practices and Procedures Database  
([http://www.oecd.org/document/3/0,2340,en\\_2649\\_33735\\_2494461\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/3/0,2340,en_2649_33735_2494461_1_1_1_1,00.html))

b/ Schnapp (1999).

Table A2.3 shows that, in regards to policy implementation, the legislature is likely to act as a competing principal in the United States, Sweden and Italy (with a strong veto position and high to medium motivation to exert its veto power) as well as in Denmark (with a medium veto position but a high motivation to exert it).

**Table A2.3. Summary of the veto powers of the legislature and motivation to exert them**

		Motivation to exert veto		
		High	Medium	Low
Veto position	Strong	United States	Italy Sweden	
	Medium	Denmark		Belgium France
	Weak	New Zealand	United Kingdom	

By contrast, in the following countries the legislature does not act as a relevant principal in the policy implementation process: New Zealand and the United Kingdom (where Parliament possesses a weak veto position) and Belgium and France (where the veto position is slightly stronger but the motivation to exert it is low).

***Other ministries or departments***

In countries where ministers decide mainly individually on policy issues within the competency of their department, other ministries might not agree with their measures and can provide administrators with a justification for failing to implement a minister’s decision fully. Such a veto position is less likely to arise when ministers decide collectively on policy issues (Blondel and Manning: 2002).

**Table A2.4. Collective cabinet decision-making**

Ministers usually act ...	
Individually	Collectively
Denmark	Germany
France	The Netherlands
Italy	Sweden
United States	United Kingdom

Source: Schnapp (1999).

Unlike some other presidential systems, the United States cabinet rarely takes collective decisions. In the United States opposing positions of other departments may serve public servants as grounds for not implementing fully the policy decisions of their chief executive. Hence, in the United States – as well as in Denmark, France and Italy – other secretaries or ministers represent principals in regards to the model established in this paper.<sup>61</sup>

Sweden provides a polar opposite case. Collective decision taking is one of the constitutional principles. All instructions to civil servants must be agreed on collectively by the Council of Ministers and must be made in writing. Any violation of that rule would be sanctioned by Parliament. Consequently no public servant could use conflicting views from other ministers, or their less than whole-hearted support, as the basis for weak implementation of an instruction given by the minister. Thus, in countries like Sweden and the United Kingdom, other ministries are not competing principals in the sense outlined in this section.

### *Veto players deriving authority from legal frameworks or professional rules*

Competing principals in this category draw legitimacy of their veto position from tightly specified professional rules or administrative procedures such as the Administrative Procedures Act (APA) in the United States. Under this law about 55 government regulatory agencies create rules and regulations concerning the implementation and enforcement of major acts such as the Food Drug and Cosmetic Act or the Occupational Health and Safety Act. The APA lists in detail administrative procedures concerning public information rights, record management and public rights to confidentiality and to information. The heads of the agencies are accountable for the proper application of such proceedings and the Office of Management and Budget (OMB) and the General Accounting Office (GAO) report to Congress in regards to them. In this way, those institutional actors outside of the ministry or department have veto powers in key aspects of the policy implementation process.

Similarly, the Head of the Home Civil Service in the United Kingdom oversees the implementation of the Civil Service Management Code (setting out standards for managers and employees across the civil service and including the Civil Service Code which gives civil servants guidelines on standards of conduct) and the career management framework for the UK civil service. The post holder is also the Cabinet Secretary, working for the Prime Minister and chairing the Civil Service Management Board. Thus while day-to-day responsibility for a wide range of terms and conditions has been delegated to departments and agencies, the Cabinet Secretary is in charge of overseeing that general administrative procedure rules are properly applied by the civil servants. In this respect, these centralised managerial and professional rules mean that the Cabinet Secretary in the United Kingdom also can act as a competing principal in some areas.<sup>62</sup>

Administrative actors may derive some veto powers from laws, acts and codes of conducts intended to promote ethical behaviour. If the focus of those rules is primarily on compliance with formal procedures, they may be used pre-emptively to require the deferment of policy implementation even where unethical behaviours are merely anticipated. Thus a compliance-based ethics regime, as opposed to an integrity-based system, strengthens derived veto positions of institutional actors. On that basis, countries such as Mexico, Portugal and the United States have potentially competing principals which derive their authority from prescriptive administrative-legal frameworks for maintaining ethical standards. New Zealand, the Netherlands, Australia and Norway focus less on rule compliance and thus provide a weaker basis for such a veto position. The same situation applies to Sweden, which has a particularly informal system. The United Kingdom and Finland take an intermediate position.

Table A2.5 provides an indication of the degree to which the ethics regime is compliance-based (comprising readily enforceable explicit rules) or based around somewhat more generalised aspirations to integrity for four of the countries studied for this report.

**Table A2.5. Basis of the ethics regime**

Basis of the ethics regime:	Country
Integrity aspiration ("high road", hard to enforce)	New Zealand
	United Kingdom
	Mexico
Compliance-based (readily enforceable explicit rules)	United States

Source: OECD (1996).

### *Special inspection bodies*

While audit bodies generally report to the legislature, in the United States there is a special institution, combining audit, inspection and political powers, which reports to the President: the Inspector Generals of the Presidents Council on Integrity and Efficiency (PCIE). This is distinct from the Inspector Generals of the Executive Council on Integrity and Efficiency (ECIE). The latter can be viewed as an internal oversight body as they are appointed (and can be removed) by the head of the agency which they control. By contrast, the PCIE Inspector Generals are appointed by the President (and confirmed by the Senate). They are independent from the department in which they are located as they can only be removed by the President. They not only function as a general auditor of the operations of the department to prevent misconduct, such as waste, fraud and theft, but also they ensure that operations are in compliance with general established policies of the government. PCIE Inspector Generals are considered to be political appointees and are frequently chosen for their loyalty to the President. As they are placed within the department they have the information and the power to develop a veto-position in relation to the Secretary.

