

Eyes wide shut? **The politics of autonomous audit agencies in emerging economies**

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Abstract

What explains the effectiveness of autonomous audit agencies (AAAs) in emerging economies? How relevant are they for improving fiscal governance and curbing corruption? AAAs are autonomous state agencies tasked with overseeing government finances. They are a critical component of the system of checks and balances in financial governance. However, in many developing countries, they often fail to fulfill their prescribed roles. This paper models and measures the effectiveness of AAAs in Latin America, developing an index to evaluate their performance, and assesses their reform over time. It examines the cases of Argentina, Brazil and Chile, which illustrate the three models of AAA and three distinct trajectories of reform (or lack thereof). We find that, while the choice of institutional arrangements for government auditing matters, political economy factors condition the effectiveness of AAAs and shape their reform. Moreover, dysfunctions in government auditing are systemic, rather than agency specific. What matters most is the quality of the agencies' insertion in the system of financial oversight, in particular their relations with the legislatures. Reforming AAAs must therefore consider the country's trajectory of institutional change, the functioning of the system of fiscal control, and the culture of public administration. These research findings have important policy implications on the role of political institutions on financial governance.

Keywords: Government auditing, corruption, political economy, fiscal institutions, financial governance, public budgeting, fiscal control, legislative oversight, Latin America, Argentina, Brazil, Chile.

JEL codes: H11, H61, O54, P16

Introduction: Fiscal institutions and financial governance

Constant experience shows us that every man invested with power is apt to abuse it ... it is necessary from the very nature of things that power should be a check to power. Charles de Montesquieu, The Spirit of the Laws, 1748:XI,4.

In framing a government, which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place, oblige it to control itself. A dependence on the people is no doubt the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions. James Madison, The Federalist Papers 51, 1788.

What explains the effectiveness of autonomous audit agencies (AAAs) in emerging economies? How relevant are they to improving fiscal governance and curbing corruption? How can they be reformed and strengthened? Anchoring fiscal discipline and budget responsibility are key challenges for emerging economies seeking to strengthen financial governance. AAAs have an important role to play for improving financial governance and discouraging corruption in the public sector.¹ They are pivotal actors in the governance of the budget and the system of fiscal control, providing much-needed checks and balances in the management of public finances.

Tasked with scrutinizing public spending and overseeing government finances, AAAs are ‘pillars of integrity’ (Dye and Stapenhurst 1998) acting as agencies of government restraint within the state. Their main task is to review the robustness and effectiveness of financial management, government accounts and control systems and, therefore, contributing to strengthening those. They help to improve transparency and accountability in the budget process, traditionally dominated by the executive branch. As oversight institutions, they participate in the cycle of legislative accountability, assisting the legislature in holding government to account for the manner in which it manages public finances.

However, little is known about how to measure their impact and what determines their effectiveness. While AAAs are amply acknowledged as central actors in the governance of the budget, they are often weak institutions failing to fulfill their prescribed role. They are contested organizations, criticized for their inability to curb corruption and reduce waste in government finances. Furthermore, they are particularly hard-to-reform organizations. Their reform has proved particularly elusive in developing countries (Dorotinsky and Floyd 2004).

Although they have been receiving greater attention in the past decade, AAAs remain unexplored institutions of financial governance, outside a small circle of public finance specialists. There exists little comparative research on the functioning and performance of AAAs, most of which carried out by auditors themselves. In particular, the political economy of government auditing and financial accountability has received little attention until recently. The emerging literature on

¹ Those autonomous state organizations tasked with independently auditing government finances are hereafter referred to as autonomous audit agencies (AAAs). This terminology is used to underscore the autonomy of these organizations within the structure of the state, as part of the checks and balances on government, like oversight agencies and accountability institutions. The International Organization of Supreme Audit Institutions (INTOSAI) officially refers to them as supreme audit institutions to underline their position at the helm of the government auditing systems. They are also called state audit institutions, auditor general’s offices, comptroller general’s offices, national audit offices, courts of accounts, or tribunal of accounts, reflecting different institutional traditions for organising the external auditing function in modern states.

fiscal and budget institutions, to which this article seeks to contribute, is starting to address this shortcoming.

Building on earlier findings on the role of budget institutions on fiscal performance, this paper models and measures the effectiveness of AAAs in emerging economies. It develops a quantitative index to evaluate their performance and gauge their impact on financial governance and fiscal oversight in ten Latin American countries. Resorting to agency theory and comparative political economy, it analyses the contribution of AAAs to mitigate the twin challenges of legislative delegation and government oversight in public financial management.

The article tests the explanatory power of alternative institutional arrangements for external auditing of government finances and delves into the political economy of government auditing and budget oversight to explain the root causes of institutional dysfunctions. It weighs the influence of two sets of factors underpinning organizational performance: *internal governance factors* linked to the choice of institutional arrangements for government auditing and fiscal control (the institutional design hypothesis); and *external governance factors* linked to the broader governance context in which AAAs are embedded, in particular the dynamics of executive-legislative relations, the nature of the political system, and the culture of the public administration (the political economy hypothesis).

Using a principal-agent analytical framework, it contrasts the institutional trajectories of AAAs in Argentina, Brazil and Chile, which illustrate the three main models for organizing the external audit function in modern states. The Argentine National Audit Office (*Auditoria General de la Nación*, AGN) is a legislative body with a collegiate decision-making structure. The Brazilian Federal Tribunal of Accounts (*Tribunal de Contas da União*, TCU) is a quasi-judicial body with a collegiate decision-making structure similar to that of courts of justice. The Chilean Office of the Comptroller General (*Contraloría General de la República*, CGR) is an independent state agency headed by a single auditor-general with ample powers and prerogatives.

The article argues that, while the choice of institutional arrangements for government auditing matters, political economy factors condition the effectiveness of AAAs. Ultimately, external, rather than internal governance factors have greater explanatory power on agency performance. Dysfunctions in government auditing and fiscal control are systemic, rather than agency specific and linked to the choice of institutional design. What matters most, therefore, is the quality of the AAA's insertion in the system of fiscal control and financial oversight. In particular, the agency's links with its main principal, the legislature, are critical to explain its effectiveness (or lack thereof). Strengthening external oversight of public finances necessarily entails revisiting the governance of the budget and enhancing the systems of checks and balances governing the budget process. Thus, AAAs face political constraints inasmuch as technical constraints.

The article also investigates the political economy of AAAs' reform. It reveals the limits of institutional design and constitutional engineering for improving the performance of external auditing of government finances. The cases of Argentina, Brazil and Chile illustrate three main pathways to reform (or lack thereof). While the Argentine case provides an example of failure *of* reform, the Chilean case offers an example of the failure *to* reform. While the Brazilian case illustrates the promises of gradual reform based on successive adjustments, the Argentine case warns against the dangers of radical reform based on the institutional transplant of exogenous models. The article thus demonstrates that standard reform strategies based on institutional transplant of exogenous models and changes in the agency's internal governance are likely to fail. External factors, such as the functioning of the national system of fiscal control, the functioning of the cycle of legislative accountability and the balance of budgetary powers, matter greatly. Ultimately, effective reform must be couched in the country's trajectory of institutional change and the nature of the country's public financial management system.

These findings have important implications for policymakers seeking to strengthen financial governance and reduce fiduciary risk, as well as for donor governments supporting these efforts through technical assistance and financial aid (Santiso 2006a, 2006b, 2004c).² This research contributes to the emerging literature on the role of fiscal institutions in financial governance and, in particular, the role of oversight agencies in financial accountability. It is structured in six main chapters. After this introductory section, the second chapter discusses the contribution of AAAs to the governance of the budget and the oversight of public finances. It discusses the concept of financial accountability, devises a conceptual framework and develops a quantitative index to gauge the performance of AAAs in ten Latin American countries. The following three chapters compare and contrast the trajectories of AAAs in Argentina, Brazil and Chile, respectively. The sixth and concluding chapter captures this article's key findings and policy recommendations.

Political economy of government auditing

Some officials handle large sums of money: it is therefore necessary to have other officials to receive and examine the accounts. These inspectors must administer no funds themselves. Different cities call them examiners, auditors, scrutinizers and public advocates. Aristotle, cited in Day and Klein, 1987:9.

Government auditing and financial governance

External auditing of government finances occupies a critical juncture in the political economy of financial governance and executive-legislative budget relations. AAAs are an integral part of the system of checks and balances overseeing government finances, acting as what James Madison (1788) called 'auxiliary precautions.' While constitutional provisions and institutional arrangements vary from country to country, AAAs generally act as auxiliary agencies to legislatures in the oversight of public finances and thus contribute to the cycle of legislative accountability. They are autonomous state agencies tasked with overseeing government finances, enforcing 'horizontal accountability' and restraining government (O'Donnell 2003, 1998; Mainwaring and Welna 2003; Schedler et al. 1999).³

AAAs' role is to provide reasonable reassurances of the reliability of government financial statements and guarantee the integrity of government financial reporting. By enhancing budget transparency and government accountability, they provide potent incentives for improving the efficacy of public spending. However, despite widespread recognition of the importance of independent auditing of government finances, developing countries struggle to strengthen their AAAs. Repeated scandals of corruption and misuse of public funds, especially through flawed public procurement, have revealed important dysfunctions in the systems of fiscal control and government auditing. It is now amply recognized that, in the second stage of reform, improving economic governance, fostering fiscal responsibility and combating corruption necessarily require strengthening the institutions of accountability and oversight in government finances and the budget process.

² The emergence of direct budget support in recent years places further onus on the need to strengthen financial accountability, reduce fiduciary risk and curb corruption in developing countries finances.

³ 'Horizontal accountability' refers to 'the existence of state agencies that are legally enabled and empowered, and factually willing and able, to take actions that span from routine oversight to criminal sanctions or impeachment in relation to actions or omissions by other agents or agencies of the state that may be qualified as unlawful' (O'Donnell 1999:38). 'Horizontal accountability deals exclusively with those actions that 'are undertaken by a state agency with the explicit purpose of preventing, canceling, redressing, and/or punishing actions (or non-actions) by other state agencies that are deemed unlawful, whether on the grounds of encroachment or of corruption' (O'Donnell 2003:35).

Latin America countries are symptomatic of the many dysfunctions of fiscal control systems. The nature and functioning of presidential political systems have prevented the consolidation of robust institutions of restraint, oversight and accountability. Latin American presidential systems of government experiment a democratic deficit, which are particularly acute in public budgeting and financial governance. Latin American ‘delegative democracies’ (O’Donnell 1994) are characterized by important failures in the systems of checks and balances, which undermine the mechanisms of oversight and accountability. The concentration of budgetary powers in the executive, the recourse to executive decrees for managing public finances, and the frequent delegation of legislative budget prerogatives conspire against the anchoring of transparency, oversight, and accountability in accountability in public financial management.

While the ‘raison d’être’ of AAAs is not questioned, their relevance and effectiveness is. In Latin America, AAAs are often discredited and contested organizations because of their perceived inability to dent endemic corruption and improve the efficacy of public spending. Moreover, they are particular hard-to-reform organizations, showing great difficulty to adjusting to shifting executive-legislative budget relations and adapting to new trends in public sector governance. Nevertheless, in the course of the 1990s, Latin American countries have succeeded in modernizing their budgetary systems in important ways. As Tables 1 and 2 illustrates, there have been important reforms in financial control, accounting systems and auditing structures over the past decade (Dorotinsky and Matsuda 2002). Partly adopted at the insistence of international financial institutions, these reforms have included the revision of organic budget laws and financial administration regulations, the adjustment of fiscal control and government auditing frameworks, and the adoption of budget transparency laws and fiscal responsibility legislation.

TABLES 1 AND 2 ABOUT HERE

This reform effort is the latest wave of reform. A first wave occurred in the 1920s with the introduction of modern public budgeting and financial management systems following the recommendations of the Kemmerer missions backed by the United States (Drake 1989) (Mexico 1917, Colombia 1923, Chile 1925, Ecuador 1925, Bolivia 1927, and Peru 1930). These reforms contributed to the rationalization of financial administration and re-equilibration of executive-legislative budget relations, largely in favor of the executive. It was at that period that modern AAAs emerged in the Andean region (Colombia 1923, Chile 1927, Ecuador 1927, Bolivia 1928, Peru 1930). A second wave, also promoted by the United States, occurred in the 1960s when most countries were under military rule. It led to the modernization of budgetary systems in several countries (Brazil 1964, Uruguay 1962, Chile 1975, Mexico 1976). The third wave of reforms started in the late 1980s in the wake of the financial crises in the region and following the precepts of the Washington consensus (Santiso 2004a, 2004b). This wave saw important changes in AAAs, for example in Argentina in 1992, Mexico in 2000, Nicaragua in 2000 and Honduras in 2002.

These reforms have been informed by new findings on the influence of political institutions on fiscal performance and the role of budget institutions in financial governance, including the renewed role of legislatures in the scrutiny of public finances even in countries with highly centralized budgetary systems such as Chile. The renewed focus on strengthening government auditing and reforming audit agencies must be placed in this broader context. The budget literature demonstrates that institutional arrangements for public budgeting do matter. It finds theoretical and empirical evidence to suggest that budget institutions influence fiscal outcomes and that centralized budgetary systems are more likely to generate fiscal discipline and lead to smaller budget deficits (Alesina et al. 1996; Stein et al. 1998).⁴ Concentration of budgetary

⁴ Budget institutions are defined as ‘the set of rules, procedures and practices according to which budgets are drafted, approved and implemented’ (Alesina and Perotti 1996:3).

powers in the executive, it is argued, is ‘more likely to enforce fiscal restraint, avoid large and persistent deficits and implement fiscal adjustments more promptly’ (Alesina and Perotti 1996:7).⁵

However, excessive executive discretion in public budgeting carries important risks (Santiso 2006a, 2006b, 2005a). Weak separation of powers, concentration of budgetary powers and legislative delegation of fiscal prerogatives have broadened the scope for government discretion in public finances. This difficult combination tends to leave executive discretion unchecked. It hampers the development of robust oversight agencies and ‘horizontal accountability’ institutions capable of restraining the state (O’Donnell 1998; Schedler et. al. 1999; Mainwaring and Welna 2003). Latin American expeditious modes of economic governance are particularly harmful to the management of public finances, undermining the credibility of the budget as a strategic planning instrument. As a result of this new knowledge, financial governance reforms now involve a broader set of fiscal institutions beyond the executive, in particular legislatures, oversight agencies (Santiso 2007, 2006e; Dove 2002) and mechanisms of accountability within the state (Santiso 2004b).

Conceptualizing government auditing

By overseeing public spending and checking government finances, government auditing (internal and external) is a form of control and oversight designed to restrain executive discretion in public budgeting and mitigate the risks of legislative delegation in public finances. The contribution of AAAs to public sector governance is defined both in *positive* (improving government financial management) and *negative* terms (preventing corruption and minimizing mismanagement). Depending on their approach to fiscal control, AAAs have preventive, corrective or repressive functions (Barra 2002). They control compliance with fiscal rules and financial regulations. Their deterrence effect on future misconduct or impropriety depends on the credibility of their control.

AAAs generally act as auxiliary institutions to legislatures, assisting the latter in the performance of their oversight functions in budget and financial matters. While each external audit agency is unique and grounded in the country’s trajectory of state building, AAAs participate in the cycle of legislative accountability. They perform routine oversight of government finances corresponding to what McCubbins and Schwartz (1984) refer to as ‘police patrol’ oversight. This form of external control is distinct from the ‘fire alarm’ oversight undertaken by special legislative inquiry commissions, often set-up to investigate allegation of corruption.

The agency model of delegation and accountability, most commonly used in the literature of public sector governance (Przeworski 1999; Kettl 1999), provides a useful framework to decipher the dynamics of executive-legislative relations and legislative oversight of the executive (Mainwaring and Welna 2003). In general, AAAs act as ‘agents’ of the legislatures in the oversight of government. Legislatures delegate some of their oversight functions to specialized agencies in order to oversee government more effectively. This delegation of legislative oversight powers is different from the delegation of legislative budget powers to the executive, whereby legislatures delegate their powers to tax and spend to the executive. It is also distinct from the more traditional delegation of bureaucratic powers to specialized agencies, whereby governments delegate executive functions to autonomous executing agencies. Internal auditing systems insert themselves into the government-bureaucracy principal-agent relationships. They provide

⁵ Alesina et al. (1999) identify three main institutional arrangements conducive to fiscal discipline: numerical rules that establish ex-ante fiscal constraints on government spending and budget deficits; top-down or ‘hierarchical’ procedural rules that concentrate budgetary powers in the executive vis-à-vis the legislature, and, within the executive, in the finance ministry vis-à-vis spending ministries; and transparency requirements that ensure the comprehensiveness of the budget and the integrity of the budget process.

assurances to the government that the bureaucracy has effectively implemented the policies it has set.

While governments' delegation of powers to specialized agencies is designed to improve the implementation of policy, the legislatures' delegation of oversight powers to autonomous oversight agencies is designed to restrain government more effectively. AAAs can thus be conceived as auxiliary institutions helping the legislature (the principal) enforce accountability on its main agent (the executive) through routine oversight. The creation of autonomous agencies nevertheless generates another set of principal-agent dilemmas, between the legislature and the AAA.

Under the model of the cycle of accountability in the budget process illustrated in Figure 1, the legislature approves the budget, the executive implements it and the AAAs reports to the legislature to ascertain whether the resources have been used to the purposes intended.

FIGURE 1 ABOUT HERE

Typology of audit agencies

Features and functions of AAAs vary across countries and have evolved over time. Different institutional arrangements exist for organizing the external audit function in modern states. What roles AAAs actually play in financial oversight naturally depends on their structure and processes, as well as the resource endowments, legal powers and political instruments they possess.

Standard typologies of AAAs classify them according to their institutional features and functions and include three ideal types of AAAs: (i) the monocratic model, (ii) the court model and (iii) the board or collegiate model.⁶

- The *monocratic model* is that of a uninominal AAA headed by a single auditor-general and generally acting as an auxiliary institution to the legislature, albeit with ample autonomy. Under this model, AAAs focus on ex-post auditing, rather than ex-ante control, and emphasize financial and performance auditing over compliance control, Chile being an exception. The controls they perform seek to correct rather than penalize. This model is prevalent in Anglo-Saxon countries such as the US, the UK or Canada, and, in Latin America, in Chile, Colombia, Mexico and Peru, Chile nevertheless being an outlier.
- The *court model* is that of a collegiate court of auditors or tribunals of accounts, endowed with quasi-judicial powers in administrative matters, often acting as an administrative tribunal.⁷ The quasi-judicial features and functions of the court model privilege legal and financial compliance over performance auditing. The links with the legislature are weaker than in the monocratic model; yet those with the judiciary are also ambiguous. As a result, there is often uncertainty as to who is the agency's principal. Roman law countries such as France, Italy or Spain, and, in Latin America, Brazil and El Salvador follow this model.⁸
- The *board model* is an institutional hybrid. It is an agency with collegial decision-making similar to that found in tribunals, headed by a board of auditors, but without jurisdictional authority or quasi-judicial powers. Under this model, the AAA emits an audit opinion on the

⁶ For a review of typologies of external audit agencies, see: Allen and Tommasi 2001; Stapenhurst and Titsworth 2001; Dye and Stapenhurst 1998; UKNAO 2001.

⁷ According to Dye and Stapenhurst (2001:1), 'the institution is an integral part of the judiciary, makes legal judgments on compliance with laws and regulations, and exercises a budget control function to assure that public funds are well spent' and for the purpose intended.

⁸ In Chile, there exists a tribunal of accounts within the CGR, which itself follows the monocratic model.

reliability and probity of government accounts, usually for the legislature to consider. Germany, Netherlands, Sweden, and, in Latin America, Argentina and Nicaragua follow this model.

All three models share a central common feature: their independence from the executive (except in Bolivia). They are also linked, to varying degrees, to the legislature. The court model has closer ties to the judiciary, as in the case of the Brazilian TCU, the board model to the legislature, as in the case of the Argentine AGN, and the monocratic model to the bureaucracy, as in the case of the Chilean CGR. Figure 2 illustrates the typology of AAAs and situates the cases of Argentina, Brazil and Chile within it.

FIGURE 2 ABOUT HERE

International auditing standards underscore that for the external audit process to function effectively and impartially, AAAs must be independent from the executive. Nevertheless, to have a meaningful impact on bureaucratic behavior, they must also develop close working relationships with the bureaucracy they audit. Furthermore, as oversight agencies with limited sanctioning powers, they must also develop effective linkages with those institutions with the powers to bring government to account, namely the legislature and the judiciary.

In practice, AAAs are unique hybrids and do not fit easily in the traditional model of separation of powers. Each AAA combines elements of three different ideal types described above. Key variations between agencies include the timing of control (whether ex-ante or ex-post control), its nature (whether emphasizing compliance or performance auditing), its effects (the intensity of follow-up of audit recommendations), as well as its status (the legal standing of audit rulings). Comparative analysis of legal frameworks and institutional arrangements in Tables 3 and 4, respectively, reveals the great variety of functions these perform, as well as the difference in institutional arrangements.

Typology of audit techniques

AAAs' approaches to fiscal control also vary across countries and have evolved over time. The nature of external auditing of government finances is shaped by four main factors: (i) the type, (ii) timing, (iii) scope and (iii) enforceability of audits.

Types of audits Fiscal control can be preventive, corrective or punitive (Barra 2002). Their principal function is to audit the legality and regularity of financial management and accounting.⁹ AAAs guarantee the accuracy and reliability of government financial reporting through *financial audits* and ensure compliance with legal and financial regulations through *compliance audits*. Compliance control is concerned with the formal adherence with the legal rules and financial regulations framing the budgetary process. These functions include checking government's compliance with the mandate given by the legislature through the budget law. In recent years, AAAs have broadened their audit methods to assess the efficiency, effectiveness and economy of public spending through *performance audits*. Performance control is concerned with the substantive compliance with the objectives of the budget law and the manner in which public resources have been deployed.

The general trend is towards a greater emphasis on preventive and corrective functions through increased reliance on ex-post performance auditing. Undoubtedly, increased emphasis on performance and results is necessary to overcome the inefficiencies of procedure-driven bureaucracies, especially in civil law countries. However, it should not replace the need to uphold standards of integrity and probity necessary to combat corruption, especially in countries where

⁹ INTOSAI, Lima Declaration Lima Declaration of Guidelines on Auditing Precepts, Section 4, 1, October 1977.

the rule of law is weak. These two forms of accountability should complement, rather than substitute one other. Nevertheless, performance auditing is hindered by the legalistic culture of control that still prevails in Latin America, which privileges formal compliance with legal rules over substantive accountability with managerial objectives.

Timing of audits Fiscal control can occur before (ex-ante) or after (ex-post) the fact. Ex-ante auditing verifies the legality of administrative actions before they are implemented, thereby acting as a potential veto on administrative discretion. Ex-post auditing examines administrative actions after their implementation. Ex-ante and ex-post forms of accountability differ in their relative focus on prevention or correction, including punishment. Some scholars see accountability essentially as an ex-post phenomenon while others argue that, to be meaningful, it should occur before, during and after the exercise of public authority (Elster 1999; Schmitter 1999).

The timing of compliance control is a subject of intense controversy in the audit profession. While performance auditing can only be ex-post, compliance auditing can be either ex-ante or ex-post. While it is generally agreed that a core function of internal audit systems is to perform ex-ante compliance controls, there is disagreement over the extent to which AAAs should have any ex-ante compliance control functions. Ex-ante compliance control, often criticized as co-administration by the bureaucracy, gives the AAA veto power over administrative actions. It converts the AAA into a 'veto player' in the implementation of public policy, endowed with the power to question or nullify administrative acts (Tsebelis 2002). Nevertheless, it is generally accepted that AAAs should focus on ex-post forms of control, including through compliance control and performance auditing.

This controversy over the timing of compliance control illustrates a fundamental tension between two different philosophies of government auditing. Speck (2000) aptly underscores that AAAs are torn between two concerns: a *liberal concern* for limiting and restraining executive power, which is best achieved through ex-ante compliance control, and a *managerial concern* with improving public sector management, which is best achieved through performance auditing. While both these functions are important, the relative emphasis on one or another dimension will depend on the stage of development of the budgetary system, the quality of the bureaucracy and the prevalence of the rule of law. However, as Speck (ibid), they are unlikely to be compatible in the same organization.

Enforceability of audits An important controversy in accountability theories and the literature on oversight agencies centers on the enforcement of audit rulings and the sanctioning powers of audit agencies, especially AAAs. This debate has both theoretical and policy implications. It is central to our understanding of the distinctive roles of oversight agencies and accountability institutions. Accountability necessarily implies a measure of answerability (providing an account for actions undertaken) and enforceability (punishment or sanctions for poor performance or illegal actions) (Goetz and Jenkins 2001, 2004). Some authors argue that enforcement and sanctions are intrinsic elements of accountability and that 'inconsequential accountability is not accountability at all' (Schedler 1999:17). According to this view, without enforcement mechanisms, AAAs only impose soft constraints and ambivalent incentives. Consequently, still according to this view, to be credible, AAAs should be endowed with sanctioning powers, which they can impose directly and autonomously without the intervention of another state power.

We take a different view, however, distinguishing oversight agencies from accountability institutions. We argue that AAAs are essentially *oversight agencies* which dependent on accountability institutions to enforce accountability on government. *Accountability institutions* are those state powers endowed with the constitutional prerogatives to hold government to account. In the constitutional model of separation of powers, those accountability institutions are

the legislature and the judiciary. As Moreno et al. (2003:117) observe, ‘agents cannot hold other agents accountable, only their principals can.’ Only the government’s principal, the legislature, can enforce accountability on its agent. The function of oversight agencies such as AAAs is to provide information required to the government’s principal. For Allen and Tommasi (2001:356), ‘auditors are authorized only to *report* what they have found. They must rely on others to *correct* the reported problems.’

Oversight and accountability While accountability cannot exist without means of redress, it does not necessarily require oversight agencies to be endowed direct, legally ascribed sanctioning power. Rectification can be achieved *indirectly* through those state institutions possessing sanctioning powers and the ability to enforce accountability on government. Mainwaring (2003) and Kenney (2003) distinguish between *direct* and *indirect* sanctioning powers, noting that ‘some mechanisms of accountability rely exclusively on answerability without necessarily having the capacity to impose sanctions’ (Mainwaring 2003:13).¹⁰

This understanding of the role of oversight agencies reinforces the conceptualization of AAAs as auxiliary agencies to the legislature in the oversight of government finances.¹¹ It also underscores the critical importance of the synergies between the components of the architecture of fiscal control. In particular, it defines financial accountability as a system and a process, rather than the responsibility of a single organization. In fine, AAAs are only a component, albeit a critical one, of a broader system of checks and balances in public financial management. As O’Donnell (1999:39) underscores:

‘if [AAAs] are to be effective, they can very rarely function in isolation’: ‘effective horizontal accountability is not the product of isolated agencies but of networks of agencies. In particular, their ultimate effectiveness depends on decisions by courts and legislatures to enforce government accountability.’¹²

Therefore, a central paradox of AAAs resides in that their effectiveness depends both on their independence from government and the efficacy of their functional linkages with the legislatures and the courts. AAAs must also cultivate their relations with the public in general and the media in particular. The question thus becomes not whether AAAs should be independent or not, but rather how much independence is enough and how much is too much.

Measuring effectiveness

To gauge the impact of AAAs on financial governance, we construct a quantitative index of AAAs’ institutional effectiveness in ten Latin American countries and correlate it with proxy indicators of fiscal performance and budget quality. The index is constructed along the four key

¹⁰ According to Mainwaring (2003:13), ‘Accountability cannot exist with *no* sanctioning power; some capacity to redress wrongdoing by referring the case to other venues (especially the justice system) is critical to systems of accountability [...However], accountability does not require direct, legally ascribed sanctioning power. Agencies of oversight are expected to refer possible wrongdoings to actors that can impose sanctions; this indirect sanctioning power suffices to characterize a relationship of accountability.’

¹¹ This theory holds that political accountability for corruption and mismanagement should be enforced by the legislature on the executive, while managerial accountability for waste and underperformance ought to be enforced by the executive on the bureaucracy. In criminal and penal cases, including cases of corruption, the judiciary is responsible for enforcing judicial accountability.

¹² Another important distinction is between managerial accountability and political accountability: ‘political accountability involves holding those in public office responsible for performance and decisions, while managerial accountability involves the more technical aspects of fiscal and administrative responsibility’ (Newell and Bellour 2002:6). While managerial accountability is part of the process of bureaucratic delegation, political accountability is embedded in the process of legislative delegation. However, managerial accountability is often inoperative in the absence of political accountability.

attributes of AAAs: (i) their independence from the executive, (ii) the credibility of audit findings, (iii) the timeliness of audit reports, and (iv) the enforcement of audit recommendations.

- *Independence* Formal independence of AAAs is measured by reviewing constitutional and legal provisions along three main dimensions of independence: institutional (constitutional and legal guarantees), individual (guarantees for the auditor-general and the agency's staff), and financial independence.¹³ This indicator is inspired by Taliercio's research on tax agencies and this definition of institutional autonomy centering on governance mechanisms and managerial features (Taliercio 2004, 2003).
- *Credibility* The previous indicator measures *formal* independence and, thus, does not entirely capture the influence of informal rules and practices. Complementary information is thus required to measure public and expert perceptions of the credibility of audit work. The effectiveness of AAAs hinges upon the technical quality and institutional credibility of their audit findings and the manner in which they are attained. Audit processes must lead to clear findings and articulate cost-effective recommendations, supported by convincing evidence and an effective communication strategy (Allen and Tommasi 2001:356-357). The indicator of credibility of audit findings is derived from the survey data of the *Index of Budget Transparency* for 2003 (Lavielle et al, 2003).¹⁴
- *Timeliness* Timeliness is critical to ensure that audit findings are relevant and influence policy-making. Excessive delays make audit reports irrelevant and often inconsequential to sanction mismanagement or prevent corruption. The general perception of the timeliness of audit reports is also derived from the *Index of Budget Transparency* for 2003 (Lavielle et al, 2003).
- *Enforcement* Lack of adequate follow-up of audit findings and enforcement of audit recommendations is a principal cause of ineffectiveness. Audit findings are inconsequential if audit recommendations are not acted upon by the government, forcing a reluctant bureaucracy to comply, or if they are not expeditiously transmitted to the courts in case of criminal proceedings. They are of limited use if the dysfunctions they detect are not redressed through remedial legislative action, for example through corrective legislation, inquiry commissions or impeachment proceedings. The indicator of the degree of enforcement of audit findings (which does not only depend only on the AAA) is based on a measure of the legal status and binding nature of audit rulings by the United Nations Development Programme (UNDP 2004). However, this indicator measures whether AAAs are legally empowered to enforce their decisions, not necessarily whether they do so consistently.

¹³ The degree of AAAs' structural independence is captured along three main dimensions: institutional (constitutional guarantees, statutory provisions, formal supervision arrangements, scope of mandate, autonomy in defining work-plan, unfettered access to financial information, scope of authority), individual (rules governing selection, nomination and removal of agency head, length of tenure, individual privileges and immunities of auditors-generals, legally-defined procedures for recruiting, promoting and dismissing staff, degree of control of agency head over personnel management, professional standards and technical competence), and financial independence (level and determination of the agency's budget). Dove (2002:83) defines autonomy 'as an agency's ability to carry out its legal mandate without interference from other actors in its environment.' In particular, in terms of the agency's budget, while absolute financial independence is unrealistic and unadvisable, several institutional devices exist for securing adequate funding, such as numerical and procedural rules. The AAA's budget can be a fixed percentage of the budget, as in Ecuador or Guatemala. The AAA can also have the ability to draft its budget and submit it to the legislature, as in Argentina or Mexico. In Bolivia, Colombia and Venezuela, the executive must incorporate the agency's draft budget in the government's budget proposal without modifications. In Nicaragua, the AAA drafts its budget proposal and submits it for review to the executive as part of the normal procedures of the budget process.

¹⁴ This indicator is measured along four main dimensions, including whether the auditor-general is trustworthy; whether the agency's recommendations have contributed to combat corruption; whether the agency verifies that the executive complies with the physical goals of the budget programs; and whether it has the capacity to effectively oversee federal spending.

Table 5 shows how the index is constructed and Figure 3 illustrates the index of effectiveness of AAAs in ten Latin American countries. The Brazilian TCU and Chilean CGR perform above the regional average, while the Argentine AGN's performance is significantly worse.

TABLE 5 AND FIGURE 3 ABOUT HERE

This data highlight three key issues.

- First, the general index and its sub-indices reveal that, while formal political independence and enforcement capabilities are not necessarily lacking, the low credibility of audit work and the inadequate timeliness of audit findings represent a major hindrances. This finding reflects an important gap between formal powers and actual practices. Brazil, Chile, Colombia, and Costa Rica possess the most effective AAAs in our sample, while Argentina, Peru, Ecuador, and, to a lesser extent Mexico, have weaker AAAs.
- Second, agency performance does not appear predetermined by the model of external audit agency chosen by a given country, as shown in Table 6. While Ecuador, Peru, Costa Rica, Mexico, Chile and Colombia follow the monocratic model, their performance differs substantially. Similarly, while Brazil and El Salvador follow the court model with quasi-judicial powers, they exhibit different performance.
- Third, institutional arrangements vary greatly within ideal types and these variations within ideal types have great influence on organizational performance. These findings appear to suggest that other factors linked to the broader governance context and the agencies' trajectory of institutional development have greater explanatory power on the relative performance of AAAs across countries and over time.

TABLE 6 ABOUT HERE

Assessing impact

Statistical evidence from cross-country correlations suggests a strong link between, on the one hand, the effectiveness of AAAs and, on the other hand, the quality of fiscal governance and budget institutions. We assess the impact of AAAs both on *fiscal performance* in terms of budget outcomes and on *fiscal governance* in terms of budget processes. We use quantitative and qualitative measures of budget credibility, such as the level of deficit, volatility, centralization and transparency of the budget, as proxy indicators of the performance of fiscal policy. Proxy indicators for institutional quality include the indicators of the rule of law, bureaucratic efficiency, corruption control and constraints on executive power (Kaufmann, Kraay, and Mastruzzi 2005; Henisz 2004).

We find that the quality of external auditing has only a partial influence on fiscal outcomes in terms of budget deficits. It does nevertheless have greater impact on the quality of the budget processes in terms of budget transparency, as shown in Figure 4. Surprisingly, external auditing does not appear to be correlated with the strength of legislative budgetary powers, which would seem to indicate an important disjuncture between external auditing and legislative oversight. In fact, there appears to be a stronger association with the budgetary powers of the president and the degree of centralization of the budgetary system in the executive. It could be argued that greater centralization in budgetary system, and therefore greater executive predominance in public budgeting, requires more robust external auditing systems to check executive discretion and compensate for weaknesses in legislative oversight.

FIGURE 4 ABOUT HERE

However, we find an important influence of external auditing on the quality of fiscal governance in qualitative terms. The data reveals a strong correlation between the credibility of external auditing and the quality of fiscal governance in terms of the efficiency of the bureaucratic (Figure

5), the control of corruption (Figure 6) and the strength of public institutions (Figure 7). Considering the empirical and statistical evidence of the impact of institutional quality on economic development (Keefer 2004a, 2004b; Kaufmann and Kraay 2003; Knack 2002; Knack and Keefer 1997), we can infer that AAAs also have an indirect influence on fiscal performance through their impact on the quality of financial governance.

FIGURES 5, 6, AND 7 ABOUT HERE

The data nevertheless reveal a weaker connection between external auditing and adherence to the rule of law and constraints on the executive, suggesting that AAAs contribute only marginally to checking executive discretion (Figure 8). This finding suggests that AAAs alone are not enough to effectively restrain executive discretion and are themselves often undermined by it. It confirms that, while AAAs could potentially play a critical role in strengthening government accountability, they often fail to do so because of structural dysfunctions in the system of fiscal control in which they are embedded.

FIGURE 8 ABOUT HERE

These results suggest the existence of systemic failures in external auditing systems. To ascertain the influence of the governance context on agency performance, we complement the preceding cross-country statistical analysis with three longitudinal case studies, following the most-similar method of comparative inquiry. The following three chapters compare and contrast the institutional trajectories of the AAAs of Argentina, Brazil and Chile. These three case studies illustrate the three main different models for organizing the external audit function at the national level. Each case study analyses the agency's institutional profile, its institutional trajectory and its institutional linkages with the other components of the system of fiscal control, in particular the legislature. The annual certification of public accounts and discharge of government are used as proxy indicators of the quality of the linkages between AAAs and legislatures.

Argentina: The failure of reform and the fiction of control

To preserve traditions, violate the laws! Carlos Fuentes, *La Silla del Águila*, 2003:322.

The Argentine *Auditoría General de la Nación* (AGN) is a collegiate AAA with close institutional links with the legislature. It functions as the legislature's auxiliary agency in the oversight of government finances. The case of Argentina provides an example of fiction of control and failure of radical reform. The history of the AGN highlights the limits of institutional design and technical solutions as a strategy to improve organizational effectiveness.

The case of the AGN is an interesting case in two respects. First, it suggests that AAAs can have only a limited impact when formal fiscal institutions are undermined by informal practices and undercut by adverse political incentives. The AGN ranks among the least performing AAAs in the aggregate index of institutional effectiveness in Figure 3 and Table 5 suggests that performance is deficient across all dimensions and particularly in terms of independence and timeliness. Second, it illustrates the limits of radical reform strategies based on the import of exogenous institutional models. As in tango, extravagant advance was followed by swift retreat, as the implanted AAA proved not to be fit for purpose in a highly politicized bureaucracy lacking a culture of control and with weak adherence to the rule of law. The nature of the political system, regularly dominated by fused legislative and executive majorities, provides a particularly inauspicious environment for any form of external control and oversight.

Institutional profile

On paper, the AGN is a powerful organization inserted into a coherent framework for financial governance and fiscal control, with clearly delineated responsibilities.¹⁵ Admittedly, Argentina has made significant advances in rationalizing public budgeting and financial administration. However, there exist important dysfunctions that severely limit the AGN's effectiveness and adversely affect government accountability.

The AGN emerged in 1992 as part of sweeping reforms of public budgeting and the adoption of a new financial administration law. However, despite being provided for in the Constitution, the AGN still lacks an organic law cementing its internal governance and procedural rules. It acquired constitutional status in 1994 as a legislative body. Responsibility for the oversight of government finances ultimately rests with the legislature, assisted by the AGN. Legislative budget oversight is exercised through the joint audit and public accounts committee of the bicameral legislature (the *Comisión Parlamentaria Mixta Revisadora de Cuentas*, CPMRC), which is integrated by 12 members (six senators and six deputies), designated on a proportional basis for the duration of the legislature and presided over by a representative of the majority.