In France there is also an additional body vested with political competencies on the level of the executive – with a different task and arguably less powerful than the Inspector Generals but nevertheless competing with the ministries. The *Secrétariat Général des Affaires Européennes* (SGAE) is a central policy unit serving the Prime Minister with the task of coordinating the policies of all ministries in relation to the European Union. As potentially almost any policy issue involves coordination with the European Union, the SGAE has a role in many diverse policy areas and observers have commented that its role is such that political powers are being concentrated in the Prime Minister's office at the expense of ministerial autonomy.

The PCIE Inspector Generals in the United States and the SGAE in France can provide an institutional point of resistance to the implementation of a minister's policy and thus can constitute competing principals in the sense of this paper.


### **Country examples of the “few”, “more” and “multiple principals” models**

The comparison of the strength of the potentially competing principals investigated in this annex reveals large differences between the countries. In the United States each of the principals is relatively strong and the country provides an example of the “multiple principal” model.

In France three out of the four principals have significant veto powers and the country provides an example of the “more principals” model.

In Sweden, except for the strong position of the legislature, none of the other principals investigated is strong. Sweden is one of the “few principals” countries. The same applies to the United Kingdom where it is not the legislature but the somewhat strong position of the Cabinet Secretary which constitutes the “few principals”.

**Table A2.6. Competing principals in four countries**

Competing principals	Country	Potential strength as competing principals				Summary position regarding institutional constraints to political responsiveness within executive bodies
		The legislature	Other ministries or departments	Veto players deriving authority from legal frameworks or professional rules	Special inspection bodies	
Multiple  Few	United States	Strong	Strong	Strong	Strong	Multiple principals
	France	Weak	Strong	Strong	Strong	More principals
	United Kingdom	Weak	Weak	Mixed	Weak	Few principals
	Sweden	Strong	Weak	Weak	Weak	



### ANNEX 3

#### HYBRID APPOINTMENT PROCEDURES: THE EXAMPLE OF BELGIUM

Following a series of public outrages concerning the performance of key public services in Belgium, most famously the Dutroux and the Dioxine affairs, extensive reforms of human resource management arrangements were undertaken within the public sector. The Copernicus reform in particular sought to enhance managerial capacity and hence the performance of the federal civil service.

The special Federal Selection body, called SELOR, was an important instrument in the process. One of its primary tasks is to guarantee merit criteria in the appointment procedures of high-level executive civil servants. Except for some special policy advisors outside the normal hierarchy, and above all except for the politically appointed staff of the ministerial cabinets, SELOR is involved in the selection of all civil servants comprising all senior executives in the federal civil service.

Levels beneath the three top tiers of the Belgian federal civil service are selected by an internal administrative procedure where the *Comité de Direction* of the ministry holds a secret vote to recommend which candidate should be chosen. The result is then sent to the minister whose task it is to make the final choice. However, the minister is expected to follow the recommendation of the *Comité de Direction*. If its vote is unanimous it is extremely difficult for a minister to override their recommendation.

By contrast, the three top levels in a Belgian ministry (Chairman of the Board N, Director General N-1 and Director N-2) are mandate functions which are selected through a procedure involving the Selection Office of the Federal Administration (SELOR) to guarantee merit criteria and the hierarchically superior. In the case of the level one this superior is the minister who, in addition to merit, also focuses on political responsiveness. As ultimately the minister has to give his agreement the selection procedure for all three top levels has been qualified as hybrid.

As an example of hybrid appointments, this annex concentrates on the selection procedure of level 1 in Belgium.

The appointment process is divided into two phases. The first phase, the administrative part, is directed by SELOR, the second one consists of the minister's decision.

In the first phase, SELOR oversees a complex procedure leading to the pre-selection of a pool of suitable candidates based on merit criteria. In this process they study the *curriculum vitae* and the experience of candidates, conduct examinations and hold interviews. The selection jury, which is set up by SELOR and which conducts those steps, includes various independent experts.

## Phase 1: Pre-selection

The pre-selection process conducted by SELOR can be divided into four steps:

1. **Preliminary pre-selection:** Based on the information provided by applicants in a standardised CV-form, SELOR identifies those candidates which fulfil the general appointment conditions for a public service position at the executive level and the particular conditions required for the respective post.
2. **Computerised examination:** During a test, which typically lasts for three hours, candidates who passed the preliminary pre-selection go through a large number of multiple choice and further exams that can be corrected with the help of standardised computer analysis and which aim at evaluating the candidate's management capacities as well as their personality. The results are forwarded to the selection commission which interprets them.
3. **Oral examination:** During another three-hour test the candidates are then asked to analyse a practical case which relates to the management task for which they have applied. They present their results and recommendations to the selection commission which will interview them in regards to their presentation and their professional background. The selection commission is composed of equal numbers of French- and Dutch-speaking members and includes technical experts in the specific area, public servants who exercise an equivalent assignment at the same grade of the post to be filled and independent experts. In addition to those members, union representatives have the right to be present as observers at any given examination session except for the selection commission's deliberations. The commission evaluates the candidate's expertise in relation to the respective assignment as well as their general management competencies.

The selection committee consists of: the director of SELOR or his representative as chairman, an external management expert and an external human resources management expert, two external experts with experience in or knowledge of the specific duties of the position to be filled, two federal senior civil servants who have at least the same hierarchical position as the one of the vacancy.

4. **Rating:** In accordance with the *Arrêté royal of 29.10.2001* modified by the *Arrêté royal of 15.06.2004* applicants are graded into four groups by the selection commission going from A "very capable", B "capable", C "less capable" to D "not capable". This classification must be justified in writing and communicated to the candidates. Candidates are informed about their result in writing and, according to the Law of 11.04.1994 on Publicity in the Administration, candidates may ask for further written explanations within a "reasonable delay" of three months. Those graded into group A or B have passed the examination process and are considered as pre-selected.

## Phase 2: Ministerial decision

Based on the commission's final rating the minister holds further meetings with those candidates who received an A grade. From this pool the minister makes the final selection or may decide to select nobody. She or he needs to motivate his final choice. If there are no laureates with an A grade or if none of them is willing to accept the job, laureates of group B may also be taken into consideration.