The AGN is an autarkic institution with legal persona, functional independence and financial autonomy. Its structure, functions and internal procedures are approved by the legislature by joint resolution of the budget and finance committees of each chamber and the CPMRC (Rodríguez and Bonvecchi 2006). The CPMRC oversees the AGN and is its main institutional anchor in the legislature. The AGN is a collegial organization with collective decision-making structures. It is governed by a college of seven auditors-general designated for an eight-year, renewable term. The Senate and the Chamber of Deputies designate three auditors each on a proportional basis.

The seventh auditor-general, the president of the college, is designated by a joint resolution of both chambers and, since 1994, by the main opposition party.¹⁶ However, this does not necessarily mean that the majority of the college of auditors belongs to the opposition; quite to the contrary, in fact, and the president of the college of auditors has usually been in the minority. Since decisions are taken either by consensus or majority vote, the representatives of the legislative majority can veto adverse audit rulings. This institutional set-up therefore allows the ruling party to neutralize any initiative that could damage or embarrass the executive. Furthermore, the ruling party can also delay, dilute or veto adverse audit rulings in the legislature and the CPMRC, which it usually dominates.

The AGN has a broad mandate, extending its jurisdiction over the economic, financial, legal and patrimonial management of the federal government, including programs financed by international financial institutions, debt financing and social spending (AGN 1993). The purpose of external auditing is clearly corrective, rather than punitive, being carried out ex-post and being non-binding in nature. External auditing includes both performance and compliance auditing. Ex-ante compliance control was abandoned in 1992 and was devolved to the internal control system, which was also restructured under the supervision of a central internal audit agency, the *Sindicatura General de la Nación* (SIGEN), placed under the authority of the President. The AGN does not possess direct enforcement and sanctioning powers and, therefore, enforcement is indirect through the referral of cases to the competent authorities.

¹⁵ The legal framework of the AGN is provided by the 1853 Constitution revised in 1994 (article 85) and the 1992 financial administration and fiscal control law (Law 24156), which replaced the antiquated 1956 accounting law (Law 23354). The 1992 financial administration law, the 1997 organic budget law (Law 11672) and the annual budget laws regulate the budgetary system.

¹⁶ The current institutional arrangements are the result of the 1994 amendment to the Constitution, which sought to strengthen external oversight of government. The 1993 *Pacto de los Olivos* between the ruling Peronist party and the opposition Radical party agreed to the principle of presidential re-election sought by President Carlos Menem in exchange for greater control over the executive and reduced concentration of powers in the presidency.

However, the independence of the auditors-general and that of the entire staff of the AGN is compromised by the partisan origins of their nomination. Muruzabal Lerga (1999) underscores that audit independence (objectivity and neutrality) has three main dimensions: the political independence of its governing authorities, the impartiality of its staff, and the ability to perform its tasks independently. None of the three dimensions of individual independence are fulfilled in Argentina.

Excessive politicization constitutes a major hindrance to the agency's credibility as an impartial auditor of government finances (Makón 2002 and 1997). The partisanship mode of designation of external auditors leads to a high degree of politicization of the college of auditors, which is compounded by the politicization of the agency itself. The AGN is literally 'sliced-up' amongst the two main political parties.¹⁷ Furthermore, political parties in the legislature are able to interfere with the auditing process at several stages, from the definition of the agency's work-plan to the follow-up of audit findings. As a result, as confirmed by several auditors-general, audit findings are often negotiated, rather than evaluated on their own merits. Furthermore, while auditors-general in theory have long tenures, in practice, the constitutional provision according to which the AGN president is to be designated by the opposition effectively means that the college changes every time there is a change in government.

As Ivanega (2004) suggests, while the AGN may be independent from the executive, it nevertheless is not independent from political interference. The controversies surrounding the designation of Rodolfo Barra as president of the AGN between 1999 and 2002 illustrate this point. In 1999, Menem, then in the opposition, nominated Barra, a former justice minister under his government and former Supreme Court judge, as head of the AGN. Barra's designation was interpreted as an attempt to neutralize the AGN and make sure it would not investigate allegations of corruption during the government of Menem (1989-1999) which Barra had integrated (González de Rebella 2001). A Salta Peronist, former Senator Emilio Cantarero, also chaired the legislature's CPMRC.

Furthermore, the auditing process is riddled with 'veto gates' and 'pressure points' which undermine its independence and effectiveness. The rule has been for the college of auditors to vote on audit reports by unanimity, a procedure that allows representatives of the ruling party to dilute or veto audit findings. Moreover, once the audit report reaches the legislature, it can be delayed further, as the CPMRC can request complementary information and investigations. Moreover, the CPMRC is able to shape the AGN's work-plan, either directly or indirectly by requesting special studies and ad-hoc investigations, and therefore restricts its margin of maneuver. It can also influence the AGN's budget, not necessarily by curbing it but rather by not endowing the AGN with the necessary resources to fulfill its mission.

Capacity constraints, procedural restrictions and institutional flaws further compromise the credibility of audit findings. External audits are sparse, usually not timely and seldom go beyond legal compliance. The timeliness of audit reports is inadequate to allow them to feed back into the policy process. For example, the AGN presented the audit report for the social program for pensioners (PAMI) for the year 1994 in 1999. According to Berensztein et al. (2000), they have not been used as an effective tool by the legislature neither to oversee the budget and improve budget efficiency, nor to prevent corruption and punish those responsible. Social expectations are indeed very low and, until recently, audit reports were neither expected nor considered by the public and the press. The credibility of government auditing is further inhibited by the ex-post nature of external audits and the absence of robust internal ex-ante controls. Furthermore, the focus on legal and financial compliance tends to emphasize lower-level details of administrative

¹⁷ Politicization also permeates the AGN itself. Each auditor-general is given a specific area of responsibility and has discretion over the designation of directors and deputy directors of internal directorates.

and financial probity of bureaucrats, tasks that should normally be undertaken by internal administrative controls.

Things have been improving in recent years, however. Leandro Despouy, a renowned human rights lawyer who assumed the presidency of the AGN in 2001, has sought to improve the timeliness of audit reports and move towards concomitant control. Since 2002, audit reports have been made publicly available as soon as the college of auditors had approved them. This apparently minor procedural change is nevertheless significant, as it ends the informal veto power of the CPMRC and its capacity to ‘park’ adverse audit findings, ‘*enviándolos al cajón.*’ Audits have also been made more politically relevant, targeting sensitive areas such as social spending, trust funds, public concessions, state subsidies and external debt. The AGN has revealed irregularities by public utilities providers, occasionally leading to the suspension or annulment of public contracts.

The current president of the AGN firmly believes that improving the disclosure of and access to audit reports should enhance the effectiveness of the AGN, by making their release mandatory and sanctioning obstruction (Despouy et al. 2002). In 2003, the government adopted a decree to improve freedom of information but limited to the federal government and without the binding powers of a law. The fiscal responsibility laws of 1999, and 2004 and the ‘federal pact’ of 2001 also oblige the government to disclose more fiscal and financial information, an obligation it has not actively complied with (Uña et al. 2004, 2005). The broadening of fiscal transparency has nevertheless carried political costs, reflected in the recent tensions between the government and the AGN. In 2006, the legislature, dominated by the ruling party, threatened to initiate impeachment proceedings against the president of the AGN on unrelated allegations of impropriety.

Nevertheless, the enforcement of audit recommendations and the imposition of sanctions in case of non-compliance remain deficient. Voluntary implementation of audit recommendations by the bureaucracy is sparse and there are no rigorous mechanisms for following them up and monitoring compliance. In 2000 and 2001, for example, almost one fourth of audit reports were redirected to the public prosecutor’s office and to judicial authorities, as there were suspicions of malpractice, fraud or corruption (Fadel 2002). Yet, these have had little effect, except when relayed by the media or the opposition.

The technical quality of audit reports is seldom questioned. The main criticism rests with their being inconsequential in terms of judicial redress or legislative accountability (Fadel 2002; Rodríguez and Bonvecchi 2006, 2004).¹⁸ Audit information is seldom used to hold government to account, and is often short-circuited in the legislature usually dominated by the ruling party. During the Menem era, the ruling party dominated all three state powers and, therefore, was able to block adverse audit findings either within the AGN or beyond it. This suggests that the effective separation of powers and the degree of political competition matter greatly to explain the effectiveness of external auditing.

Enforcement of audit findings has tended to occur indirectly through the peer pressure of societal control and increasingly assertive civil society organizations. The media has proved a particularly effective actor to publicize audit findings and indirectly enforce audit recommendations. Between 1997 and 2001, of all corruption investigations that appeared in the two main journals (*La Nación* and *Clarín*), over half of them resulted from leaked AGN reports that were either not yet

¹⁸ It is important to underscore that the AGN emits decisions (*‘dictámenes’*) that are processed through the legislative process. Audit recommendations are transmitted for consideration to the legislature’s joint public accounts committee. This committee does not have sanctioning powers either, and, in fact, is not obliged nor has the faculty to press judicial charges. It can nevertheless delay audit reports or abstain from emitting an opinion on audit findings, which ‘kills’ audit findings. The destiny of the audit reports is, at best, uncertain, lessening their effectiveness and usefulness.

approved or had been blocked (González de Rebella 2001). Interviews suggest that frustrated auditors often leaked the information. However, the media's interest in audit work tends to focus on highly visible corruption scandals, rather than more mundane efforts at improving public sector efficiency.

Institutional trajectory

To fully understand the determinants of the effectiveness of the AGN, it is necessary to inquire into its historical origins and institutional trajectory. The AGN emerged in 1992 as part of broader efforts to discipline public finances and rationalize public budgeting (World Bank 2001; Uña et al. 2005). By the end of the 1980s, the budget process had dramatically deteriorated to the extent that it became irrelevant (Petrei 1998). No budgets were approved in 1990 and 1991.¹⁹

Under pressure from international financial institutions, the 1992 reform of financial administration was designed to tackle the disarray in public budgeting and government finances. However, the government's original proposal for a new federal AAA was significantly altered during the legislative debate, which lasted for a year and a half, from April 1991 until September 1992 (Makón 2002; Baglini 2002). The main areas of contention centered on the features and functions of the AAA.

The AGN replaced the National Tribunal of Accounts (*Tribunal de Cuentas de la Nación*, TCN), established in 1956 as a court-type AAA modeled after its French and Spanish counterparts. It was made-up of five permanent members with life-tenure, tasked with controlling legal and financial compliance of federal public finances. It possessed ex-ante control authority and was endowed with quasi-judicial enforcement powers. The TCN reviewed ex-ante the legality of the executive actions, including executive decrees, and was able to suspend or annul them. In addition, the TCN judged the public accounts of public administrators and held accountability proceedings.

Yet, despite having wide powers, the performance of the TCN was uneven. By the end of 1980s, there was a broad consensus that the TCN needed reform. However, there is evidence to suspect that the decision to abruptly change audit system, rather than introduce changes to the existing system, was designed to neutralize external constraints on executive discretion. In the first months of the Menem administration, the TCN conflicted with the president's expeditious style of government and his reliance on urgency decrees. Allegations of corruption emerged, especially in the privatization process and public procurement, including overpricing and favoritism. The TCN questioned several executive decrees and exposed financial improprieties by government officials (Morgenstern and Manzetti 2003).

When it became too much of an irritant, the TCN was eventually dismantled. In March 1990, Menem dismissed the members of the TCN and replaced them with close allies led by his own brother, Eduardo Menem, in flagrant violation of the law according to which auditors-general could only be fired if impeached by the Senate. The courts recognized this abusive dismissal several years later. Not surprisingly, the TCN ceased to create problems for the government. Upon neutralizing TCN's administrative oversight, Menem pushed through the legislature the new financial administration law, which led to the replacement of the TCN by the AGN. Between 1990 and 1993, the AAA was thus effectively neutralized.

¹⁹ The last budget submitted to the legislature within the statutory deadline was in 1966 and the last budget formally approved by the legislature within the required time was in 1954 (Makón 1997).

Anecdotal evidence suggests that this maneuver was intentional, similar to the well-documented packing of the Supreme Court.²⁰ It represents another example of the strategies deployed by the Menem administration to undermine oversight agencies and defuse ‘veto points’ in economic policy and ‘accountability checks’ in financial administration. For most of his two terms in office (1989-95 and 1995-99), Menem could count both on a working majority in the legislature and a docile judiciary, which allowed him to undercut most checks and balances. In retrospect, most experts agree that changes in the external auditing system would have been preferable to a radical change of external audit model.

The final proposal stripped the AGN of some of the important prerogatives of its predecessor, including its selective ex-ante control of legality, its ability to suspend or annul unlawful administrative acts, its direct sanctioning powers in administrative matters, and its powers to initiate judicial proceedings and act as plaintiff. Internal control mechanisms were strengthened. Selective ex-ante control of major operations (in particular privatization and procurement) was abandoned and substituted by ex-post performance auditing. While this shift followed international best practice, the continued weakness of internal bureaucratic control and the rule of law meant that, in practice, ex-ante compliance control became ineffectual. The most important change to the original proposal, modeled after the US and Canadian AAAs, was the collegiate nature of the AGN and the mode of designation of auditors-general along partisan lines (Gutiérrez 2002).²¹ These alterations resulted in the politicization of the AGN, which was reinforced by the 1994 reform (Fadel 2002).

In sum, these reforms, although in theory compelling, were unfortunate and inopportune in the Argentine context (Baglini 2001; Despouy 2002). The reforms changed the formal institutions of fiscal control but did not affect the informal institutions and underlying power relationships in which the system of financial scrutiny is embedded. In Argentina, strengthening administrative probity required enhancing ex-ante controls, not undermining them.

Institutional linkages

In Argentina’s model of external auditing, the AGN functions as an auxiliary body to the legislature in the oversight of government finances. There are, nevertheless, important dysfunctions in the institutional linkages between the AGN and the legislature, which hinder the effectiveness of the system of fiscal control and, ultimately, government accountability. These are partly rooted in faulty institutional design, but more fundamentally in the nature and functioning of the political system.

The process of certification of public accounts illustrates these dysfunctions. One of the main instruments for the legislature to exercise political control on government is through the ex-post oversight of the budget. Through the annual review of government accounts, it decides whether or not to discharge government. In theory, the process is coherently organized. However, informal practices and legal controversies have precluded the system of legislative certification and discharge to function as intended, impeding the prompt and timely review of government accounts (Lamberto et al. 2005; Baglini 2005; Barra 2002).

The certification process is riddled with technical, procedural and political problems, which cause significant delays in the review of government public accounts in every stage, which has become a ‘labyrinth’ (Lamberto et al. 2002). For example, the CPMRC posits that the prior opinion of the AGN is required for it to proceed with the review of government accounts. However, the AGN

²⁰ Other administrative oversight institutions neutralized in the first years of the Menem administration included the *Fiscalía Nacional de Investigaciones Administrativas* and *Sindicatura General de Empresas Públicas* (SIGEP).

²¹ Author interview with a former president of the AGN, Buenos Aires, Argentina, 13 August 2003.

has repeatedly abstained from emitting an audit opinion on the entirety or portions of the government accounts. It has repeatedly argued that government accounts did not provide sufficiently reliable information on the true nature of public accounts and budget execution, thus blaming the executive for the poor quality of the fiscal information it generates (Braceli 2002).

The result has been a breakdown of the entire certification process. Between 1994 and 2006, the legislature had failed to either approve or disapprove government accounts. In 2005, the last public accounts to have been approved were those of 1993, which were approved by the CPMRC in June 1997 and by the legislature a year later in June 1998 (Uña et al. 2005). Nevertheless, in March 2006, the CPMRC approved the public accounts of 1997 and 1998, which were subsequently approved by the legislature in May 2006.

However, the public accounts of 1994, 1995, and 1996 remain imbued in controversy. They were audited by the AGN in 1997, 1998, and 1999, respectively, and reviewed in the CPMRC in late 2002, but resulted in majority and minority opinions. These public accounts are particularly problematic, as the aftermath of the financial crisis in México in late 1994, known as the *Tequila crisis*, had an important impact throughout the region. The crisis made the growth and macroeconomic estimates on which the budgets were built irrelevant and converted the budgets, especially those of 1994 and 1995, into a legal fiction. As a result, the public accounts of 1994 to 1996 cannot be approved. However, there is uncertainty in the legislature of what should happen were government not to be granted discharge and who should be held to account.

Such delays tend to make the whole exercise extraneous, all the more because the review of government accounts tends to restrict itself to a review of compliance with legal and procedural rules, rather than a substantive review of government performance. Moreover, the legislative decision whether or not to discharge government is an ordinary law, which could, in theory, be vetoed by the executive, an absurd situation that has nevertheless not yet occurred (Baglini 2005; Rejman 2005).

Table 7 shows that delays in the certification process originate in the legislative stage, rather than in the audit stage. In 2004, the AGN processed the public accounts of 2002 and, in 2006, those of 2003 and 2004. The AGN has been able to gradually catch up on its backlog. At the time of writing in mid 2007, was reviewing the accounts of 2005 and considering those of 2006. These findings suggest that dysfunctions in the auditing process do not originate in the AGN's weak technical capacity, but rather in the political filtering of audit findings in the legislature. The result is a lack of enforcement of audit recommendations, ineffectual follow-up of audit findings, and limited publicity of audit reports.

TABLE 7 ABOUT HERE

These shortcomings reflect deeper structural flaws in the system of fiscal control. They impede the budget to function as an instrument for strategic planning and a tool for legislative scrutiny. They are partly a result of a lack of interest or incentives of the legislature to use external audits to effectively oversee government finances. This situation is not new, however, but has deep roots in Argentina's history. More fundamentally, it reflects wider dysfunctions in financial governance, in particular legislative oversight and bureaucratic integrity (Makón 1998). Excessive polarization and a general weakness of the rule of law constitute key hindering factors to the independent auditing of government finances (Ducoté 2001).

Fiction of control

A characteristic feature of the Argentine system of fiscal control is not the lack of control, but the fiction of control. A former auditor-general, Hector Rodríguez (2002:161), summarizes the

Argentine ambivalence towards the law: ‘we are Argentineans and have anomies. Sometimes, things are not what the lay says they are.’ This gives the impression ‘that the administration is being controlled or that it is possible to control it, when in reality the system ties the hands of those who are supposed to exercise such control’ (Atchabahian 2002:155). While the law is complied with formally, reflecting a formalism of control techniques inherited from the country’s legal system, it is not complied with substantially. The absence of evaluation of management performance, both inside and outside the government, precludes substantive government accountability. This façade formalism nevertheless constrains public managers by detecting minor procedural and administrative mistakes, rather than tackling structural dysfunctions and political corruption.

Since the process has been in disarray for so long, the question then becomes why politicians and policymakers have maintained the fiction of control. The root cause of such dysfunctions is not a lack of technical capacities, but rather a lack of political incentives to use existing audit information to hold government to account, both for compliance and performance. In the Argentine institutional set-up, the relations between the AGN and the legislature, mediated by the CPMRC, are essentially political in nature, between the representatives of political parties in the legislature and the professional auditors designated on partisan grounds. The ruling party tends to dominate the CPMRC, which diminishes its incentives for critical oversight. The result is that the AGN has ended-up hierarchically depending on those very authorities it is meant to control. As the Argentine writer José Hernandez (1834-1886) once wrote, ‘the law is like a knife: it does not menace the one who holds it.’

The weakness of the CPMRC is also rooted in the broader institutional weakness of the legislature in the budget process (Rodríguez and Bonevecchi 2004). The partisan mode of designation of external auditors is compounded by the high rate of rotation and limited expertise of the members of the CPMRC who are, to paraphrase Jones et al. (2000) ‘professional politicians, amateur legislators,’ with few exceptions. Unlike their counterparts in Brazil and Chile, Argentine legislators have short-term political horizons as a result of electoral rules based on closed list proportional representation and the overwhelming influence of provincial politics on legislative careers (Jones 2001; Spiller and Tommasi 2000). Legislators’ careers do not depend on their standing in the legislature, but rather on their ability to cultivate connections in the provinces or the federal government. They thus have few incentives to specialize and invest in the legislature’s oversight capacities. Nevertheless, in recent years, several legislators have proposed to strengthen the legislature’s budget capacities through the creation of a legislative budget office.