## ANNEX 4 CIVIL SERVICE COMMISSIONS<sup>63</sup>

### Background

Civil Service Commissions (CSC) are independent bodies, with responsibilities and authority often entrenched in the Constitution, intended to ensure that the merit principle is observed in public appointments and promotions and that the civil service is protected from patronage and unsuitable or unlawful political interference (Polidano and Manning: 1996).

Unlike audit institutions, which usually report to the legislature, CSCs report to the executive government, *e.g.* the Head of State. However, commissioners are granted an independent status and are protected from arbitrary dismissal. They are chosen for their recognized expertise and, even though appointed by the Head of State, they are not part of the civil service.

Typically, CSCs publish an annual report, which can be attentively followed by the media and parliaments.

CSCs originate from the United Kingdom, where the first Civil Service Commission was established in the mid-19<sup>th</sup> century, following the Northcote-Trevelyan Report of 1854. The civil service of that time was small, and recruitment was chiefly through patronage, based on personal recommendation from highly placed patrons. The limitations of such a system were becoming increasingly apparent. As the Industrial Revolution advanced, the tasks of government expanded, the electorate broadened and the middle class began to demand more open access to civil service jobs and better performance. After a faltering start, in 1870, following a succession of critical reports by the commissioners on the fitness of candidates, the Cabinet approved competitive exams for entrance into the civil service, and promotion thereafter on merit.

Similar commissions were established in Australia, Canada and New Zealand in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, and civil service commissions were established in other British-ruled territories particularly in the period immediately preceding independence. For many colonies, the constitutional entrenchment of the commissions was deeper, and their authority significantly larger, than in the United Kingdom, as part of a deliberate attempt to prevent a return to patronage within the newly independent countries (Polidano *et al.*: 1996). Thus civil service commissions in the Indian sub-continent were in place when independence came in 1947. Malaya established a public service commission in 1949, the predecessor of similar bodies in Malaysia and Singapore. Many civil service commissions were established in Anglophone Africa in the 1950s and 1960s.

The United States was also a promoter of civil service commissions. The Pendleton Act of 1883 “provided for adoption of the British civil service system” (Van Riper: 1991, p.7) and created a civil service commission for the federal government. However, initially the U.S. Civil Service Commission was not fully independent as the President could remove members at will. Its initial coverage was only 10% of the public service, with the President having the authority to extend coverage at his own pace. For constitutional reasons (the President alone had the power of appointment) the Commission was restricted to providing a short list of candidates from which an appointee could be chosen.<sup>64</sup> The scope and impact of the commission was gradually extended and subsequently almost all states enacted similar legislation, as

did many major cities. Countries influenced by US models of government, such the Philippines and, later, Japan and Korea, followed this pattern.

By contrast, continental European states generally do not have such regulatory bodies but rather rely upon judicial review of administrative law or codes of conduct.

### **Country examples**

There are many types of CSCs, ranging from those that perform only a minimal regulatory role to those that act as appeals, policy-making or management bodies exercising control over the civil service.

While CSCs in countries of the Indian sub-continent, very much like the early commissions in Britain and the United States, still exercise primary functions in the recruitment and promotion processes, CSCs in many western and most OECD member countries focus on a guardian role of standards and values and do not become actively involved in the selection process in order to avoid a potential conflict of interest.

Consequently, countries such as the United Kingdom, New Zealand or South Africa concentrate on their control and appeals function, leaving the primary tasks of appointments and promotions to other governmental bodies.

#### ***Civil Service Commissions as guardians of standards and values***

In the United Kingdom and New Zealand, the CSCs undertake an important, albeit limited, role in relation to the core values of integrity, honesty, impartiality, objectivity and merit. They advise departments on the promotion of the Civil Service Code and are the final appeal body in the event that a civil servant wishes to complain that he or she is being asked to act in a way that is contrary to the code. Generally they are not directly engaged in appointments and promotions.<sup>65</sup>

CSCs in OECD member countries such as the United Kingdom and New Zealand were, arguably, able to move beyond the traditional task of undertaking selection, appointments and promotions because the merit principle in appointments is well entrenched by decades of practice and internal and external accountability mechanisms are very strong. The Public Service Commission of post-apartheid South Africa has now adopted a similar stance.

#### ***United Kingdom<sup>66</sup>***

In the United Kingdom, all strategic civil service management responsibilities are shared between the Cabinet Office and the line departments. The Civil Service Commissioners are independent from these bodies, appointed by Order in Council (“by the Crown under the Royal Prerogative”) and usually exercise their assignment part time with the assistance of some full time staff.

The CSC’s main role is to oversee appointments and standards by:

- publishing a Recruitment Code interpreting the principles of openness, fairness and merit. When a vacancy has been opened to candidates from outside the Civil Service, departments must follow the Code;
- chairing selection boards and approving appointments to the top 600 posts in the senior civil service where these have been opened to recruitment from outside the civil service;
- auditing departments’ recruitment systems for compliance with the Recruitment Code;

- advising departments on the promotion of the Civil Service Code and hearing complaints from civil servants under it;
- publishing an annual report.

The Commissioners are strictly bound to party-political neutrality. They may not hold any posts in a political party or support or criticise a political party publicly.

### *New Zealand*<sup>67</sup>

As one of the earliest, and one of the most radical, proponents of New Public Management, New Zealand delegated appointments and many human resource management authorities to individual departments and agencies. The chief executives in these departments and agencies hold extensive managerial flexibility, within a strong accountability framework for outputs and outcomes.

New Zealand's CSC, the State Services Commission (SSC), is in charge of selecting those chief executives and drafting their performance contracts with ministers. As established by the State Sector Act, 1988, the SSC is also responsible for:

- advising on state services management;
- defining and promoting good practice;
- e-government;
- training of public servants;
- integrity and conduct.