As a result, formal budgetary rules are often circumvented, if not blatantly violated. The legislature participates in the fiction of control. For example, while the 1992 law allows the executive to modify the budget during its execution only in exceptional cases, budget re-allocations have become the rule rather than the exception since 1997. Annual budget laws have repeatedly lifted restrictions on the executive’s ability to modify the budget during the fiscal year (Uña et al. 2005). The legislature has also failed to establish the committee to oversee executive decrees, as provided for by the 1994 amendment to the Constitution. In August 2006, the executive pushed through a reform of the 1992 law giving it free reign over the budget, a proposal sanctioned by the legislature. The role of the legislature in the budget process is now limited to approve the overall amount of the budget and the level of indebtedness (Díaz Frers 2006). The measure was accompanied by a relaxation of the rules governing the approval of executive decrees, which are now automatically approved unless explicitly objected by the legislature.

In sum, flaws in institutional design are compounded by the broader political context in which the AGN is embedded. Some of the characteristic features of financial governance in Argentina include a broad delegation of budget powers of the legislature to the executive, an ample discretion of the executive in public financial management, a centralization of the budget process

in the executive, and a disproportionate recourse to executive decrees to reallocate budget appropriations during the fiscal year (Santiso 2003, 2001a, 2001b, 2001c; Bambaci et al. 2002; Ferreira Rubio 2000). These tendencies are reflected, for example, in the multiplication of off-budget special funds in recent years (Abuelafia et al. 2005). The concentration of budgetary powers in the executive is the result of the legislative delegation of budgetary powers combined with the concentration of fiscal prerogatives in the executive, including through the use, abuse and misuse of executive decree authority (Uña et al. 2005a; Carey and Shugart 1998; Mainwaring and Shugart 1997). This ‘addiction’ to decrees, especially in public budgeting, has outlived Menem to become engrained in budgeting practices under Néstor Kirchner.

Failure of institutional transplant

In terms of approaches to reform, an important lesson from the Argentine case is the failure of institutional transplant. The trajectory of the AGN constitutes a clear case of failure of radical reform and institutional engineering based on the import of exogenous models of external auditing. The external audit model imported in the early 1990s prematurely eliminated critical features of the previous model without replacing them with adequate substitutes. Unlike in Chile, the Argentine bureaucracy was simply not ready for ex-post performance auditing and the abandonment of ex-ante compliance control.

The ex-post and corrective nature of external auditing and the lack of effective ex-ante preventive mechanisms are particularly problematic in the context of a politicized bureaucracy lacking self-control and in which impunity prevails. Financial laws and control systems are either circumvented or lack the necessary supplementary legislation to be effectively enforced. Procedural uncertainties and ambiguities, for instance in the certification of public accounts, allow room for interpretation, delays and dilution. The weakness of the AGN is a reflection of broader dysfunctions in public management, in particular the nature of economic policymaking and the absence of a professional civil service (Rodríguez 2002). Human resource management in the public sector remains a critical hindering factor. The absence of a specialized ‘corps d’état’ in the AAA has precluded the emergence of an ‘esprit de corps’ within the agency, as in Brazil or Chile. Half of the staff of the AGN is under short-term contracts.

The core dysfunction of the system of fiscal control is therefore not to be found in intrinsic flaws in the AGN’s institutional design, but rather in its inadequacy to the Argentine public sector (Abuelafia et al. 2005). The problem does not lie with existing legal provisions, but in their effective application and the incentives of those tasked with enforcing them (Fadel 2002; World Bank 2001). As Berensztein et al. (2000:2) argue, ‘the problem of lack of transparency does not reside in the nature or characteristics of the mechanisms of control theoretically in place, but the fact that they are not used.’

Ultimately, political economy factors explain why, while it was conceptually sound, the model of external auditing introduced in 1992 has failed in practice. It might have been preferable to opt for second-best options of workable systems that could have been gradually improved and fine-tuned. Thus, while technical solutions and organizational reforms can help improve the AGN’s performance, the absence of political incentives to make it work hampers its ultimate effectiveness. As Rodríguez and Bonvecchi (2006) note, the main problem is political, residing in the skewed incentives of legislators to effectively exercise control and hold government to account. Consequently, only greater political competition is likely to improve the fate of the AGN’s audit work. In fact, the review of public accounts progressed most when the opposition had expectations to gain power (1991-93 and 1997-1999).

Brazil: The promise of reform and the limits of control

Rouba, mas faz (he steals but gets things done). Slogan of a former mayor of São Paulo during an electoral campaign in the 1950s, cited in Laranjeira 1999.

The experience of the Brazilian *Tribunal de Contas da União* (TCU) contrasts with that of the Argentine AGN. While Argentina exemplifies the failure of radical reform through a change of audit model, Brazil illustrates the promises of gradual reform through piecemeal adjustments in the audit system. However, as in Argentina, the case of Brazil also shows the limits of fiscal control imposed by the wider political economy in which the system of external auditing is embedded. While the Brazilian TCU enjoys greater independence than the AGN, its relations with the legislature and the judiciary are marked by important dysfunctions that undermine its effectiveness.

Institutional profile

The TCU is an institution deeply anchored in the Brazilian political landscape, with a solid reputation, significant resources and recognized technical capacity. The TCU's effectiveness is reflected in the aggregate index of institutional effectiveness in Figure 3 which ranks it as the best performing AAA in our sample across all but one dimension in Table 5. The TCU has a long historical trajectory dating back to the first republican constitution of 1891. It was established at the insistence of the executive shortly after Brazil became a republic in 1889 to rein in federal spending and prevent the misuse of public resources (Roque Citadini 1995). Its main architect was former finance minister, Rui Barbosa (Barbosa and Fonseca 1994). Its first organic law which dates back to 1896 sets the its internal structures, rules and procedures. These have remained relatively stable until today, with some modifications.

The TCU is a collegiate body modeled as an administrative tribunal of accounts with quasi-judicial powers. A board of nine auditors-general, or 'ministers,' with ample guarantees of individual independence, governs the TCU (Rocha 2003; Brown 2002a, 2002b). Auditors-general are appointed for life and have the same rights, privileges and immunities as members of the Supreme Court of Justice. The federal President appoints three auditors-general with the approval of the Senate. The legislature appoints the other six auditors-general, three being appointed by the Senate and three by the Chamber of Deputies. Moreover, two of the three ministers nominated by the federal President must be chosen from the TCU's career personnel, restricting the President's choice. The president of the TCU is selected by his peers and rotates every year but, since 1934, can be re-elected for up to three years. Audit reports are adopted by majority vote (there are some cases which are reviewed by a subset of the nine auditors-general).

The composition of the TCU thus reflects legislative preferences, rather than executive preferences. Auditors-general often are former legislators. As in Argentina, the nomination process is highly politicized, but politicization is tamed by the life tenure of the Brazilian auditors-general and the professionalism of the agency staff. It is expected that, over time, the political connection of auditors-general will gradually diminish, as government majorities change and auditors-general develop a sense of professional and corporate allegiance. The 1988 Constitution also establishes requirements for candidates as auditors-general in terms of technical capability and professional experience.

Although functionally dependent on the legislature, the TCU is an autarkic agency with ample autonomy. As in Argentina, the oversight of public finances and the evaluation of government performance are constitutionally entrusted to the legislature, which is assisted by the TCU. For example, only the legislature can suspend federal public contracts in case of alleged impropriety.

The TCU performs routine oversight of government finances on behalf of the legislature.²² Its core function is to oversee the accounts of federal entities, primarily through legal and financial compliance auditing, ‘the political control of accounting and financial legality *par excellence*’ (Lopes Meirelles 1989:602).

The TCU must ensure the integrity of financial administration, the probity of public spending and the lawful execution of the budget. All in all, the TCU has jurisdiction about 2600 direct and indirect public administration units (compared with 2288 in 1991 and 3275 in 1996), as well as federal funds administered by the 26 states, the federal district and the 5564 municipalities (TCU 2003). It has control and inspection functions (through special inspections and operational audits), consultative and normative functions (through the advise it provides to the legislature), as well as corrective powers (through the imposition of sanctions and correcting administrative acts or omissions). In terms of enforcement capabilities, in addition to reporting alleged irregularities to the judiciary, the TCU has direct sanctioning powers in administrative matters. It judges the accounts of public managers and imposes administrative sanctions in case of impropriety. As such, ‘when the TCU gives its final verdict on the correctness of administrators, it is undeniably close to judicial power’ (Speck 1999:4). However, while binding, TCU sanctions are not self-enforcing and require coercive enforcement by the courts.

The 1988 Constitution expanded the scope of the TCU’s mandate. The TCU is primarily concerned with compliance with rules and procedures but has gradually expanded its remit to include broader aspects of financial administration and service delivery. The TCU controls the legality, legitimacy and economy of public finances, including both revenues and spending (Pessanha 1999). The TCU’s competence now include a wide array of functions, including the review of federal government’s public accounts; the examination of the accounts of public managers, the control of the legality of public sector hiring, retirement, and pensions; the monitoring privatizations; and the investigation of allegations of irregularities made by any individual citizen, political party, civic association or trade union. In the area of federal revenues, the TCU has authority over multilateral agreements, oil royalties, and the distribution of the tax sharing funds allotted to municipalities and states through the calculation of the corresponding coefficients. Moreover, legislation often adds new tasks, for example to verify compliance with laws on public procurement and human resource management.²³ The fiscal responsibility law of 2000 requires the TCU to ensure compliance with caps on civil service recruitment and help enforce fiscal discipline.

In terms of audit techniques, the TCU has traditionally focused on compliance auditing. Until 1967 it had the authority to perform ex-ante reviews on selected government acts and transactions. Since 1988, it has gradually embraced performance auditing, assessing the economy, efficiency and effectiveness of federal public spending. The TCU has interpreted its mandate flexibly in order to widen its remit and have greater impact on policy. For example, the TCU has been able to influence public policies in the energy or electricity sectors, public procurement and, more recently, social protection. It is nevertheless criticized for not sufficiently focusing on improving public sector results (including its own performance) and for the low level of recovery of resources.

²² The special ad-hoc inquiry commissions of the legislature, the *Comissões Parlamentares de Inquérito*, are more intrusive forms of ‘fire alarm’ oversight established to investigate allegations of corruption.

²³ Specific tasks in the management of human resources in the federal state include reviewing the legality of civil service retirement, severance and pension payments, the recruitment and dismissal of civil servants.

Institutional effectiveness

The TCU enjoys a significant degree of autonomy in the performance of its responsibilities. While its independence is not enshrined in the Constitution, which establishes it as an auxiliary organ to the legislature, it is anchored in practice. The TCU has ample autonomy in the manner in which it structures its organization, deploys its resources and programs its activities. Its independence has practical limits, however (Speck 1999). The TCU has to undertake a series of routine oversight activities, which consume most of its resources. These include the registration of administrative acts and the verification of annual accounts, most of which are largely passive forms of control (Gonçalves 1991).²⁴ The TCU also undertakes special audits and inspections at the request of the legislature. It is constitutionally bound to attend to the legislature's requests, emanating in particular from its numerous ad-hoc inquiry commissions.²⁵

In terms of budgetary independence, the budget has generally not been used to pressure the TCU. However, nor have budget increases been used to strengthen it. Its budget has tended to decline in relative terms over the past decade, representing 0.05% of the federal budget in 2005, down from 0.10% in 1995. The TCU's budget is set in the same way as any other federal entity, as part of the government's budget proposal approved by the legislature.

Although less pronounced than in Argentina, the politicization of the TCU's decision-making structure represents an important hindrance to the agency's effectiveness. Alston et al. (2005:46) argue that, though the TCU 'is endowed with resources and instruments to affect public policy, its lack of independence from other political actors limits its actual impact.' The 1988 Constitution changed the mode of designation of auditor-general in significant ways, taming the influence of the executive and increasing that of the legislature. Until then, the federal president designated all the auditors-general, with Senate approval. However, partisan influence has remained. The designation of auditors-general follows partisan lines, with final choices subject to political negotiations among political parties within each chamber. For Alston et al. (2005:49):

'the process of nomination of the nine ministers assures that the majority coalition in Congress will generally have control over the decision-making process in the TCU. Furthermore, the relationship between the President and Congress [...] implies that the majority coalition will generally not have an interest in having the TCU create problems for the President.'

Unlike in Chile, few auditors-general devote most of their professional careers to the TCU (Passanha 2000). Auditors-general enter the TCU at a later stage in their political career and stay less time in office.²⁶ Not surprisingly, the TCU is often compared to either a 'golden parachute' for political allies in their crepuscule (with sumptuous pension benefits) or a 'reserve bank' after which auditors-general pursue other careers in the public or private sectors. Nevertheless, in a context of frequent changes in political power and fragmented government coalitions, the composition of the TCU could have been much more heterogeneous than it actually is. As certain political parties have remained in power for decades, the composition of the TCU has been relatively stable in political terms (Speck 1999:6). Passanha (2000) shows that auditors-general come predominantly from the Minas Gerais, Rio de Janeiro and Rio Grande do Sul.

²⁴ During the decade between 1990 and 1999, the TCU examined almost 172,000 cases, more than half of which (about 108,000) related to the registration of civil servants and admissions of pensions, 48,770 review and judgment of accounts (*tomadas e prestações de contas*) and only slightly over 4,300 inspections and audits, almost 900 (866) allegations and charges of irregularities and 1,513 requests of investigation (TCU 2000d).

²⁵ For example, during the period 1994-1999, 47 public auditors and financial analysts collaborated with 16 standing or ad-hoc legislative committees and special inquiry commissions (TCU 2000b:4).

²⁶ Life-tenure has not precluded high turnover (about 1.2 rotations a year), a shorter tenures (from about 10 years to about 5 years since 1988) and an increase in the average age of auditors-general (from an average of 50 to an average of 60 at entry) (Speck 2000:202; Brown 2002b:76).

The TCU's decision-making process, which follows court proceedings, is prone to political capture. Decisions can be voted, but are generally taken by consensus (Rocha 2003), a practice that endows each auditor-general with a virtual veto power. As a result, as Figueiredo (2003:185) remarks: 'The improvements in the TCU's technical expertise and capacity for auditing government accounts have outpaced its capacity to impose policy changes and sanctions against the misuse of public resources. The recommendations contained in the reports prepared by the TCU's technical personnel are usually not followed by its board of ministers for political reasons.' For example, a Senate inquiry commission recently revealed a corruption scandal in the building of the labor courts in São Paulo. The chief justice of the labor tribunal had embezzled more than US\$50 million. The TCU was notified of the case in 1992, after irregularities had been detected. However, only in 1998 did the TCU decide to include that construction in a list of illicit public works.

Nevertheless, the politicization of the college of auditors-general is partly counter-balanced by a stable, professional and cohesive staff. TCU has approximately 2,000 staff and a decentralized structure. Advantageous pay conditions, attractive career prospects and status provide staff with important incentives. They contribute to creating an 'esprit de corps' within the agency, instilling professionalism and providing a sense of purpose to its staff. Since 1988, staff is selected through open competitive recruitment and receives continuous technical training. Many within the agency favor more pro-active interventions seeking to improve public management and influence public policies, beyond simply checking the regularity of public spending. In recent years, it has sought to follow-up on audit recommendations more systematically and ensure that audit findings result in concrete changes in administrative practices (TCU 2000a, 2000b). In terms of financial impact, the TCU measures the savings it generates, both through corrective and preventive measures. In 2002, it imposed administrative sanctions for a total of US\$350 million, compared to US\$166 million in 2001 and US\$37 million in 2000. The TCU also calculates the impact of its 'decisions that resulted in potential savings for the treasury' (TCU 2003:25) at US\$1.5 billion in 2002.

However, the main benefits from fiscal oversight are the actual improvements in public sector governance, for example by redressing irregularities in public procurement, including overpricing, or correcting deficiencies in the management of external debt. Performance audits have often resulted in significant improvements in service delivery. Auditors do recognize that performance auditing allows for a more productive and, ultimately, effective engagement with the bureaucracy than the inquisitorial approach of ex-post compliance auditing. The TCU has also contributed to improving control systems in federal programs, for example in the conditional cash transfer program *Bolsa Família*.

Incidentally, while inspections and audits are among the most effective and most publicized activities of the TCU, they only absorb a limited portion of its resources, 17% and 5% in 1997 and 1998, respectively. Most resources are devoted to routine activities. The judgment of the accounts of public administrators ('*tomadas e prestação de contas*') absorbed over 50% of its resources in 1998 (TCU 1999). The average time for rendering audit judgments is between 10 and 14 months, which conforms to international standards (TCU 2000c). However, most of these routine checks, which must follow the same rigid court-type procedures, detect few irregularities, usually concur with those performed by internal control units, and are appealed in the courts.

Thus, a more selective approach to external auditing, based on the identification of risk areas and informed by internal audit's opinions might yield important efficiency gains, as the TCU recognized in a recent review (TCU 2000b). The TCU could improve its effectiveness by being more selective, abandoning its tedious routine compliance control, and embracing more actively ex-ante performance auditing, especially as internal control systems are gradually strengthened under the *Controladoria-Geral da União* (CGU).

Institutional trajectory

The institutional trajectory of the TCU is punctuated by gradual reforms and successive adjustments *within* the system of financial oversight and fiscal control. These reforms have nevertheless significantly altered its institutional profile. However, they have generated confusion regarding the location and role of the TCU in the architecture of the state and the system of checks and balances. The TCU emerged from the executive's concern with controlling government finances, to become a quasi-administrative court with functional ties to the judiciary, yet constitutionally placed under the purview of the legislature.

There have been three main waves of reform in the TCU, a first wave in the 1930s and 1940s, a second one in the 1960s and a third one in the late 1980s. Reforms in 1934 entrusted the TCU with verifying the legality of public procurement, with a brief interlude during the *Estado Novo* dictatorship (1937-45). Since 1946, public contracts only take effect if they have been previously registered by the TCU. The denial of a registration shall suspend the execution of a contract until the legislature has ruled on the matter. The 1946 Constitution introduced the obligation for the TCU to render a prior opinion or judgment on the public accounts that the President submits annually to the legislature.

A second wave of reforms occurred in 1967 under military rule (1964-1985). While the TCU was not dismantled, the military revoked its independence and undercut its authority, including in the registration of public contracts (*'registro prévio'*).²⁷ Simultaneously, the TCU's authority was expanded to include all three branches of government and sub-national governments, as a means of extending the military government's control over the bureaucracy and the states. The 1967 reforms also strengthened internal controls under what later became the Secretariat of Internal Control (SFC) in the Ministry of Finance, which reports to the President.²⁸

Most importantly, the 1967 reforms abandoned ex-ante control, in place since 1891, in favor of ex-post auditing. The abandonment of ex-ante control followed the logic of separation of powers but significantly diminished constraints on the executive. As a result, the TCU's 'veto powers' in public budgeting and financial administration were greatly reduced (Tsebelis 2002, 2000).²⁹ Ex-ante control was gradually transferred to the internal control system and tightly attached to executive power. Nevertheless, the culture of ex-ante compliance control still pervades the organization (Speck 2000). The abandonment of ex-ante control nevertheless paved the way to modern approaches to external control. In that period, the government became convinced of the need to evaluate the public sector performance more rigorously (Braga de Figueiredo 1991). The

²⁷ The military introduced procedural rules that undermined the authority of the TCU and undercut the powers of the legislature. In the area of public procurement in particular, if the TCU detected irregularities it had to transmit the case to the legislature that had 30 days to rule on the matter, after which the contract was deemed approved. According to the principle of *'decisão por decurso de prazo'* or 'positive administrative silence,' decisions were considered adopted once a period of time had lapsed without the legislature or the TCU emitting an adverse opinion. This rule introduced by the military regime was designed to neutralize the possible obstruction or veto in policy-making and budget execution, while keeping the façade of democratic procedures.

²⁸ The Secretariat for Internal Control grew from the Office of the Inspector General of Finance, which was in operation from 1975 to 1986.

²⁹ In Brazil, the institution of ex-ante control caused conflicts as soon as 1893, when the TCU refused to authorize pension payments to a civil servant contracted irregularly (Cotias e Silva 1999). The incident became famous because this civil servant in question was the brother of a former President, Deodora da Fonseca, who had been appointed by the then-president Floriano Peixoto. The case soon degenerated into an open conflict between the President and the TCU, with the then-minister of finance Serzedello Corrêa taking the side of the TCU. Corrêa refused to countersign executive decrees designed to undermine the TCU's independence or suppressing ex-ante control. This conflict is considered as a defining moment in the history of the TCU, reflecting its struggle for genuine independence in the architecture of the state.

TCU started to pilot performance audits in the early 1980s under criteria of efficiency and effectiveness without the explicit authorization by the 1967 Constitution.

The return of democracy in 1985 marked another important stepping stone in the development of the TCU. The Constitution of 1988 substantially strengthened the budgetary powers of the legislature, restored the authority of the TCU and strengthened the links between the two. The strengthening of the legislature's budgetary powers was considered as an integral part of the restoration of democracy and of dismantling the authoritarian heritage (OECD 2003). The new Constitution reorganized and modernized the budgetary system, giving the legislature greater oversight powers, although the executive remains the dominant actor in the budget process. These reforms were part of a broader re-equilibration of executive-legislative relations in favor of the latter. As mentioned previously, the mode of designation of auditors-general was radically modified to strengthen the role of the legislature. The logic of external auditing gradually shifted from being an instrument of executive control of the bureaucracy to becoming an instrument of legislature restraint of the executive. The organic law of the TCU was adopted in 1992 and its competence was expanded beyond compliance auditing (legal and financial) to include performance auditing (economic efficiency and legitimacy), endorsing past practice.

Despite recurrent turbulence in financial markets and the incidence of corruption, Brazil has nevertheless been able to strengthen the institutional framework governing the budget process and public financial management (IMF 2001; World Bank 2002). The 2000 fiscal responsibility law disciplined federal finances and, in 2001, the budgetary system was further rationalized. Moreover, since the late 1990s, planning, management and budgeting are becoming more integrated. Budget reform has gradually become the key lever for reforming the state, disciplining public finances and improving public management. The TCU has thus benefited from significant improvements in the budgetary and accounting systems. This contrasts with the experience of Argentina where the failings of external auditing are compounded by weaknesses in public budgeting and accounting.

Institutional linkages

Despite important improvements in the institutional environment, effective changes in the quality of the scrutiny and oversight of federal accounts have been slow (Pessanha 1999). The effectiveness of external auditing remains inhibited by important dysfunctions in the institutional linkages between the TCU and the other components of the system of fiscal control. Although the TCU follows the court model and has quasi-judicial powers, its insertion into the judicial system is questioned and contested. At the same time, its relations with the legislature, its ultimate principal, exhibit important shortcomings as a result of skewed political incentives. As a result, proposals to reform the TCU continue to abound.

In terms of the relations between the TCU and the judiciary, there is controversy over the judicial nature of the TCU, the legal status of its decisions, and the enforceability of its audit rulings. While TCU follows the court model, its status as a quasi-judicial administrative court is contested. While its decision-making process mirrors a judicial process, its linkages with the judiciary are ambiguous. As a result, the enforcement of audit recommendations and the imposition of sanctions for non-compliance suffer serious shortcomings.

TCU considers itself a quasi-judicial organ as an administrative court. As Speck (2000:210) argues the 'procedural structure of the TCU is currently guided by the logic of procedural legitimacy, which is a characteristic trait of the judicial process.' However, the quasi-judicial powers of the TCU have been contested from the onset by the courts, which consider the TCU as an administrative rather than a judicial body. A key unresolved controversy is whether audit

rulings are subject to judicial review (Rocha 2003). The courts question the judicial nature of audit rulings based on the legal principle that there cannot exist administrative acts shielded from judicial review. Furthermore, the Brazilian judicial system does not establish the legal principle of *stare decisis* ('stand by things decided') and each case is therefore evaluated on its own merits. This allows the courts to re-examine each TCU ruling independently of any legal precedent, preventing the gradual emergence of a body of audit jurisprudence. Moreover, the TCU does not have the right to coercive execution, which is enforced by the public prosecutor's office.

The Supreme Court has ruled on repeated occasions to circumscribe the competences of the TCU, for example excluding the state oil company Petrobras from its purview in 2002 or contesting its oversight of regulatory agencies and public companies. It has also challenged the judicial nature of audit rulings, reducing them to simple recommendations to administrative authorities (Silvera e Silva 2002). In response to the courts' challenge, the TCU has staunchly defended the judicial nature of audit rulings as '*coisa julgada administrativa*' that can only be appealed in the courts in case of procedural irregularities (Guimarães Souto 2002:228; Affonso 1997, 1996), but to no avail. As Rocha (2003:15) remarks:

'the more the TCU insists on the jurisdictional nature of its decisions, the more it is exposed to the criticism of the judiciary, which, attentive to defending its own prerogatives, has imposed restrictions on the TCU's competence.'

The bottom-line for the courts is that the TCU is a tribunal, not a court, and therefore its decisions can be appealed in the courts including in administrative matters (Zanella di Pietro 1996). Furthermore, the courts usually do not accept audit findings as evidence. Hence, while final and binding, TCU decision are not directly enforceable. As a result of thorny appeals processes, the actual collection rate of fines and other administrative penalties is extremely low, less than 1% (Speck 1999). For example, there is controversy concerning the judiciary's right to try a politician whose accounts have been cleared by the TCU. Public administrators accused of corruption cite the approval of their accounts by the TCU as evidence of their innocence. However, the judiciary reserves the right to try such cases and review the TCU's rulings.

Similarly, the TCU's relations with the legislature are also dysfunctional, which undermine its ability to hold government to account. However, as in Argentina, the major dysfunctions occur in the legislative stage, rather than the auditing stage. As mentioned previously, the TCU provides technical assistance to the legislature in the oversight of government public accounts; but it is the legislature that is ultimately responsible for enforcing accountability on government. Detailed legislative scrutiny of the budget takes place in the Joint Committee on Plans, Public Budgets and Auditing of the bicameral parliament (*Comissão Mista de Planos, Orçamentos Públicos e Fiscalização*, CMO).

The annual review and judgment of the president's accounts constitute the main instrument through which the legislature holds government to account (Gonçalves 1984).³⁰ Since 1934, Brazilian Presidents are required to render accounts to the legislature every year, through the CMO (Machado et al. 1996). The TCU prepares a report on the public accounts of the federation within 60 days of receipt from the legislature. It issues a 'preliminary opinion' or 'prior judgment' (*parecer prévio às contas*) to guide the discussions in the legislature on whether to approve the government's statements or not. Based on the TCU's opinion, the CMO emits its own recommendation to the legislature by unanimity vote. The process then follows normal legislative procedures, being examined and voted on by both chamber successively. However, the TCU's preliminary opinion is not a formal audit ruling and seldom includes any reference to corrective measures or a follow-up of the irregularities detected in previous years.

³⁰ Since 1993, the TCU also devotes a chapter of its annual report to the analysis of policy issues, such as administrative reform, privatization, social security, poverty reduction, or debt management.

While the legislature ‘makes the final judgment on the discharge of government, the analysis of the TCU is conclusive and carries its own weight’ (Speck 1999:3). The formal judgment of the public accounts generally takes place during an extraordinary session of the TCU and receives significant media coverage, as it often includes criticism of specific government programs. Nevertheless, the TCU has usually recommended approval, though it typically includes reservations, recommendations and warnings. Between 1946 and 2002, the preliminary opinion of the TCU was always positive, recommending the legislature to approve government accounts, except in three occasions when it was inconclusive (1946, 1950, 1953) (Pessanha 2003).³¹ Only in 1992 did the TCU give a negative opinion on the accounts of President Collor de Mello for 1991. The impact of this verdict was minor, however, compared to the process of parliamentary inquiry that resulted in Collor’s impeachment. Alston et al. (2005:48) therefore argue that:

‘these reports are to a large extent innocuous as the politicized nature of the decision-making process acts as a barrier that filters decisions that may be troublesome for congress and for the president.’

As in Argentina, the certification and discharge processes are marked by greater hurdles in the legislative stage than in the auditing stage, which bring their ultimate usefulness into question. As the same political forces tend to dominate the executive, the legislature and the TCU, incentives for enforcing accountability on government are limited, leading a federal deputy to conclude that the certification process is an ‘*acto entre irmaos*’.³² The legislature has generally approved the public accounts, with few reservations, concurring with the TCU’s preliminary opinion (Pessanha 2000; Pontes and Pedreira 2004).

Furthermore, the legislature’s discharge of government has occurred with significant delays, at times reaching almost a decade. For example, the 1959 public accounts, although approved by the TCU on time in 1960, were only certified by the legislature 12 years later, in 1972. Approval of the government’s accounting after the end of the president’s term has not been unusual. On several occasions, to clear the backlog, the legislature approved the public accounts of several years simultaneously, often in the same day, as in 1972 and 2002. The public accounts of 1993 and of 1995 through 2001 were all been approved in December 2002.³³ The public accounts of 1990 through 1992 have yet to be reviewed. There have also been important procedural problems. The legislature approved the public accounts of 1995, 2000 and 2001, without the preliminary approval of the CMO, as required by law. Moreover, there have been cases, such as in 1996 and 1997, where the reporting officer failed to complete his review.

The dysfunctions in the certification process reflect systematic failures in legislative oversight, which undercut the effectiveness of the TCU. As in Argentina, the process of certification is hindered by the legislators’ lack of interest and incentives to use it effectively.³⁴ A better interaction between the legislature and the TCU is warranted. ‘In rare occasions, note Pontes and Pedreira (2004:23), has the analysis of public accounts by the legislature generated substantial debate or positive results, or led the legislature to take corrective action.’ However, as the World Bank (2002:47) remarks,

³¹ In fact, between 1952 and 1989, the president whose financial statements were being evaluated had traditionally appointed the TCU’s reporting minister selected by the TCU President (Pessanha 2000). Procedural reforms in 1993 corrected this deficiency and, since then, the TCU reporting minister is chosen randomly among the auditors-general.

³² Author interview with a federal deputy, Brasilia, Brazil, 2 October 2003.

³³ Interestingly, the accounts of Fernando Henrique Cardoso (1995-2002) were approved after the results of the general elections were known (18 and 19 December 2002).

³⁴ The controversies that surrounded the nominations of two auditors-general in 2005 illustrate the legislature’s disinvested attitude. In May 2005, to fill two positions left vacant since 2003, the Chamber of Deputies selected Augusto Nardes (PP/RS) as its preferred candidate. The Senate’s choice, Luiz Otávio, generated controversy, as he was accused of misappropriation of public funds in BNDES.

‘this process [...] needs to be seen in its political context. Any debate on approval or disapproval, involving a detailed discussion of the President’s annual report provides an opportunity for opposition parties to attack the fiscal policies and record of the President. Approval or disapproval thus does not relate to the quality of the financial statements. But there also appears to be some lack of interest by Congress in reviewing past events, and a correspondingly greater interest in issues of budget construction. TCU reports generally appear to attract little Congressional or public interest.’

Next stage of reform?

This review demonstrates the potential of gradual reforms and adjustments in the system of external auditing. Improving not only the probity of public management but the efficacy of public spending is a priority for Brazil which must come to grips with a state that is overgrown, but is neither efficient nor effective. The TCU has an important role to play, which would nevertheless require further reforms and in particular clarifying its relations with the legislature and the judiciary.

As a result of successive reforms, the location of the TCU in the state apparatus and its insertion into the system of fiscal control has become ambiguous, reflected in a confusion of roles (as a quasi-judicial body or a legislative institution) and tensions in approaches (between compliance and performance auditing). Britto (2001) argues that the TCU is neither an auxiliary institution to the legislature (in the sense of being hierarchically subordinated to the legislature), nor an administrative court *per se* (in the sense of rendering self-binding judgments as the court of last instance in administrative matters).

In terms of its relations with the legislature, former auditor-general Guimarães Souto (2002) recognizes that a more efficient relationship with the legislature would improve the TCU’s effectiveness, in particular in risk areas such as public procurement. This review suggest that a hindering factor resides in the lack of political incentives of legislators to exercise responsible oversight, rather than the lack of technical capacities of the TCU to audit public finances. Ultimately, the analysis demonstrates that the means (technical capacities) and motives (political incentives) for legislative oversight are intrinsically linked.

In terms of the TCU’s relations with the judiciary, the combination of quasi-judicial functions (through the judgment of accounts) and managerial functions (through operational auditing) in the same oversight agency is tricky. These two functions require cultures of control that are radically different, if not contradictory. Thus, the TCU finds itself facing a critical choice: either its judicial functions are transferred to the judiciary, ending the conflict of competence and the duplication of processes, or it becomes an administrative court in its own right. The TCU has thus far pursued the latter strategy, with limited results, however.

In terms of the TCU’s relations with the bureaucracy, this analysis suggests that the gradual transition from a prosecutorial approach to a managerial approach to external auditing could yield important results. As the role of the TCU gradually shifts from that of a judge to that of an advisor, its impact on bureaucratic behavior increases. Indeed, the bureaucracy tends to respond more positively to performance auditing than compliance control.

These limitations notwithstanding, the case of the TCU illustrates the benefits of a gradual approach to reform. Such adjustments can significantly alter the model of external auditing, such as with the abandonment of ex-ante controls in 1967 or the rapprochement with the legislature in 1988. As Speck (2000:53) observes, ‘the model of external audit agencies is influenced more by historical traditions than legal purism.’ Reform initiatives continue to abound, from both within and outside the TCU. In 2001-02, President Fernando Henrique Cardoso sought, unsuccessfully,

to modify the mode of designation of auditors-general to give the executive greater leverage.³⁵ At the end of 2002, there were no less than 46 different proposals to reform the system of fiscal control, at both the federal and state levels (Rocha 2003). In 2003, there were 23 proposals for constitutional amendments and 25 other legislative reform proposals related to the TCU, on issues such as changing the nomination process, increasing the court's jurisdiction, and revisiting its institutional links with the legislature's CMO.

These attempts reflect both a general dissatisfaction with current arrangements, and the difficulty of pushing through reform from the outside of the TCU. They also reveal that, while challenging to achieve, reforms do occur and tend to stick once adopted. Following a series of corruption scandals in the federal government, the internal control system was revamped in 2001, leading to the creation, in 2002, of the *Corregedoria-Geral da União* (CGU) whose role is to assist the presidency in the prevention and prosecution of irregular acts or omissions in the federal administration.³⁶

The institutional trajectory of the TCU illustrates the need for a more nuanced approach to agency autonomy. It is often believed, within the TCU in particular, that independence ought to be preserved at all cost, often as an end in itself.³⁷ However, as this review suggests, the ultimate effectiveness of the TCU depends both on its autonomy as well as the fluidity of its relations with the other components of the systems of fiscal control. The main question therefore is not whether AAAs should be independent, but how much independence is enough and how much independence is too much. The case of Chile further illustrates this point.

Chile: Failure to reform and threat of anachronism

He who lives outside the budget lives in error. Carlos Fuentes, *La Silla del Águila*, 2003.

Chile is a country that governs itself by the law. Gustavo Sciolla Avendaño.³⁸

The Chilean *Contraloría General de la República* (CGR) illustrates the third model of AAA. It also illustrates a third path to reform, or, rather, the lack thereof. The CGR is anchored in a highly centralized budgetary process and in a public administration highly respectful of the rule of law. Its relative effectiveness is reflected in its performance against the four criteria in Table 5 and the aggregate index in Figure 3. It has decisively contributed to anchoring probity and integrity in the public sector; it has also greatly benefited from it. There exists a strong correlation between the quality and rule-abidance of the civil service and the effectiveness of the CGR, but causality is difficult to ascertain.

The case of the CGR is interesting for two main reasons. First, its effectiveness is hampered not by a lack of political independence, but rather by its excessive independence and insulation in the system of political accountability. Ironically, while the effectiveness of the Argentine AGN and the Brazilian TCU is hindered by political and partisan interference, that of the Chilean CGR is

³⁵ These included proposals for fixed, non-renewable mandates of six years for the ministers, with nominations of three ministers occurring every two years, a revision of the nomination criteria and procedures, and a strengthening of social control and transparency mechanisms.

³⁶ The CGU fused the *Secretaria Federal de Controle Interno* (SFC) and the *Comissão de Coordenação de Controle Interno* (CCCI). In 2003, it was renamed the *Controladoria-Geral da União* (CGU) and its head was upgraded to Minister for Control and Transparency (*Ministro de Estado do Controle e da Transparência*).

³⁷ Barbosa originally favored a TCU with wide autonomy from all powers, an intermediary body at equidistance from the executive and the legislature, acting as an 'independent mediator and assisting both powers' in order for the TCU not to become an 'ornamental and useless institution' (Barbosa 1994:181).

³⁸ Author interview with Gustavo Sciolla Avendaño, former Comptroller-General, Santiago, Chile, 4 August 2004.

hampered by its excessive independence in the architecture of financial governance and fiscal control. In many ways, the CGR is an agent without a 'principal' to which to report and which can enforce its recommendations. The oversight it exercises, essentially legalistic and procedural in nature, fails to translate into effective accountability of government.

Failures in the system of fiscal control originate in dysfunctions in the transmission mechanisms between the oversight agency and accountability institutions. Relations with the legislature, the judiciary and the executive are characterized by mutual suspicion and benign neglect. The legislature has developed its own capacity for fiscal oversight and the executive has strengthened its own capacities for performance evaluation. The bi-partisan political system would have predicted a more active role of the opposition in using the CGR to check government.

Second, the institutional trajectory of the CGR is marked by a failure to reform and, consequently, the threat of anachronism. Its high degree of independence has allowed it to resist repeated attempts at reform. It has few incentives to reform itself from within because of its pyramidal structure and gerontocracy ethos. Institutional insulation has also prevented the CGR from adapting to new trends in public sector management and financial governance, especially performance auditing. The CGR has largely been left out of the reform movement and has failed to keep pace with the rest of the public sector, rendering it an 'island of un-reform.' It is something of an anomaly in the Chilean state, which has otherwise been able to modernize. As a result, it is increasingly exposed to the threat of anachronism, if not irrelevance. Thus, in Chile, the main question is not whether CGR ought to be reformed, but rather how.

Institutional profile

The CGR is a highly respected state institution with a long historical trajectory. It is embedded in a relatively strong state founded on the respect of the rule of law. It was established in 1927 to oversee public spending. It is an autarkic organization independent from all state powers that acquired constitutional rank in 1943. It follows the monocratic model of AAA, but unlike similar organizations in the US, the UK or Canada, it is not linked to the legislature. Moreover, unlike its counterparts in Argentina and Brazil, it is neither part of the system of legislative oversight of government finances, nor of the judicial system of fiscal control. It is often referred to as the 'fourth power of the state' (Aylwin Azócar 2002; Sciolla Avendaño 2002, 2003).