Recently, the SSC has been charged with ensuring that “a system of world class professional state services, serving the government of the day, and meeting the needs of New Zealanders” will be accomplished. In this context a set of six development goals has been adopted:

- employer of choice – emphasizing the role of government as a good employer;
- excellent state servants – achieved through public sector training and leadership development;
- networked state services – through e-government;
- coordinate state agencies – managing for outcomes, greater flexibility in vote structures via the Public Finance Act Amendment, accountability for results, broadened beyond individual agencies;
- accessible state services – coordinated decisions on delivery of state services;
- trusted state services – reliability and integrity, respect of citizens, codes of conduct.

The SSC also gives guidance to civil servants on what political neutrality of the public service means in practice.

State employees are free to belong to any lawful organization, including a political party. However, when taking a role in a political party, a state servant must avoid “bringing politics into the job” or “the job into politics”.

#### *South Africa*<sup>68</sup>

Similar to the United Kingdom and New Zealand, primary responsibility for managing the public service does not lie with the CSC but other central management agencies, most prominently the Ministry of the Public Service and the National Treasury. Those bodies are in charge of the human resource management tasks such as disciplining staff, promotions, schemes of service, job descriptions, training and skills development, salary scales and allowances.

The South Africa Public Service Commission (PSC) has the following functions:

- promote the values and principles of the public service;
- investigate, monitor and evaluate personnel practices of the public service;
- propose measures to ensure effective and efficient performance of the public service;
- recommend on personnel procedures relating to recruitment, transfers, promotions, dismissals;
- investigate grievances;
- monitor and investigate adherence to or breach of procedures and practices;
- advise national and provincial organs on personnel practices;
- make regular reports to appropriate state bodies.

However, the PSC has no authority in regard to teachers, health workers and local government staff personnel. Their rules and guidelines are the responsibility of their respective ministries.

#### *Civil Service Commission as an appellate body in the United States*<sup>69</sup>

The equivalent body in the United States is called the Merit Systems Protection Board (MSPB), formed by President Carter’s reorganization of 1978 which abolished the Civil Service Commission and divided its functions among the Merit Systems Protection Board, the Office of Special Counsel and the Office of Personnel Management. It seeks to ensure that merit is respected in appointments and promotions for all federal employees and to protect them from partisan political and other prohibited personnel practices or abuses by agency management.

It is mainly characterised by its quasi-judicial functions:

- appeals against personnel actions – removals, suspensions, furloughs, demotions;
- appeals of individual actions affecting individual rights;
- complaints;
- special concern cases;

- requests to review regulations of Office of Personnel Management;
- ordering compliance;
- conducting studies.

In its decisions, the MSPB is required to be guided by principles such as merit, non-discrimination, protection of whistleblowers and against unlawful partisan-politics in the office.

Amongst other laws it oversees compliance with the Civil Service Reform Act of 1978, the Whistleblower Protection Act, the Uniformed Services Employment and Reemployment Rights Act, and the Veterans Employment Opportunities Act and the Hatch Act prohibiting some political activities.<sup>70</sup>

Operational civil service management is the responsibility of another agency, the Office of Personnel Management, which makes rules and issues guideline to departments on a variety of personnel matters. Its functions are to assist departments in recruiting, assessing, promoting and retaining employees. It classifies positions, evaluates programmes and restructures divisions in regards to downsizing and outplacement.

The distinctiveness of the US Civil Service Commission, the MSPB, is its focus on hearing appeals from individual civil servants against disciplinary and other personnel actions taken by the Executive.

*Civil Service Commission as a management and oversight body in Korea*<sup>71</sup>

Amongst the country situations depicted in this annex, the Korean Civil Service Commission has the most extensive role. It is the central government's main civil service management agency and consists of several units: Office of Policy Management and Public Relations, Bureau of Personnel Policy, Bureau of Human Resource Development, Bureau of Performance and Remuneration, Office of Human Resource Information, Bureau of the Senior Civil Service.

The principal functions of the CSC are to:

- establish basic personnel policies and the civil service reform agenda;
- screen appointments and promotions of the senior civil service;
- introduce job analysis and performance-based personnel systems;
- coordinate training and education for civil servants;
- administer recruitment examinations;
- develop a human resources database for the public service, and manage the human resource management system;
- hear and determine appeals of civil servants;
- provide improved remuneration and benefits.

Some training and appeals tasks have been delegated to additional bodies such as the Central Officials' Training Institute and the Appeals Commission.

However, in distinction to Civil Service Commissions in other OECD member countries, the Korean commission combines monitoring adherence to the civil service law with functions of policy-making and implementation. It sets basic personnel policy, designs the civil service reform agenda, coordinates training, makes recommendations on pay, and maintains the government's central human resource database, while also performing the traditional functions of recruitment and promotion screening and appeals. In order to deliver effectively on this large variety of assignments it is relatively large with a correspondingly elaborate departmental structure.

#### *Country comparison and conclusions*

Traditionally most civil services were centrally managed, with a clear set of rules leaving little discretion to ministries and agencies. As many OECD member countries have shifted their focus on service delivery performance, line departments and agencies have been granted greater autonomy by transferring HR functions to them (Polidano *et al*: 1996). However, this new flexibility is supported by a growing role for the commission in quality assuring the processes that the line departments follow. In some cases the powers of the commission have also been expanded to an extent that the CSC functions almost like a civil service ministry.


The resulting dividing line between the commission's oversight functions and other civil service management institutions can be clear, with the Civil Service Commission acting as a watchdog agency reporting on the executive's performance in managing the civil service with commissioners typically appointed from outside the public sector and vested with independent powers to perform their regulatory role. In such a setting the HRM policy-making remains the responsibility of a civil service ministry or department, directly accountable to a minister. However, it can also be more graduated, with less bright line clarity concerning the distinction between the CSC and other central civil service management bodies.

There are three constraints on the institutional design choices. First, and most obviously, delegation is limited by the degree to which line departments and agencies have come to accept merit-based HRM approaches as fundamental to their daily practice. A hands-off CSC will not be able to identify all cases of inappropriate recruitment or promotion. Second, there is a potential conflict of interest between the appointment and promotion function, and the appeals function. Third, locating the strategic management function within a significantly autonomous commission represents a balance between two risks. On the one hand, there is the significant risk that without creating a locus outside of government, the management tasks simply will not get done in any effective way. On the other, there is the equally significant risk that the commission will effectively become captured by the civil service and will undertake its planning, organizational restructuring and its pay and grading work with little or no regard for larger government priorities.

Table 4A.1 gives an overview of the country examples, along a scale indicating the degree to which the CSC focus includes operational human resource management responsibilities.



**Table 4A.1. Different types of Civil Service Commissions**

	<b>CSCs main focus</b>	<b>Countries</b>
<p>Civil Service management within CSC</p>  <p>Delegation of management to line departments and agencies, CSC concentrates on strategic overview</p>	Recruitment, oversight, and appeals	Korea
	Recruitment	India Pakistan Bangladesh
	Appeals	United States
	Oversight	United Kingdom New Zealand South Africa

**ANNEX 5  
THE QUESTIONNAIRE**

**General arrangements**

- Is the principle of political neutrality of the public service spelled out in constitution, law or regulation?
  - yes
  - no
- If yes, please cite main instances.
- Is convention or custom supportive of the political neutrality of the public service?
  - Strongly
  - Somewhat
  - Not at all
- Is there administrative law which places limits on political involvement in public service administration?
  - yes
  - no
- If yes, cite the most relevant provision.
- Are there laws, codes or customs which limit involvement of public employees in:

	1, Are there laws, codes or customs? (yes or no)	If you answered yes in column 1, is this for a) all public employees? b) only public employees holding civil service status? c) for senior public servants only?
Standing for public office?		
High profile party political activity?		
Other party political activity?		
Trade union activity?		

- Please quote the most relevant provisions. Are these provisions actively enforced?

- Do these arrangements also apply to arms-length non-departmental service public bodies?
  - yes
  - no
- If no, how are they different?
- Public servants and outside observers generally regard the formal provisions for political neutrality on administrative matters as ...
  - credible.
  - more or less credible.
  - not credible.
- Are alleged breaches of the principle of the political neutrality of the civil service actively pursued by Parliament and the news media?
  - yes
  - no

### ***Historic development***

- Has the law relating to the political/administrative interface been changed in the past? When and why?
- The historical tendency is towards ...
  - more
  - less direct political control in administration
- Have there been any scandals/incidents which have led to major changes in this area?
  - yes
  - no

If yes, please give an example.
- Does the degree of involvement by politicians in administrative matters tend to change with changes of government?
  - yes
  - no

If yes, identify main areas of difference between the parties
- In your country is there a tendency towards ...
  - more politically appointed staff
  - more contractual staff
  - more arm's-length agencies
  - none of the above
- This is generally seen as:
  - increasing political influence
  - reinforcing political neutrality
  - having none of these effects

Personnel management

- List the five most senior levels of your public service, starting with the highest level directly below the Minister, for example the Vice-Minister, State-Secretary or the Cabinet of the Minister. The key criteria should be who has authority over whom.
- Please provide an organisational chart. (If your civil services has different designation of ranks across ministries please give a “typical” listing).
- For these procedures, appointment, dismissal, promotion, transfer and performance assessment, please identify in the table below, by assigning a, b, or c, whether the procedure is
  - a. purely political (e.g. by ministers / other political actors)?
  - b. purely administrative (independent of ministerial involvement)?
  - c. a hybrid of political and administration (e.g. an administrative process chooses short-list of candidates, but final choice is political)?

	Level 1	Level 2	Level 3	Level 4	Level 5	Institutions involved	Special political advisors outside normal hierarchy
Appointment							
Dismissal							
Promotion							
Transfer to another position at same level							
Performance assessment							

- Do those procedures (for appointment, dismissal, promotion, transfer and performance assessment) differ ...
  - in arm’s-length agencies
  - for contractual staff at these five levels
    - in the centre of government (the body providing direct support to Head of Government and Council of Ministers)
    - in none of the above
- How do they differ (e.g. institutional arrangements? different for different levels?)
- Are there some levels/positions of public servants who automatically change with a change of government?
  - yes
  - no

If yes, indicate which levels/positions.

- If senior civil servants are selectively changed for political reasons with changes of government please indicate whether such changes are ...
  - widespread?
  - significant?
  - few?
  
- Where limited term employment contracts have been introduced, appointments, dismissals or transfers for political reasons are perceived as
  - more likely?
  - less likely?
  - as likely as before?
  
- Is the principle of political neutrality actively espoused in training material for staff development?
  - yes
  - no
  
- Do political appointees undergo any organised induction process to become acquainted with the operation and values of the public service?
  - yes
  - no
  
- Roughly what percentage of senior civil servants changed their existing jobs for whatever reason including transfer?

	Title and grade:	1	2	3	4	5	special political advisors outside normal hierarchy
a) following most recent re-election of government							
b) following last election of a new government							

Delineation of functional responsibilities

- Is there law, doctrine, regulation, custom or process (e.g. budget process) which delegates significant levels of management responsibility to senior civil servants?
  - yes
  - no
  
- Do ministers nevertheless tend to interfere in such areas of delegated authority?
  - frequently
  - seldom
  - never
  
- Is there a legal or customary obligation on senior public servants to provide ministers with independent professional advice (“free and frank advice”) even in circumstances where the advice may be politically unpalatable? Cite examples.

- Do some laws/statutes give specific senior civil servants administrative responsibility that is not subject to ministerial oversight?
  - yes
  - no
 If yes, give examples.
- Do civil servant positions with such statutory authority tend to be filled by people who are...
  - politically appointed?
  - administratively appointed?

Variations of terms during the period of elections

- During the period leading up to an election ...
  - appointments are prohibited (moratorium of appointments)
  - appointments are restricted
  - there are no restrictions
- Please specify:  
 During the period between an election and the formation of a new government ...
  - civil servants must provide impartial advice and information to all prospective members of the government
  - civil servants face additional restrictions on any activities that might be construed as political
  - there are no such arrangements or restrictions

Oversight of political/administrative delineation arrangements

- Please indicate the involvement of the following institutions in overseeing the political/administrative interface as a) either active or infrequent or b) *ex ante* (e.g. does the legislature have to confirm proposals for senior appointments?) or *ex post*, (e.g. does it investigate alleged breaches after the event).