The CGR's primary task is to preserve and promote the principles of legality and probity in public administration and government finances. As Siavelis (2000:80) notes, 'both the executive and congress were willing to grant [the CGR] increasing power because of its scrupulous insistence on legality and propriety.' The CGR is inserted in a robust budgetary system regulated by laws dating to the military regime of Augusto Pinochet (1973-1990).³⁹ The 1975 financial administration law was subsequently incorporated into the 1980 Constitution. The CGR is itself governed by an organic law of 1952, substantially reformed in 1964 and last amended in 2002. The 1980 Constitution provided for the adoption of a new organic law, but controversies surrounding the CGR's core functions have prevented this from happening.⁴⁰ Nevertheless, in 2000 the CGR adopted an institutional doctrine clarifying its core mission and values.

As a result of its origins, the scope of CGR's mandate is very broad, encompassing a *smörgåsbord* of functions, some of which are unusual for an AAA and conflicting with one

³⁹ Following the 1973 coup, the military junta undertook an important re-ordering of public administration, drafting legislation regulating the public administration (*Ley de Bases de la Administración del Estado*, 1974; *Ley de Procedimientos Administrativos*, 1974), financial management (*Ley de Administración Financiera del Estado*, LAFE, 1975) and government accounting (1976).

⁴⁰ Two failed attempts were made in 1982 and in 1992.

another.⁴¹ It verifies the legality of the administration's transactions, inspects fiscal revenues, public expenditure and government investment, as well as municipal resources. Its core responsibilities include: (i) judicial review functions through the ex-ante control of constitutionality, legality and regularity of administrative acts through the legality review procedure of the '*toma de razón*,' (ii) jurisprudential functions through the legal interpretation of financial administration legislation via '*dictámenes*', contributing to reduce bureaucratic discretion in the interpretation of legal norms; (iii) audit functions through selective ex-post audit and inspections of administrative agencies, systems and processes, including controlling the reliability of internal control mechanisms and the compliance with statutory obligations of civil servants;⁴² and (iv) quasi-administrative functions through the supervision of the state accounting system, the oversight of internal control systems and standards, and the control of compliance with statutory provisions related to the management of human resources in the public sector.⁴³ In particular, and somewhat unusually for an AAA, the CGR oversees the government accounting system, including the setting of accounting standards.

A constant criticism of the CGR centers on its conservative stance and authoritarian legacy. The CGR adopts a legalistic approach to external auditing, exercising control over the legality of the administration's actions. The oversight exercised it exercises is essentially of a judicial nature 'to ensure adherence to the legal order, the protection and appropriate use of public funds, the preservation and strengthening of administrative probity, and the reliability and transparency of financial information' (CGR 2003:1). The CGR is indeed permeated with the liberal concern with checking and restraining executive discretion, rather than with the managerial concern for improving public sector management. It privileges preventive control through ex-ante compliance control, over corrective control through ex-post performance auditing (Llanos González and García Yerkovis 2002).

The CGR exercises ex-ante control of constitutionality and legality through the mechanism of '*toma de razón*,' a function deeply embedded in Chilean administrative law and constitutional order. In political terms, ex-ante authorization of administrative actions endows the CGR with veto powers over policy implementation (Animat et al. 2006; Tsebelis 2002). Ex-ante control does not rectify an irregular administrative act; rather, it impedes it (Larraín 1995:61).⁴⁴ While this procedure predates the military dictatorship, its preservation illustrates the efforts deployed by the outgoing military regime to constrain democratic governments, a strategy which Boylan (2001) describes as 'defusing democracy.' The function of ex-ante control has often been compared to an 'authoritarian enclave' or a 'gate keeper' (Orrellana Vargas 2003; Garretón 1989).

Historically, the CGR inherited this function because the Chilean judicial system had no effective judicial review of administrative actions by administrative tribunals (Faundez 2007). Ex-ante control has proved particularly effective in some areas, such as privatization and public procurement, contributing to ensure probity and transparency. Progressively, the CGR

⁴¹ The CGR controls fiscal revenues and public investment and its authority extends to 190 central government agencies, 24 public enterprises, 8 mixed enterprises, 340 municipalities, public universities, and public concessions. Nevertheless, the CGR does not audit the central bank, the state bank, or the national copper company. It also audits the projects financed by international lending institutions.

⁴² Special investigations consume a great deal of the agency's resources, affecting routine oversight and planned audits. The results of special investigations are first transmitted to the audited agencies and then to the corresponding specialized committee in the legislature.

⁴³ Personnel management functions include keeping the registry of all public servants, of contracted personnel, and of persons condemned by the courts and therefore prohibited to assume public functions. It also includes the custody of asset declarations of senior civil servants following the adoption of the administrative probity law in 1999.

⁴⁴ The President, with the backing of the cabinet, can insist on his or her decision through a '*decreto de insistencia*,' in which case the CGR's veto is over-ridden. This over-ride prerogative of the executive does not apply to decrees with force of law, to the promulgation decrees or to decrees amending the constitution.

progressively adopted an expansive approach to the interpretation of its ex-ante legality review powers, partly at the insistence of the legislature. Successive governments generally complied with the CGR's rulings and seldom abused their powers to over-ride them by issuing '*decretos de insistencia*' (Faundez 2007).⁴⁵ However, it is often criticized for being cumbersome and formalistic, intruding in administrative prerogatives, interfering in policy-making, and resulting in 'co-administration' (Lillo Valenzuela 2002).

The CGR also has quasi-judicial powers in administrative matters, entrusted in a tribunal of accounts located within itself (the *Tribunal de Cuentas*, TC), through the judgment of accounts ('*juicio de cuentas*') of current and former public servants (CGR 2000). Since 2002, the deputy comptroller-general acts as the first instance judge and a collegiate tribunal of accounts composed of the comptroller-general and two prominent lawyers designated by the President acts as the second instance court. The TC can impose binding administrative sanctions ordering the reimbursement of the damages caused through salary retentions, career demotion or dismissal.

Institutional effectiveness

The constitution of 1980, the CGR organic law of 1964 and the financial administration law of 1975 guarantee the institutional independence of the CGR as a constitutional body. The agency's independence is statutory (guaranteed by the constitution), personal (guarantee of immovability once nominated, until 75 years of age), functional (the CGR is not hierarchically dependent on any other state power and its decisions are not submitted to revision or approval by other organs of the state) and normative (power to emit binding norms in its areas of responsibility).

The organization's autonomy is enhanced by the political independence of the comptroller-general and the privileges and immunities from arbitrary removal he or she enjoys. A single comptroller and auditor-general with ample powers heads the CGR, assisted by a deputy comptroller general. The comptroller-general is nominated by the President and confirmed by the Senate and his or her term of office is for life, until the statutory retirement age of 75. While formal nomination procedures are clearly politically motivated, as in Brazil, permanence in office and life-tenure are designed to reduce, over time, the political origins of the comptroller-general.⁴⁶ Furthermore, the comptroller-general can only be removed through impeachment.⁴⁷ The impeachment procedure is a radical form of control, however, and is unlikely to be effective in cases of lesser misconduct or arbitrary actions. It also requires a degree of political consensus that is difficult to muster.

The individual independence of the comptroller-general is reinforced by an unwritten rule according to which the deputy comptroller-general succeeds the comptroller-general. As the comptroller-general nominates his deputy usually from within the ranks of the agency, he or she largely determines his or her succession. This tradition has only broken twice, in 1977 by Augusto Pinochet and in 2002 by Ricardo Lagos, generating intense controversy. Lagos' decision was part of a broader strategy of the ruling *Concertación* coalition to tam the influence of the

⁴⁵ Initially, between 1932 and 1942, the CGR adopted a minimalist approach to the interpretation of its review powers, showing deference to the executive. The executive also showed little respect for the ex-ante control functions of the CGR. It adopted the practice of issuing '*decretos de insistencia*' before forwarding its decrees to the legislature. As Faundez (2007:7) notes, 'this practice effectively made the legality review procedure redundant and revealed little or no respect for the Contraloría.'

⁴⁶ Some comptrollers-general had extraordinarily long tenures, such as Osvaldo Iturriaga, from 1978 until 1997. However, comptrollers-general are typically appointed at an advanced age, which shortens their tenure. For example, Arturo Aylwin Azócar was nominated in 1997 but had to retire in 2002, after five years in office.

⁴⁷ This procedure has seldom been used. In 1945, in the context of increasingly tense relations between the executive and the legislature, Comptroller-General Agustín Vigorena was impeached by the legislature for failing adequately to control the executive.

political right in the CGR and un-root what it considered one of the last bastions of the military regime.⁴⁸ In 2006, President Michelle Bachelet attempted to nominate her own candidate, but her attempt ultimately failed.

The comptroller-general also has complete discretion over the management of the CGR and its staff. He or she sets the agency's budget, level of staff and salary scales within the financial constraints of the state budget and in consultation with the President and the Senate. Agency staff benefits from an advantageous pay regime and permanent tenure. These factors, coupled with rigorous recruitment procedures, a predominance of law and accounting professionals, and the existence of career prospects within the organization, contribute to creating a strong 'esprit de corps' and sense of mission. Officials pursue most of their careers within the CGR and often within the department they first joined. For example, Sciolla Avendaño had 48 years of public service when appointed as comptroller-general, 43 of which spent in the CGR. These factors nevertheless lead staff to develop personal allegiance to the comptroller-general and reverence to hierarchy, which tends to generate a 'bastion' mentality, institutional inertia and aversion to change.⁴⁹ Deference to authority and stringent adherence to rules and procedures permeate the internal organization of the CGR, reflecting its pyramidal structure.

The budgetary independence of the CGR is not guaranteed by law, but by practice. The CGR drafts its own budget and submits it to the finance ministry for consideration. Despite this legal limitation, empirical evidence suggests the CGR's budget has not been used to pressure it. The CGR's budget has nevertheless decreased over time, from 0.32% of the state budget in 1977 to 0.13% in 2000 (Larraín 1995:68). In 2000 political parties agreed to strengthen the CGR and contract a loan from the Inter-American Development Bank. In 2005, the CGR's budget increased to 0.20% of the state budget. Larraín (1995) argues that what the CGR needs is not more resources but greater financial independence, returning to the system that existed between 1959 and 1977 when the CGR was assigned a fixed percentage of the state budget (0.32%).

A central controversy surrounding the CGR concerns ex-ante compliance control. Ex-ante control is generally considered to delay administrative action, dilute administrative responsibilities and lessen the legitimacy of ex-post external auditing. The CGR is both judge and party as it controls administrative acts in which it participated by authorizing them. The CGR has relaxed some of its ex-ante controls, increasing the number of exemptions, delegating the authorization to approve small expenditures, and reducing the time for review (from 30 to 15 days in 2002). Nevertheless, its quasi-administrative functions absorb a great deal of its resources, representing over 175,000 processes in 2000 (CGR 2001). They also prevent it to fully exploit its ex-post auditing functions. It is hoped that the consolidation of the internal control system within government will allow the CGR to concentrate on external auditing and progressively abandon ex-ante control. Nevertheless, internal control has traditionally been deficient, partly because it was considered unnecessary and partly because the CGR assumed core internal control functions.

A related controversy centers on the nature of external control. Agreement on this issue is even more elusive than on the timing of external control. The CGR's control is essentially one of

⁴⁸ In 2002, Lagos nominated Sciolla Avendaño, the CGR's third highest-ranking official but trusted by the ruling Christian Democrats, rather than the long-serving deputy comptroller-general, Jorge Reyes, considered close to the opposition and who made most of his career in the CGR since he joined in 1959. The Senate confirmed Sciolla Avendaño by a narrow vote of 27 against 21. Media reports have revealed the existence of an unwritten quid-pro-quo between Sciolla Avendaño and Mario Fernández, then Secretary-General of the Presidency, according to which Sciolla Avendaño promised to cleanse the CGR of remnants of the *ancient régime*. However, upon assuming office, Sciolla Avendaño did not accede to Lagos' demands and even promoted some of the individuals in question, including his deputy. Sciolla Avendaño had to assume a corporate position to assert his authority not only vis-à-vis the executive, but also within the CGR.

⁴⁹ Longevity and allegiance to the hierarchy determine career advancement. The 75-year age limit does not apply to staff. As a result, managers seldom retire and there is little renovation or rotation of staff.

control of legal and financial compliance. Reforming it would entail for the CGR to abandon its traditional formalist and legalistic approach and embrace modern ex-post auditing techniques focusing on performance and results. The CGR's legalistic culture is also reflected in the confidentiality surrounding audit work, considered as '*información privilegiada*.' Such a prudent approach to disclosure is partly rooted in the CGR's understanding of its role and the importance of its privileged relations with the bureaucracy. It is also understandable considering the exposure of external auditors to political threats during successive military regimes. The culture of secrecy nevertheless adversely affects the publicity of audit findings and, ultimately their effectiveness.

The CGR adopted an institutional doctrine in 2000, partly to compensate for the lack of an organic law (CGR 2003). The doctrine, promoted by former comptroller-general Alwyn Azócar, counseled gradually moving away from the strict application of the principle of legality to embrace a form of performance auditing based on the '*interpretación finalista de la ley*' (Llanos Campos 2003). However, this doctrinal shift was resisted not only within the CGR, but also the executive, especially the finance ministry's central budget office (which has developed sophisticated systems to evaluate performance in the public sector), and the legislature (which was wary of an expansion of the CGR powers). Performance auditing by the CGR would thus not only require a change of corporate culture, but also a redistribution of budgetary roles within the state.

Another hindering factor concerns the legal standing of audit rulings (Diez Urza 1995). The CGR possesses only limited direct enforcement and sanctioning powers in administrative matters (notion of '*imperio*'). Successive comptrollers-general have requested more enforcement and sanctioning powers (Sciolla Avendaño 2002; Aylwin Azócar 2002, 1995). However, the presence of ex-ante control tends to render make sanctioning powers redundant. The CGR makes recommendations to senior managers who would decide on the corrective actions required. When administrative impropriety is suspected, the CGR's tribunal of accounts (TC) initiates a judgment of accounts to determine civil servants' administrative responsibility. However, the TC rulings are only partly self-enforcing, as in the case of salary retentions or other administrative sanctions, and can be challenged in the courts. Coercive enforcement is pursued in ordinary courts by the public prosecutor's office in the CGR.

The CGR also performs administrative functions that conflict with its role as auditor of government accounts (World Bank 2004; OECD 2004; IMF 2003). In particular, it supervises the state accounting system. As a result, it does not audit government financial statements in accordance to international audit standards, simply because it prepares them. It nevertheless prepares monthly, quarterly and yearly accounting reports on the state of public finances and presents an annual report on budget execution to the President and the legislature. The CGR also prepares two other annual reports, the *Cuenta pública del Controlador* and the *Memoria annual*, which provide an annual account of the CGR's activities and a review of government finances, including the follow-up given to previous audit recommendations. Both reports have limited impact on political debates.

Institutional trajectory

Recent corruption scandals have shaken the country's confidence in its fiscal control institutions. In 2002, scandals erupted in the procurement practices in public works, as well as questionable gratifications of high-ranking officials financed from the government's discretionary 'reserved funds' ('*gastos reservados*'). For Orrellana Vargas (2003), these scandals revealed 'complacency with limited corruption' and flaws in internal and external control systems. The CGR was particularly exposed to public criticism, as it is tasked with controlling, ex-ante, the regularity of

public procurement and public sector remunerations. According to Orrellana Vargas (ibid), it appeared ‘totally surprised by actions that it is supposed to oversee.’

Many of the dysfunctions of external auditing in Chile today have their origins in history. The CGR performs tasks that, in other countries, are carried out by three or more organizations, including the quasi-administrative functions of a general accounting office and the quasi-judicial functions of a tribunal of accounts (Llanos González and García Yerkovis 2002). This is partly the result of the CGR’s origins. The CGR combined the functions of the four state agencies that were merged in 1927 in an effort to rationalize government financial management. These included the comptroller-general’s office, the tribunal of accounts, the bureau of statistics and the inspectorate-general of national assets (Llanos Campos 2003).

Both internal and external factors have shaped the configuration of the CGR’s powers, the scope of its authority and its approach to fiscal control. In 1925, US financial advisor Edwin Kemmerer who, in 1925, made a series of recommendations to strengthen financial administration and fiscal control based on the experience of the US, following the establishment of the US Government Accountability Office in 1921.

Nevertheless, the features and functions of the CGR were also shaped by domestic political considerations and the country’s legal traditions. Its creation participated in the modernization of the budgetary system and the re-equilibration of budgetary powers between the executive and the legislature in the 1920s (Animat et al. 2006; Marcel and Tokeman 2002; Vial 2001; Santiso 2006c, 2006d, 2005a, 2005b, 2004d). A committee presided by a prominent Chilean lawyer, Julio Philippi, amended the Kemmerer’s proposals in significant ways, giving the CGR authority to rule on the constitutionality and legality of government decrees through mandatory ex-ante controls. More fundamentally, the CGR’s formalistic approach to fiscal control reflected the legalistic character of Chilean administrative law, in the absence of administrative tribunals responsible for the judicial review of administrative acts.

The reputation of the CGR grew from its insistence on the respect for the law and its ability to restrain executive discretion, laying the foundations for a rule-abiding bureaucracy. Faundez (2007:7) shows, the CGR ‘had a major influence on administrative practices and the quality of governance.’ The institution of ex-ante review of legality and constitutionality of government decrees has been pivotal to anchor the rule of law in the public sector. In fact, the legislature impeached the Comptroller-General in 1945 because it felt that he showed too much deference to the executive. The impeachment thus strengthened the authority of the CGR and ‘sent a strong message to the executive that the congress was keen to ensure that the president exercise his powers within the limits of the law’ (ibid). By the mid-1950s, governments began to who considerable respect for the CGR.

Another tense episode occurred in 1970 when Salvador Allende took office and sought to push through an ambitious program of reforms. As his left-wing coalition did not have a majority of seats in the legislature, Allende relied heavily on government decrees. Conflict with the CGR rapidly escalated, as the CGR increasingly questioned the legal foundations of government policy initiatives through legality review rulings. At the end, in April 1973, the government issued a ‘*decreto de insistencia*’ to override some forty legality review rulings, As Faundez (2007:11) highlights, ‘his decree brought a strident reaction from the opposition, which depicted it as further evidence of the government’s disregard for the rule of law.’

The CGR earned the respect of many Chileans by opposing the military dictatorship’s encroachment of the law during the military regime (1973-1990). Initially, Pinochet undermined the CGR in subtle ways, ending the mandatory allocation of a fixed percentage of the budget in 1975 or changing the staff salary regime in 1981, which led to the departure of over 500 officials. Pinochet did not dismantle the CGR, as he needed it to ensure that the bureaucracy complied with

the junta's decisions. However, when former comptroller-general Héctor Humeres confronted the military regime, he neutralized it by capturing it.

In 1977, Humeres questioned the constitutionality of the plebiscite the junta was planning for early 1978 and threatened to veto it through ex-ante control. Pinochet expedited the retirement of Humeres, who was due to retire in 1977, and nominated one of his lieutenants, Sergio Fernández, in his stead. Fernández swiftly approved the legality of the plebiscite just two days before it was to be held. He resigned in April 1978 to become the interior minister, a pivotal position in Pinochet's government. Fernández' handpicked his successor, Osvaldo Iturriaga, who remained in office until 1997, well into the democratic transition. These events are often cited as grounds to justify the criticism of the CGR as being an 'authoritarian enclave.'