Institution	1) Active or 2) Infrequent	1) <i>Ex ante</i> or 2) <i>Ex post</i>
The legislature		
The judiciary (e.g. civil service courts, <i>Cour des Comptes</i> )		
The auditor general		
Other institutions (please name)		

Please give an example of a major recent instance of oversight by institutions listed above.

- These oversight arrangements apply to non-departmental arm's-length public bodies with ...
  - equal force?
  - less force?
  - more force?

Please cite a major instance of this oversight in action.

Relative importance of different means of political administrative delineation

- Please rank the following factors from 1 “high importance” to 7 “low importance” in ensuring the separation of politics from administration in your governmental system. Do not use any rank more than once- this is a forced choice question.

Factor	Rank
General legal constraints on political involvement in administrative decisions	
The active development of a culture of political neutrality for the civil service	
The oversight of administrative decision making by the legislature	
The review of administrative decision-making by the judiciary	
Public transparency and rights to redress	
Statutory/institutional protections around specific politically sensitive decisions (including personnel matters)	
The creation of arm’s-length bodies outside of the civil service system	

**ANNEX 6**  
**THE TOP FIVE LEVELS AS INDICATED BY COUNTRY RESPONDENTS**

<b>Country</b>	<b>Level 1</b>	<b>Level 2</b>	<b>Level 3</b>	<b>Level 4</b>	<b>Level 5</b>
<b>Belgium</b>	<i>Président du Comité de Direction</i> (Chairman of the Board)	<i>Directeur général</i> (Director general)	<i>Directeur</i> (Director)	<i>Conseiller général, A5</i> (General Advisor, A5)	<i>Conseiller général, A4</i> (General Advisor, A4)
<b>Denmark</b>	Permanent Secretary	Head of department	Director General or Director	Head of division	Head of section
<b>France</b> <sup>72</sup>	<i>Directeur de Cabinet</i>	<i>Sécrétaire general</i>	<i>Directeur général</i>	<i>Directeur</i>	<i>Sous-Directeur</i>
<b>Italy</b>	Vice-Minister	Under Secretary ( <i>sotto segretario</i> )	Head of Department ( <i>capo dipartimento</i> ) or Secretary General ( <i>segretario generale</i> )	Director General ( <i>direttore generale</i> )	Director ( <i>direttore</i> )
<b>Korea</b>	Vice minister	Assistant minister (grade 1)	Director General (grade 2-3)	Director (grade 3-4)	--
<b>Mexico</b>	<i>Sub-Secretario</i> (Vice Minister)	<i>Titulares de Unidad</i> (Head of unit)	<i>Directores Generales</i> (General directors)	<i>Directores Generales adjuntos</i> (Deputy to Gen. Director)	<i>Directores de Area</i> (Head of division)
<b>New Zealand</b>	State Services Commissioner	Departmental Chief Executive	Deputy Chief Executive	General Manager	Manager
<b>Poland</b>	Secretaries of State, Undersecretaries of State	Director-General	Directors of Department, Deputy Directors	Heads of unit	Heads of sections
<b>South Africa</b>	Director-General, Salary level 16	Deputy Director-General, Salary level 15	Chief Director/Chief Executive Manager, Salary level 14	Director/Executive Manager, Salary level 13	Deputy Director/Manager, Salary level 11 & 12
<b>Sweden</b>	State Secretary	Director General/ Chief Legal Officer	Deputy Director General	Heads of departments	Directors
<b>United States</b>	Deputy Secretary	Interior Associate	Assistant Secretary	Varies depending on department	Varies depending on department



## ANNEX 7 COUNTRY RESPONDENTS

**Federal government of Belgium:**

Geert Sintobin, Jacques Druart  
Service Public Fédéral Personnel et Organisation

**Denmark:**

Camilla Vejøl Hartling  
Ministry of Finance

**France:**

Philippe Sagon, Antoine Godbert  
Direction Générale de l'Administration et de la Fonction Publique (DGAFP)

**Italy:**

Dr. Pia Marconi  
Dipartimento della Funzione pubblica (Ufficio per la semplificazione)

**New Zealand:**

Mark Holman  
State Services Commission of New Zealand

**United Kingdom:**

Cabinet Office

**Korea**

Sanghyun Lee  
Republic of Korea Civil Service Commission

**Mexico**

Dr. Rafael Martínez Puón  
Revista Servicio Profesional de Carrera

**Poland**

Dr. Jacek Czaputowicz  
Deputy Head of Civil Service

**South Africa**

Bobby Soobrayan  
South African Management Development Institute

**Sweden**

Mr. Knut Rexed, Per Stengård  
Swedish Agency for Government Employers

**United States**

Dr. Doris Hausser  
Senior Policy Advisor to the Director and Chief Human Capital Officer  
Stuart C. Gilman  
United Nations Office on Drugs and Crime

## NOTES

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1. Country responses were provided by key contacts in the 12 studied countries who, together with the country delegates to the OECD Public Employment and Management Working Party, have generously contributed their time and insights (see Annex 7). Particular gratitude is due to Knut Rexed and Stu Gilman who have provided detailed and thoughtful comments on recent developments in Sweden and in the United States. In addition, Francisco Cardona and Bob Bonwitt from OECD/SIGMA and Janos Bertok from OECD/GOV have provided invaluable guidance concerning the framework and approach. Geoffrey Shepherd (World Bank) has also provided useful comments.
  2. The literature reflects an ambiguity about political neutrality. Seemingly it can refer to an administration that does not take heed of political priorities and/or an administration that is equally responsive to all elected governments. This report uses neutrality in the sense of political non-partisanship, *i.e.* that the administration is not responsive to narrow party political concerns.
  3. To avoid confusion, it should be noted that, in this report, government is used in the non-US sense of the elected executive.
  4. Meier and J. O'Toole Jr. (2006) offers a particularly comprehensive review of the literature concerning this tension. Wood and Waterman (1991) provide evidence that in the case of the United States, political appointees were indeed associated with particular aspects of policy implementation.
  5. It is outside of the scope of this report, but it is important to note that some politicising behaviours are intrinsically hard to detect. For example, political responsiveness can also be achieved by means other than selecting politically-sympathetic staff. Shifting decisions to a different level of government is one example. In the United States, Peters and Pierre (2004) claim that conservatives have applied this strategy by moving decisions to the state or local level where they would hope for policies which are closer to their ideals. Similarly, moving decision making to notionally arm's-length agencies, while often described in terms of placing functions at arm's-length from political interference, can be used to increase political responsiveness through the government's power to appoint boards and executives of such agencies directly.
  6. A recent OECD/SIGMA paper points out that political advisors are distinct from public servants in three respects. Political advisors differ from regular civil servants in three crucial respects. "First, since they are personally nominated by the minister, they are exempt from the usual civil service entry requirements (although sometimes they may previously have served as civil servants). Second, they stand outside the normal hierarchy of the ministry. Usually they are responsible only to the minister and take their instructions from him/her. Third, they are exempt from the requirement imposed on civil servants to act with political impartiality; the whole point of a political advisor is, precisely, that he/she can give politically loaded advice that the minister cannot request of the civil service" (James: 2007, p.8-9).
  7. In essence, the *Rechtsstaat* tradition provides civil servants with a profound sense of the importance of preparing and enforcing laws in order to maintain the integrity and continuity of the state. This is somewhat in contrast to the Anglo-Saxon "public interest" tradition that sees civil servants as restraining the partisan actions of politicians on behalf of the public. This difference can be seen most readily in the conception of the state as a legal entity. In the Anglo-Saxon traditions, the state as such does not exist as a legal entity but rather one speaks of "government" or "government departments". In other traditions, the state is an entity capable of entering into legal contracts with other entities (such as regions, communes, universities, etc.). Shepherd (2007) notes the distinction between the Commonwealth model of managing

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- top officials, seen in New Zealand and the United Kingdom, following Whitehall constitutional conventions, and the US arrangements.
8. The survey does not include the subnational governments in Belgium (Flemish Community, Walloon Region, Brussels-Capital Region, French Community, German Community). Most significantly, the survey does not include the cabinet staff – restricting itself to the executive administrative senior civil servants.
  9. This entailed some interpretation in practice:
    - The term minister is not universal. For the United States, minister was interpreted as secretary.
    - In federal states this study looks at the federal level. In Belgium this includes all federal ministries (“Federal Public Services”) and their linked agencies or scientific institutions which depend directly or indirectly on a minister, but not for instance the army, the police, the health services, teachers or local authorities.
    - Respondents in France note that there is no clear hierarchy between the top five levels below the minister. For the purpose of this study and in order to facilitate international comparison the following order has been adopted for the top five levels of the French civil service: Level 1: *Directeur de Cabinet*, Level 2: *Sécrétaire general*, Level 3: *Directeur général*, Level 4: *Directeur*, Level 5: *Sous-Directeur*.
    - In contrast to the other countries, in Italy, levels 1 (Deputy Ministers) and 2 (Under-secretaries) usually refer to elected officials. As such they are not directly comparable with appointed civil servants of other countries at those levels and will, therefore, not be taken into consideration in comparative tables. The subsequent levels in Italy are: 3: Heads of Department or Secretaries General, 4: Directors General, 5: Directors. All levels as indicated by country respondents are depicted in Annex 6.
  10. An early exploration of the relationship between impartiality and representativeness was provided by Kaufman (1956). Others have picked up the baton and debated the risks and benefits of active representation and generally agree with Mosher (1968) in coming down on the side of passive representation – *i.e.* the belief that if the rules are fair and balanced, then selecting merit will (more or less) automatically lead to representativeness.
  11. While Sweden does not have the principle codified formally, non-partisan professionalism in implementing administrative law is deeply embedded in the political/administrative culture.
  12. Although political involvement in administration is not explicitly proscribed, all government instructions to the implementing agencies have to be in writing and made public, and the government may not interfere in an agency’s interpretation of laws that are to be applied to citizens and enterprises.
  13. See also Kettl, Pollitt *et al.* (2004).
  14. Exceptions apply during the period of elections and when a member of the military is a candidate or elected official, such as a parliamentarian or city council member.
  15. For Sweden this table reflects the appointment procedure in a typical ministry. In Swedish agencies, however, only the top two levels (Director General and Deputy Director Generals) are politically appointed.
  16. See Note 9.
  17. The State Services Commissioner is appointed by the Governor-General in the Council (the sovereign’s representative in New Zealand) on the recommendation of the Prime Minister.
  18. In the federal government of Belgium, hybrid refers to strict administrative procedures under which no civil servant of those levels can be dismissed without the proposal of the administration and the agreement of the minister.