The credibility of the CGR is enhanced by the effectiveness of the state in which it is embedded. The CGR inserts itself in an effective state with an efficient public administration, reliable regulations and adherence to the rule of law. A prominent member of the tribunal of accounts from 1891 until 1918, Valentín Letelier, contributed to shape administrative jurisprudence and anchor the principles of legality and probity in the Chilean public administration. The CGR greatly benefits from disciplined public finances achieved through the progressive centralization of the budget process over the past century initiated under the first presidency of Arturo Alessandri in the early 1920s (Animat et al. 2006). Today, Chile has a budgetary system in which the executive branch is clearly pre-eminent, steered by the central budget office (DIPRES) of the ministry of finance (Santiso 2006c, 2006d, 2005a, 2005b).⁵⁰

The existence of a strong social consensus on the need to preserve probity and legality in public administration further anchors the credibility of the CGR in the Chilean political and social landscape. Furthermore, there is also a strong cross-partisan consensus favoring a central steering role for the executive and supporting fiscal discipline. As Marcel and Tokeman (2002:112) note, 'the memory of past fiscal instability made Chilean politicians quite supportive of fiscal restraint.' There is a remarkable degree of acceptance of the current policy framework, the de-politicization of economic policy and the centralization of the budget process (Animat and Vial 2004). According to Montecinos (2003:1), 'for over a century, budgetary politics in Chile contained protracted efforts to depoliticize economic management and insulate policy decisions from congressional interference.'

As a result, the Chilean budgetary process is governed by stable and predictable rules. The return of democracy did not question the prevailing consensus favoring executive pre-eminence in public budgeting and, as a consequence, limited legislative oversight of public finances. The nature of the political system also explains the stability of the budgetary system. Based on uninominal electoral districts, electoral rules lead to a bipartisan system and prompt parties to form coalitions. They require grounding structural reforms in bi-partisan consensus.

The broader environment of public budgeting, in fact, makes Chile ripe for ex-post performance auditing. Chile possesses 'adequate rules and procedures and codes of conduct that accept these rules and procedures as legitimate' (World Bank 2004:3; Iturriaga Ruiz 1995). However, public finance management has remained fairly conventional, privileging adherence to rules and procedures over attainment of results. Furthermore, as Marcel and Tokeman (2002:113) underscore:

⁵⁰ The centralization of budget authority is the result of a long process that started as early as the civil war of 1891, which erupted partly as a result of a conflict between the executive and the legislature over the budget. It culminated with the adoption of the 1975 financial administration law and the 1980 constitution, which gave Chile one of the most centralized budgetary systems in the region. The legislature was closed during most of the military dictatorship between 1978 and 1990.

‘The lack of institutional checks and balances generate uncertainty over the future behavior of the authorities and prevent the country from fully reaping the benefits of fiscal discipline. In other words, since hierarchical budget institutions were not accompanied by accountability mechanisms over the authorities’ management of public finances, the benefits of such arrangements will remain limited.’

Institutional linkages

The CGR’s institutional linkages with the other components of the system of financial governance and fiscal control represent a major hindrance to its effectiveness. Relations with the bureaucracy are marred by tension and suspicion. Relations with DIPRES are difficult, partly because of the overlap of responsibilities, and partly because of differences in corporate cultures. Tensions between the executive and the CGR escalated with the multiplication of special investigations and ex-ante controls contesting the legality of government initiatives. Examples include the Plan AUGÉ, in 2000, in which the CGR contested the legality of the plan’s publicity campaign, or, in 2002, concerning procurement irregularities in the Ministry of Public Works (MOP).

Controversies between the CGR and DIPRES centre on performance auditing and government accounting. The role of the CGR in government accounting is particularly problematic, as it prevents the CGR from auditing government accounts. It generates duplications, as both DIPRES and the CGR maintained, until 2001, their parallel financial information systems. The CGR’s formalistic approach to fiscal control conflicts with DIPRES’ emphasis on performance evaluation. While the CGR is primarily driven by liberal concerns for restraining executive discretion, DIPRES is primarily driven by managerial concerns for improving public management through greater managerial accountability.⁵¹

In the course of the 1990s, the Chilean authorities introduced important reforms in public management and financial governance. As Animat and Vial (2004:20) note,

‘since the restoration of democracy there has been a constant effort to improve the budget process, with special emphasis on budget discipline, execution, and control. Together with the ex-ante spending limits established by the structural fiscal surplus rule, the most significant reforms to the budget process have been at the control stage.’

Progressively, as in Brazil, the modernization of the budgetary system became the driver of state reform, under the stewardship of the central budget office (World Bank 2005; Guzmán 2005). There have been important improvements in terms of fiscal transparency and public access to financial information. The executive must now provide more information on government finances, reporting on budget execution to the legislature on a monthly and quarterly basis. These reports are public since 2000. As Marcel and Tokeman (2002:108),

‘budgets are now seen not only as a tool of macroeconomic policy, but also as having a managerial and political role [...]. The key to successful public finance management is to balance the economic, managerial and political roles of public finances. It is, therefore, a matter of governance.’

⁵¹ Chilean administrative traditions clearly distinguish fiscal control from performance evaluation. Article 52 of the 1975 law of financial administration (LAFE) underscores that the CGR exercises the ‘financial control of the state and the adequate compliance with legal and regulatory provisions,’ while the ‘control and evaluation of the attainment of objectives and the achievement of pre-set targets are tasks that correspond to the administration of the state and which are exercised by the executive’ (DIPRES 2004:339).

Nevertheless, the sophistication of performance evaluation undertaken by DIPRES begs the question of whether performance auditing by the CGR would add any value. While there might be a conflict of interest in having DIPRES evaluate the performance of the budget system it supervises, the executive opposes the extension of the CGR's prerogatives to ex-post performance auditing or '*auditoria de gestión*.' It argues that the CGR's legalistic approach to fiscal control would hinder, rather than improve public management. It also fears that the CGR would concentrate too much power and would not be sufficiently accountable. Interviews with legislators confirm that this is also the view held in the legislature. The challenge of performance auditing is thus dual: changing the CGR's corporate culture and overcoming DIPRES resistance.

Relations with the legislature are also deficient. The CGR is not an auxiliary institution to the legislature and it has not actively sought to develop the legislative connection. Interactions between the CGR and the legislature are not strategic, reflected, for example, in the ad-hoc nature of the legislature's requests for special audits. The weakness of the links between the CGR and the legislature must nevertheless be placed in the broader context of a weak legislature in budgetary terms. Alejandro Foxley acknowledges that:

'the follow-up of audit findings is particularly problematic, as the CGR does not possess enforcement powers and the legislature is neither designed nor equipped to do so [...]. There is a legal vacuum here.'⁵²

As the CGR supervises the accounting system, there is no independent auditing of government financial statements and no annual certification of government public accounts. Moreover, there is no public accounts committee within the legislature to review government accounts and follow-up audit findings. Thus, the Chilean external auditing system deviates from international best practice, as 'the absence of any external audit opinion on the financial statements of the government does not correspond with a modern approach to external auditing of the public sector' (World Bank 2004:9). However, for the CGR to emit an audit opinion on government financial statements, this would require abandoning its role in government accounting and ceasing to participate in administrative decision-making through ex-ante control. Both these reforms would require amending the constitution.

As a result, the CGR provides little advice or support to the legislature in the oversight of government finances. The weakness of the links between the CGR and the legislature must nevertheless be placed in the broader context of a weak legislature in budgetary terms. As Siavelis (2002) underscores, legislative budget oversight, whether through routine 'police patrols' such as those provided by the CGR or through inquisitorial 'fire alarms' of legislative inquiry commissions, is deficient, as reflected in recent corruption scandals.

Presidents Eduardo Frei and Ricardo Lagos have made improved accountability to the legislature a political priority. The legislature has enhanced its own capacities for government financial oversight and is taking a more active role in public budgeting, requests more fiscal information from the government. In 2003, the legislature's joint budget committee became a permanent structure, assisted by an embryonic budget research office established in 1997. Until then, this committee was only activated for the review of the government's budget proposal.

The legislature has also sought to enhance government accountability and legislative oversight through political agreements, often formalized in (non-binding) protocols annexed to the budget. These protocols, introduced in 1997, are agreed between political parties and signed by the legislature and the finance ministry. While they are not yet fully institutionalized, they have proven to be an effective mechanism for inter-branch cooperation and increasing the influence of

⁵² Author interview with Senator Alejandro Foxley, Minister of Foreign Affairs and former Minister of Finance, Santiago, Chile, 12 August 2004.

the legislature in budgetary matters (Animat and Vial 2004). Examples of such political agreements include the informal rule of structural fiscal surplus of one percent of GDP. Similarly, the political response to the ‘salary supplements’ corruption scandal in 2002 resulted in an all-party anti-corruption pact in 2003. This pact included 50 separate initiatives including the reform of the CGR.

The expertise of individual legislators sitting in the budget and finance committees partially compensate for the lack of institutionalized capacity for budget oversight in the legislature. These legislators have ample experience and expertise in fiscal policy and public finances, often acquired in the executive branch as finance minister or director of the central budget office. Both chambers also show high re-election rates and committee membership is relatively stable, rotating every four years. Legislative coherence is reinforced by party discipline in what is essentially a bi-partisan political system. Nevertheless, the high rate of re-election in the legislature only partially translates individual expertise into institutional expertise.

Reforming external auditing

The consensus view in Chile is that the CGR does not need strengthening; it needs reforming. The challenge is how to make it happen without jeopardizing the budgetary system and fiscal discipline. Many fear that reforming the CGR would open a Pandora’s box that would make the entire system of public budgeting and fiscal control crumble like a house of cards. The paradox of the CGR is that of an increasingly anachronistic agency in what is otherwise a relatively efficacious state bureaucracy. While it is widely respected for its contribution to strengthening public financial management and anchoring integrity in the public sector, it is also criticized for its institutional inertia and its inability to accompany the modernization of public management. A defining challenge of the reform of external auditing is

‘to surpass the country’s legalistic culture embedding the Chilean public administration, [...] an administrative ritualism, that expresses itself in a persistent culture of procedures’ emphasizing compliance with rules over achievement of results (Ramírez Aluja 2002:182).

Unlike in Argentina, the weakness of formal oversight institutions is compensated by the probity of the Chilean public administration and its adherence to the rule of law, which the CGR has contributed to anchoring. Chile’s tradition of legality was supported ‘by a series of state institutions with independent decision-making authority that were considered above party politics,’ most notably the CGR which was a ‘feared institution, infamous among bureaucrats for ensuring relative efficiency in Chilean state institutions’ (Siavelis 2002:72). The CGR does constraint behavior and deters unlawful actions through its ex-ante control function. However, it has failed to reform and keep pace with broader reforms in public management.

Structural reform has proved elusive, stumbling on the controversies surrounding ex-ante compliance control. The few reform proposals that were advanced during the military government in 1982 and the democratic government in 1992 resulted only in partial reforms and the rationalization of existing functions. The CGR rightfully underscores that its organic law ought to be revisited, as provided for in the 1980 Constitution. Its current organic law dates back to 1952 and was reformulated in 1964. In 2000, a cross-party agreement recognized the need to strengthen external auditing and reform the CGR. In 2002, the CGR articulated a modernization program, which nevertheless focused on improving its internal functioning (CGR 2002).

The challenge for Chilean authorities is to redefine the role of the CGR in the oversight of government finances, as part of a broader structural reform of financial governance. As Waissbluth (2001) argues, what is required is ‘an entirely renovated institution, with greater constitutional powers and streamlined competences, and with different approaches to the external

control of public sector management.’ Clearly, as an evaluation of fiscal governance in Chile highlights, ‘some of the current functions of the CGR are incompatible with its ultimate responsibility as external auditor of the system,’ in particular the supervision of the government accounting system (World Bank 2004:2; OECD 2004).

Any reform of the control functions of the CGR would involve systemic changes in the overall system of financial governance and fiscal control. Six interrelated reforms should be considered. First, were the CGR to abandon its ex-ante compliance control functions, government would have to substantially upgrade its internal control system, which ought to be undertaken ex-ante, and strengthen the *General Council of Internal Government Auditing* (CAIGG). Similarly, the review of legality and constitutionality of government decrees should be transferred to the judiciary with the creation of administrative tribunals and the instauration of judicial review, undertaken ex-post.

Second, were the CGR to abandon its supervision of government accounting, these functions should be assumed by an executive agency, possibly through the creation of a general accounting office within the finance ministry. Third, as government accounting responsibilities are transferred to the executive, the CGR should develop its ex-post auditing functions and audit government financial statements, including annual public accounts. Enforcing ex-post controls would, in turn, require the agency to be endowed with greater sanctioning powers. Four, the greater focus on ex-post performance auditing that the abandonment of ex-ante compliance control would allow would require substantial changes in the CGR’s corporate culture and a widening of the panoply of ex-post audit instruments.

Five, the auditing of government financial statements by the CGR, including annual government accounts, would also require strengthening the role of the legislature in the oversight of government finances and an improvement in the functional relations between the legislature and the CGR. A major challenge for the CGR is ‘how to develop more effective mechanisms to ensure that the legislature duly considers its findings and recommendations and uses them in an appropriate and apolitical manner to scrutinize the activities of government’ (World Bank 2004:48). The CGR necessarily inserts itself in the politics of executive-legislative relations and, in fact, the legislature has been critical to strengthen the authority of the CGR, granting it constitutional status in 1943 and impeaching the comptroller-general in 1945 for failing to provide effective restraints on government. As Faundez (2007:11) notes:

‘by the mid-1940s, as congress began to express an interest in effectively controlling the powers of the executive, the Contraloría was identified as the institution with the potential and capacity to perform this task.’

Six, the CGR also should develop its linkages with the wider society through a more pro-active approach to the publicity of its audits.

In recent years, the political momentum for reform has quickened, as corruption scandals have affected the public trust in the system of fiscal control. Upon assuming office in 2006, *Concertación* President Michelle Bachelet launched a series of initiatives to restore confidence and increase transparency in the public sector. She commissioned a report from a group of independent experts, which submitted its conclusions in November 2006. In December, President Bachelet outlined her reform plan based on the commission’s recommendations, including a radical reform of the CGR through the adoption of a new organic law.

The proposed reforms seek to modernize external auditing and recast of the CGR by increasing the focus on ex-post compliance control and financial auditing, limiting ex-ante control functions further, disclosing audit reports, and broadening the scope of the CGR. The commission also advised that the CGR abandons its quasi-judicial functions as a tribunal of accounts and the

creation of a specialized court of accounts. In terms of government accounting, it suggested separating government accounting and external auditing functions, thus paving the way for the CGR to audit government accounts. It proposed establishing an autonomous accounting agency.

The commission also recommended creating an autonomous agency to evaluate the performance of public agencies and programs. This agency should be linked to the legislature and would be independent of the central budget, thus ending the conflict of interest whereby DIPRES evaluates the performance of public budgeting system it supervises. The government put forward a legislative proposal to establishing a *National Agency for the Quality of Public Policies* in December 2006. The commission also recommended strengthening the internal control system and its supervisory body, the CAIGG, and enhancing the legal framework for freedom of information. The government responded by beefing up the 1999 legislation on access to public information and proposing the creation of an *Institute for the Promotion of Transparency*, following the Mexican model.

The new organic law for the CGR will be based on the CGR's own proposals and an independent review of the CGR to be carried out in 2007. However, current proposals do not envision enhancing the role of the legislature in the oversight of public finances, nor strengthening the linkages between the legislature and the CGR. The reform process has nevertheless become imbued with controversy in the context of the selection of a successor to the comptroller-general, Sciolla Avendaño, who had reached the age limit. As in 2002, when Lagos sought to nominate a candidate from outside the CGR, Bachelet initially proposed an outsider to the CGR, Pablo Ruiz-Tagle, instead of the former deputy comptroller general and acting comptroller-general since June 2006, Noemí Rojas Llanos. This was interpreted as another attempt to diminish the influence of the right on the CGR.

The opposition in the Senate rejected the president's candidate in November 2006, paving the way for a consensus candidate.⁵³ In April 2007, the Senate finally endorsed President Bachelet's second nominee, a renewed lawyer and academic, Ramiro Mendoza Zúñiga, for an eight-year mandate. The Senate's approval was accompanied by a cross-party agreement to reform the CGR. Mendoza Zúñiga represents a unique chance to reform and modernize the external auditing function. He is relatively young (47 years of age), is an outsider to the CGR, and his mandate is now backed by a political consensus on the need for reform.

Conclusions: Auditing for accountability?

We might hope to see the finances of the Union as clear and intelligible as a merchant's book, so that every member of Congress, and every man of any mind in the Union, should be able to comprehend them, to investigate abuses, and consequently to control them. President Thomas Jefferson writing to his Secretary of the Treasury in 1802, cited in Walker 2004:10.

Undoubtedly, AAAs have a critical contribution to make to improve fiscal transparency and financial accountability. However, they are not as effective as they could or should be (Santiso 2006e, 2007). This article demonstrates that the *effectiveness* of AAA is only partially explained by the choice of organizational model. While institutional arrangements for external auditing of

⁵³ For the first time, the Senate debate and vote were public. The deliberations of the Senate were previously made behind closed doors in a special session and through secret vote.

government finances do matter, the effectiveness of AAAs is conditioned by the broader political economy in which they are embedded.

Furthermore, the *reform* of AAAs is itself inherently political, constrained by the political space for reform and the political incentives of reformers. There are many pathways to reform but the case of Brazil shows that gradual reform has greater chance of succeeding. Conversely, the example of Argentina suggests that reform strategies seeking to transplant exogenous models are likely to fail. Institutional reform does occur, but inserts itself in the trajectory of state building and the culture of public administration. Five research findings and five policy recommendations can be drawn from this paper.

Research findings

First, the research uncovers a positive correlation between the credibility of external auditing and the quality of financial governance, in terms of budget transparency, bureaucratic effectiveness and corruption control. However, institutional design only partially explains the agency effectiveness. For example, evidence from Argentina, Brazil and Chile suggest that there is no strong, direct and unambiguous relationship between the probity of public administration and the existence of ex-ante compliance control. Causality relations between external auditing and fiscal performance remain uncertain, however.

Second, AAAs are part of the broader system of financial governance and fiscal control in which they are embedded. Dysfunctions are systemic, not agency-specific. Therefore, the efficacy of the linkages between the various components of the ‘national integrity systems’ is critical. The nature and quality of the AAAs’ relations with the executive (for enforcing administrative accountability), the judiciary (for enforcing judicial accountability) and the legislature (for enforcing political accountability) are critical. The case of Argentina illustrates that, while the AAA is technically competent, it fails to have a deterrent impact because of audit findings are not effectively acted upon by the legislature. Similarly, the dysfunctions in the links between the AAA and the judicial system in Brazil hamper the effective enforcement of audit recommendations.

Clearly, the prevalence of corruption in many countries requires strong preventive, corrective and punitive systems of fiscal control. However, as this article posits, AAAs are essentially *oversight agencies* with indirect enforcement powers, rather than *accountability institutions* with direct sanctioning powers. Their contribution to fiscal control resides in the support they provide, as auxiliary institutions, to those state powers with the mandate with enforcing accountability on government as part of the system of checks and balances and the separation of powers, namely the legislature and the judiciary. As Moreno et al. (2003:117) stress, ‘agents cannot hold other agents accountable, only their principals can.’ What matters most is not whether AAAs are endowed with direct sanctioning powers, but rather that enforcement actually occurs.

The ‘functional linkages’ hypothesis also draws attention to the balance between technical capacities and political incentives to improve the effectiveness of oversight agencies. Technical improvements in auditing techniques can help enhance agency performance. However, the impact of AAAs ultimately hinges upon the incentives of political actors to effectively use the financial information they provide. This, in turns, depends on the configuration of political power and the incentives provided by electoral rules and party systems. There thus exists unexplored potential to improve government accountability by tackling the dysfunctions in the political incentives for exercising oversight. This requires understanding the synergies between the institutions of horizontal and vertical accountability (Persson and Tabellini 2001, 1999).