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19. In Sweden, any dismissal of a public employee, even at the highest level, is covered by the Law on Employment Security. Dismissal can only be made on objective grounds, and the validity of these can be tried in the Labour Court.
  20. In Belgium appointments at the first three levels are made within the framework of a mandate system. When one function becomes free, a new open selection procedure is organised. It can lead *de facto* to a promotion, although not in legal terms.
  21. See previous note.
  22. Arguably, the arrangements in the United Kingdom are that while ministers may not themselves direct the transfer of a Permanent Secretary or other senior member of staff, there is a longstanding acceptance that a senior official who has “lost the confidence” of her minister will be moved by the Cabinet Secretary. Under such circumstances, early retirement can be and is sometimes actively encouraged.
  23. There are no formal procedures for performance assessment of political advisors in Italy.
  24. In the federal government of Belgium the performance assessment is made by the minister for level 1 (Chairman of the Board) – aided by an external bureau. Assessment of the level 2 (Directors General) is made by the level 1 (Chairman of the Board) and the relevant minister.
  25. See also Swilling and Woolridge (1997).
  26. During election periods the Federal Electoral Institute (IFE) actively controls and enforces particularly comprehensive rules.
  27. According to the Italian Civil Service Law once elected a civil servant automatically leave his/her post for the same period of time of his/her political mandate.
  28. As an exception to the rule certain categories of French civil servants (*e.g.* members of the military, prefects and police officers) face limits on political actions and trade union activities.
  29. Respondents in the federal government of Belgium noted that the operational aspects of policy implementation are “not subject to ministerial oversight” but stress that ministers have oversight on the strategic questions.
  30. Interestingly, when respondents were asked to elaborate, the importance of the legislature in this regard was slightly less clear (see Table 11).
  31. In the federal government of Belgium, there is oversight by the *Conseil d'État* which, does not belong to the judiciary but the executive branch.
  32. Parliament is only informed on level 3 appointments in view of possible parliamentary questions.
  33. Court of auditors (*Corte dei conti*), checks compliance with the law that sets the standards for Senior Civil Service appointments.
  34. The Senate has an active role (in distinction from the House of Representatives) and verifies about 1 200 out of the 10 000 political appointments. There is no oversight for the remainder.
  35. The Office of Personnel Management (OPM) applies rules of appointment and sets limits to the responsibilities of individual administrators, but although the head of OPM signs appointments this is largely a formal responsibility.
  36. The establishment of arms length agencies, such as Banco de Mexico, are perceived as having had the effect of increasing political neutrality.
  37. Administrators belonging to level 3 are automatically dismissed if their appointment is not confirmed within 90 days after a new government takes office.

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38. The sole exception is that the President of the Board of the Chancellery of the Prime Minister always changes with a change of government.
  39. With the exception of ministers' special advisors.
  40. Estimates from country respondents.
  41. In 2002, however, more than 50% of administrators in level 4 in Italy changed their job (through replacement and transfer) after the election of a new government in 2001, because of a special provision in a law proposed by the new government and passed by the Parliament.
  42. In the federal government of Belgium, governments are always formed by coalitions and a new government may comprise ministers who were included in the previous one. The percentage of change in the political advisors varies from 0 to 100 in function of the fact that the minister keeps the same competences, is a new one from the same political party or is a new one from another party.
  43. It depends on the personality of the minister and of the members of the Cabinet. Some Cabinets never interfere, others do.
  44. As managerial autonomy of directors has been introduced for the first time in 2001 in regards to budget procedures through the LOLF law, French respondents consider it to be too soon to judge if the directors' managerial responsibilities are respected by ministers or not.
  45. Some 10 000 public servants are politically appointed at the federal level, and in addition there are 100 000 political appointments at the state and local levels in the United States (Gilman: 2003).
  46. Korea has only recently opened 20% of its civil service positions to outside candidates.
  47. See Note 43.
  48. If the involvement of the large ministerial cabinets is regarded as "ministerial interference". A lot depends on the personality of the minister and the members of his Cabinet. Some Cabinets never interfere, others do.
  49. This characterization draws significantly on Government of South Africa (2005). It also draws, to a lesser extent, on Mouritzen and Svava (2002).
  50. The notion of veto-players refers to a concept originally established by Tseblis (1995) who defines a veto-player as "an individual or collective actor whose agreement is required for a policy decision". However, while Tsebelis refers to actors who influence the decision-making of governments as a whole, the stylised models set out in this paper focus on the political-administrative interface within a ministry and refer to actors who can facilitate or prevent the proper implementation of policy as defined by the minister.
  51. The study gives no basis for concluding which way (if either) the causal relationship runs. On the one hand, it is a reasonable speculation that deeper political involvement in staffing is a more demanding method of providing political control over ministries and departments than hierarchical authority – and thus to some degree is a necessity in a context of multiple principals. On the other, it could be argued that the causal relationship runs the other way – and that the situation of tight external oversight arises when there is deeper political involvement and so gives rise to the need for more checks and balances. In the absence of controlled experiments in national-building, the only safe conclusion is that these two phenomena are associated.
  52. By some observers the United Kingdom is seen as neutral.
  53. As noted, this refers only to administrative senior civil servants, not the politically appointed staff of the ministerial cabinets. It is not possible to limit the answer for Belgium to senior civil servants and compare it to the other countries.

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54. It is only the number of special political advisors that have increased. Since 1634 all others have been appointed by administrative decisions taken by the king or, during the last three decades, by the Council of Ministers.
  55. Mandates concern only the non-political senior civil service staff.
  56. This table largely draws on Molander *et al.* (2002).
  57. See Aberbach and Rochman (1998), Hecklo (1977) and Salamon and Lund (1984) and, for a comprehensive overview, Garrett *et al.* (2006).
  58. This table largely draws on Gilman (2003).
  59. See Note 50.
  60. Supportive of this point, in their survey of senior executives within the federal civil service, Aberbach *et al.* (1981) note that U.S. civil servants had more contacts with members of Congress than they had with their department secretaries.
  61. Country respondents, however, saw the minister's autonomy limited to policy implementation and saw policy decision as a rather collective process in Italy.
  62. Regulation inside the UK government has been examined in some detail in Hood, James *et al.* (2000) and Hood, Scott *et al.* (1999).
  63. In addition to the references cited, this annex draws significantly on Stevens (2006) and updated information from the websites of various Civil Service Commissions.
  64. This is similar in effect to the hybrid system discussed in Annex 3.
  65. However, the State Services Commission in New Zealand is directly engaged in the appointment and promotion of departmental chief executives (corresponding to level 2 in this study).
  66. See the UK Civil Service Commission website: <http://www.civilservicecommissioners.gov.uk/>
  67. See the State Services Commission website: <http://www.ssc.govt.nz/display/home.asp>
  68. See the Public Service Commission website: <http://www.psc.gov.za/>
  69. See the MSPB website: <http://www.mspb.gov/>
  70. See Annex 1.
  71. See the Korean Civil Service Commission website: <http://www.csc.go.kr/eng/>
  72. Respondents in France note that there is no clear hierarchy between the top five levels below the minister. For the purpose of this study and in order to facilitate international comparison the order specified above has been adopted for the top five levels of the French civil service.

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