Third, institutional independence is a critical guarantee of impartiality and credibility, but should not be an end in itself. Securing the political independence of AAAs is critical to their credibility and effectiveness, but what matters most is shielding them from partisan interference and political capture. In Argentina, the AGN is undermined by the ‘political filtering’ of its audit rulings and the resulting fiction of control. Brazil also shows that while the TCU is largely independent from executive interference, it is not free from partisan influence.

However, excessive independence and institutional insulation can also hamper effectiveness, as in Chile. There exists a *paradox of independence*: while AAAs should be sufficiently independent to adequately perform their tasks, they depend on other state institutions to have a meaningful impact. The challenge is, therefore, how much independence is enough and how much is too much. There might even be a trade-off between independence and effectiveness, as the effectiveness of AAAs depends on their active connection with the other components of the system of fiscal control (Manning and Matsuda 2000).

Our ‘functional linkages’ hypothesis nuances the traditional view in the political economy literature according to which autonomy is best guaranteed by insulating oversight agencies from their political environment.⁵⁴ The agency autonomy literature tends to value independence as an end in itself, rather than as a means to improve the agency’s performance. It fails to acknowledge that excessive autonomy may, in fact, undermine agency effectiveness. Autonomy through insulation might well guarantee survival but can lead to irrelevance, as the case of the Chilean CGR suggests. The resulting danger is not political capture, but institutional sclerosis. We thus concur with Dove (2002:224) that:

‘an agency strategy based on cautious engagement tends to win an oversight agency more real autonomy, while one based on insulation tends to result in the oversight agency becoming irrelevant.’

Fourth, shortcomings in the cycle of accountability reflect deeper dysfunctions in principal-agent relations between AAAs and the legislatures. The fluidity of the functional relationship between AAAs and legislatures is key to explain the effectiveness of the system of fiscal control. However, as this research reveals, this ‘legislative connection’ is the weakest link in the cycle of financial accountability, as reflected in the dysfunctions in the certification of public accounts and government discharge. In Argentina the certification process has effectively ceased to be meaningful; in Brazil it is marred with procedural difficulties; and in Chile it does not happen.

External auditing is not as effective as it could be partly because of the inadequate follow-up of audit findings and enforcement of audit recommendations by legislatures. At the same time, excessive dependence on the legislature also has its drawbacks, as the case of Argentina illustrates. Being a political appendix of the legislature makes the AGN vulnerable to partisan meddling, a vulnerability that is exacerbated by the politicization of the AGN’s decision-making structure. The root causes of dysfunctions are to be found in the legislatures’ lack of political incentives to use the information provided by its agent, the AAA, to oversee its main agent, government. Disclosure of audit findings and freedom of information can help AAAs circumvent the legislature and directly report to their ultimate principal, the public.

Fifth, external audit systems are in transition, seeking to redefine their role in fiscal control and their contribution to public management. However, to be fully effective, AAAs must clearly define their main purpose and mission. In many countries, they find themselves torn

⁵⁴ Dove (2002:223) argues that oversight ‘agencies are more likely to sustain their autonomy if they minimize dependence on their task environments and close themselves off as much as possible to contacts that could lead to interference’ (Dove 2002:223). Similarly, Matsuda (1997:14-15) sustains: ‘the insulation strategy is based on the premise that the best way to protect the agency autonomy is to stay away from partisan politics, trying [...] to maintain political neutrality and giving political actors few reasons for intervention.’

between a *liberal concern* for restraining government, through ex-ante control and compliance auditing, and a *managerial concern* with improving government performance, through ex-post performance auditing (Speck 1999, 2000). The liberal concern is predominant in the court model of tribunal of accounts, as in Brazil, and in those that emphasize ex-ante compliance control, as in Chile. The managerial concern is reflected in auditing techniques privileging ex-post performance auditing, as in Argentina. The case of Brazil nevertheless shows that these two functions are not necessarily compatible within the same organizational model.

There exists a fundamental tension between managerial efficacy and administrative control. Admittedly, both functions are equally critical for the efficient functioning of a modern state. The managerial approach is indeed based on the assumption of the pre-existence of a rule-based bureaucracy, an assumption that does not hold in most developing countries. The key question, however, is which of these functions ought to dominate at any given time. Their relevance in specific country contexts depends on a variety of factors linked to the stage of development of the state, including the quality of the bureaucracy, the strength of internal controls and adherence to the rule of law.

The 1992 reforms in Argentina prematurely ended ex-ante compliance control in a public administration lacking a culture of transparency and probity. Conversely, in Chile, the bureaucracy is highly respectful of the law (probably too rigidly), which makes it ripe for shifting to ex-post performance auditing. However, the deep-seated legalistic culture of control of the CGR privileges formal compliance with rules over modern audit techniques focusing on performance. The tragedy of most Latin American states is that they have been unable to achieve neither government restraint nor managerial autonomy, rendering performance-management a premature task. The critical issue, as Schick (1998) advises, is to ‘get the basics right first.’

Policy implications

Five main policy implications can also be drawn from this research. *First, politics matter to explain the effectiveness of external auditing.* It is thus necessary to take full account of the political context in which AAAs functions. Independent oversight of government finances is inherently political. It tackles embedded political interest and is itself embedded in a political context. Electoral incentives, the nature of the political system, the distribution of political power, and the degree of political competition have a determinant influence on the willingness of legislators to use external audit findings to enforce accountability on government.

The failing of fiscal control in Argentina is a failure of politics. The case of Argentina also shows that the choice of audit model is a political decision. Recent developments reflect the ruling party’s impatience with checks and balances. In April 2007, the ruling party put forward a proposal to amend the 1992 financial administration law.⁵⁵ If adopted, this legal change would undercut the AGN’s functional autonomy and increase its deference to the legislative majority. The proposal suggests reducing the auditors-general’s mandate from eight to four years, synchronizing it with the government’s term in office and strengthening the ruling party’s control over the AGN. The legislative proposal also reasserts the authority of the CPMRC over the work of the AGN and its audit reports.

Relations between governments and auditors-general are often tensed and conflictive. Independent-minded auditors generals must strike a delicate balance between a confrontational and an accommodating strategy to have a meaningful impact on public sector performance. At the same time, external audit can also be a dangerous endeavor in inauspicious political contexts, such as in Chile during the military dictatorship. Auditors must show both courage and prudence.

⁵⁵ Proyecto de Ley 1860-D-2007, Trámite parlamentario no. 39, 27 April 2007.

Second, to build effective AAAs, mobilizing political power is often more important than increasing technical capacity. It is important to address the underlying causes of poor performance, rather than focus on the symptoms. Strengthening technical capacity *per se* does not automatically improve the effectiveness of AAAs, nor has it prevented them from being captured. External auditing inserts itself in the politics of the budget and the logics of executive-legislative relations. The degree to which legislatures use audit findings to hold the government to account is likely to depend on the configuration of political power, the degree of political contestation and the extent of electoral competition.

Legislatures are more likely to develop technical capacity to oversee government finances if the opposition is sufficiently strong and cohesive. In situations of fused government, where executive and legislative majorities coincide, legislatures have fewer incentives to oversee government and develop oversight capacities, either directly through public accounts committees or legislative budget offices, or indirectly through the AAAs. In Argentina, legislators do not necessarily lack technical capacity, but rather political incentives to exercise the oversight powers they have and invest in the legislature's oversight functions. Low re-election rates, intra-party dynamics, and the fusion of government and legislative majorities diminish the incentives of legislators to restrain government. Moreover, executive discretion and expeditious modes of government conspire to neutralize fiscal control and external oversight.

Third, AAAs cannot be strengthened or reformed in isolation. Too often, reformers approach organizations in isolation, as self-containing organizations, overlooking the broader governance and institutional context in which they are embedded and the linkages between them. As Stein et al. (2005:258) aptly stress, 'it is difficult to produce institutional change by addressing an institution in isolation. To intervene effectively, it is important to understand the complex interdependencies that exist among institutions [...].' Diamond (2001:1) underscores that:

'endemic corruption is a systemic disease that can only be controlled with a systemic cure: a single institution, such as an anticorruption commission, will not do. Effective and durable corruption control requires multiple, reinforcing and overlapping institutions of accountability.'

By failing to explore the linkages between organizations, reformers often fail to bring about systemic improvements and lasting change. In Chile, for example, recent reforms put forward by the government in 2006 shy away from addressing the dysfunctional linkages between the CGR and the legislature. There indeed exists unexplored potential to improve government accountability in public expenditure management, by improving the quality of the linkages between external auditing and legislative oversight.

Fourth, stages of institutional development cannot be bypassed. Gradual reforms *within* existing external auditing systems are likely to be more successful than abrupt changes *of* fiscal control systems. In Brazil, incremental adjustments since 1891 have contributed to gradually strengthen and adapt the TCU. Conversely, failure to reform in Chile threatens the CGR with becoming antiquated and irrelevant. Political institutions in general and AAAs in particular are rooted in their own trajectories and their effectiveness is highly dependent on the administrative traditions in which they are embedded. Therefore, as Stein et al. (2005:258) emphasize, it is critical to conceive reforms as a matter 'not of achieving an ideal model, but improving the existing model on the basis of available resources and existing restrictions.'

This research also confirms North's theories on institutional change. Budget institutions and external audit arrangements in particular are costly to reform and exhibit a high degree of inertia, both of which result in a strong status-quo bias. They change in significant ways only when performance is highly unsatisfactory. Furthermore, as Tsebelis and Chang (2004:449) show, 'countries with many veto players [...] will have difficulty in altering budget structures.'

However, in such contexts, as in Brazil, while reform is harder to achieve, it is also harder to undo and therefore more credible (Haggard and McCubbins 2001).

Fifth, radical reform strategies based on the institutional transplant of exogenous models are likely to fail. Radical reforms based on the import of technical solutions are likely to fail if they are adequately internalized or if the domestic political process denaturalizes them. The key challenge is not how to change systems, but rather how to make existing systems and institutions work and work better. Reform strategies that seek to mechanically transplant institutional audit models from abroad without taking into account the underlying conditions that make them work are likely to fail. Institutional arrangements for external auditing are path-dependent and country specific, and therefore difficult to replicate or transpose. Hence, rather than seeking to transplant ‘best practices’ from abroad, reformers should privilege ‘best fit’ approaches to achieve ‘good enough’ governance reforms and gradual improvements (Grindle 2004).

The radical change of the external audit model in Argentina in 1992, which changed from the court model to the collegiate model almost overnight, constitutes an example of reform failure and political neutralization, resulting in the weakening of fiscal control. The reforms changed the formal institutions of financial scrutiny but did not affect the informal institutions and underlying power relationships in which the system of government accountability is embedded. Conversely, the reform experience of Chile highlights the importance of internalization of institutional innovations. The proposal put forward by the Kemmerer missions in the 1920s were adapted to the legal culture and traditions of the Chilean public administration of that time. Thus, these findings underscore the limits of institutional design and ‘institutional import’ (Dove 2002) as effective reform strategies.

In conclusion, the effectiveness of AAAs ultimately resides in their capacity to generate behavior in the public sector. As such, AAAs must be cast in the broader system of checks and balances in financial governance and the separation of powers in public finance management. This finding, in turns, opens avenues for further research on the determinants of the effectiveness of fiscal institutions, in particular the interactions between the institutions of horizontal and vertical accountability, the capacities and incentives of legislatures to hold governments to account in the management of public finances, and the potential of freedom of information for increasing transparency in public budgeting and fiscal policy. This research should also be extended beyond presidential systems of government to compare and contrast the performance of AAAs in presidential and parliamentary systems.

1 June 2007

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TABLE 1: FINANCIAL GOVERNANCE REFORMS IN LATIN AMERICA

Country	Fiscal governance	Fiscal transparency		Fiscal responsibility		Fiscal control
	Organic budget law; Organic financial administration law **	Access to public information law	Habeas Data	Law on fiscal transparency	Law on fiscal responsibility **	Law on fiscal control
Argentina	1992, 1997	* (2002)	1994	1999	1999, 2001, 2004	L AFCSP Law 24156 (1992)
Bolivia	1990 (1997)	(2004) 2005		2004		SAFCO Law 1178 (1999; 1997)
Brazil	2001		1988	2000	2000	Law 10180 (2001)
Chile	1975				***	LOAFE Decree 1263 1975
Colombia	2004	1985	1997	2003	2003	Laws 43 (1993) and 2145 (1999)
Costa Rica	2001	*				LAFPP Law 8131 (2001)
Dominican Republic	1969	2004				LOPSP (1969)
Ecuador	1977	2004	1996	2002	2002	Decree 1429 (1977, 1990)
El Salvador	1995					LOAFE Decree 516 (1995)
Guatemala	1997		1995			LOP Decree 101-97 (1997)
Honduras	1976, 2004	* (2003)			2004	LOP Decree 407-76 (1976)
Mexico	1976	2002	2002		2006	LFSF Law (2000)
Nicaragua	1988 (1991)		1995			LOCGRSCAP Decree 625 (1981, 1984, 2000)
Panama		2002	2002	2002	2002	
Paraguay	1999		1992			LAFE Law 1535 (1999)
Peru	2004	2002	1993	1999, 2003	1999, 2003	LOSNCGR Law 27785 (2002)
Uruguay	1999					TOCAF Decree 95 (1991, 1999)
Venezuela	2000, 2003		1999			LOAF SP (2000) and Decrees 2621 and 2268 (2003)

Source: Author compilation, as of December 2005. Notes: *: Under consideration; **: Joint World Bank- IMF Country Budget Law Database, complemented by web-based research of the countries' ministries of economy and finance; ***: Chile introduced fiscal numerical rules in 2001 not enshrined in legislation but as part of a political agreement.

TABLE 2: INSTITUTIONAL FRAMEWORK OF FISCAL GOVERNANCE IN LATIN AMERICA

	Central budget office of the ministry of finance	Integrated system of financial management	Accounting office	Internal audit agency	External audit agency
Argentina	Oficina Nacional de Presupuesto (ONP), Subsecretaría de Presupuesto, Secretaría de Hacienda, Ministerio de Economía	SIDIF 1992	Contaduría General de la Nación (CGN), Subsecretaría de Presupuesto, Secretaría de Hacienda, Ministerio de Economía	Sindicatura General de la Nación (SIGEN), 1992	Auditoría General de la Nación (AGN), 1992
Bolivia	Viceministerio de Presupuesto y Contaduría (VMPC), Ministerio de Hacienda	SAFCO-SIIF 1986	Contaduría General del Estado (CGE), Secretaría Nacional de Hacienda, Ministerio de Finanzas		Contraloría General de la República (CGR), 1990
Brazil	Secretaria de Orcamento Federal (SOF), Ministerio do Planejamento, Orcamento e Gestao	SIIFI 1986	Secretaria do Tesouro Nacional (STN), Orgao Central de Contabilidade	Secretaria Federal de Controle Interno (SFCI), Corregedoria-Geral da Uniao, Presidencia da Republica, 2001	Tribunal de Contas da Uniao (TCU), 1992
Chile	Dirección de Presupuesto (DIPRES), Ministerio de Hacienda	SIGFE 2000	Contraloría General de la República (CGR)	Consejo de Auditoría Interna General del Gobierno (CAIGG), Presidencia de la República, 1997	Contraloría General de la República (CGR), 1964
Colombia	Dirección General del Presupuesto (DGP), Ministerio de Hacienda y Crédito Público	SIIF 2004	Contaduría General de la Nación (CGN), Ministerio de Hacienda y Crédito Público	Consejo Asesor de Control Interno, Presidencia de la República, 1998	Contraloría General de la República (CGR), 1993
Costa Rica	Dirección General de Presupuesto Nacional (DGPN), Ministerio de Hacienda	SIGAF 1996	Contabilidad Nacional (CN), Ministerio de Hacienda		Contraloría General de la República (CGR), 1994
Dominican Republic	Oficina Nacional de Presupuesto (ONP), Secretaría de Estado de Finanzas (SEF)	SIGEF 1998	Contraloría General de la República (CGR), Secretaría de Estado de Finanzas		Cámara de Cuentas de la República (CC)
Ecuador	Subsecretaría de Presupuestos (SP), Ministerio de Economía y Finanzas	SIGEF	Dirección de Contabilidad (DC), Ministerio de Finanzas y Crédito Público		Contraloría General del Estado (CGE), 2002
El Salvador	Dirección General de Presupuesto (DGN), Ministerio de Hacienda	SAFI 1993	Dirección General de Contabilidad Gubernamental (DGCN), Ministerio de Hacienda		Corte de Cuentas de la República (CCR), 1995
Guatemala	Dirección Técnica del Presupuesto (DTP), Ministerio de Finanzas	SIAF-SAG 1998	Dirección de Contabilidad del Estado (DCE), Ministerio de Finanzas Públicas		Contraloría General de Cuentas (CGC), 2002
Honduras	Dirección General de Presupuesto (DGP), Secretaría de Finanzas		Contaduría General de la República (CGR), Secretaría de Finanzas		Tribunal Superior de Cuentas (TSC), 2002

Mexico	Subsecretaría de Egresos (SSE), Secretaría de Hacienda y Crédito Público	SICGP 1985	Unidad de Contabilidad Gubernamental e Informes sobre la Gestión Pública, Subsecretaría de Egresos (SSE), Secretaría de Hacienda y Crédito Público	Subsecretaría de Control y Auditoría de la Gestión Pública, Secretaría de Contraloría y Desarrollo Administrativo (SECODAM, 1983-2003) Secretaría de la Función Pública (2003-)	Auditoría Superior de la Federación (ASF), 2000
Nicaragua	Dirección General de Presupuesto (DGP), Ministerio de Hacienda y Crédito Público	SIGFA 1993	Dirección General de Contabilidad Gubernamental (DGCG), Ministerio de Hacienda y Crédito Público		Contraloría General de la República (CGR), 1979, 2001
Panama	Dirección de Presupuestos de la Nación (DIPRES), Ministerio de Economía y Finanzas	SIAFPA 1992	Dirección Nacional de Contabilidad (DNC), Ministerio de Economía y Finanzas; and Contraloría General de la República (CGR)		Contraloría General de la República (CGR), 1984
Paraguay	Dirección General de Presupuestos (DGP), Subsecretaría de Estado de Administración Financiera, Ministerio de Hacienda		Dirección General de Contabilidad Pública (DGCP), Ministerio de Hacienda	Auditoría General del Poder Ejecutivo, Presidencia de la República, 1999	Contraloría General de la República (CGR), 1994
Peru	Dirección Nacional de Presupuesto Público (DNPP), Viceministerio de Hacienda, Ministerio de Economía y Finanzas	SIAF-SP 1994	Contaduría Pública de la Nación (CGN), Ministerio de Economía y Finanzas		Contraloría General de la República (CGR), 2002
Uruguay	Oficina de Planeamiento y Presupuesto (OPP), Presidencia de la República	SIIF (1996)	Contaduría General de la Nación (CGN), Ministerio de Economía y Finanzas	Auditoría Interna de la Nación (AIN), Ministerio de Economía y Finanzas, 1996	Tribunal de Cuentas de la República (TCR), 1997
Venezuela	Oficina Nacional de Presupuesto (ONAPRE), Ministerio de Finanzas	SIGECOF (1995)	Oficina Nacional de Contabilidad Pública (ONCP), Ministerio de Finanzas	Superintendencia Nacional de Auditoría Interna (SNAI), Ministerio de Finanzas	Contraloría General de la República (CGR), 2001

TABLE 2: INSTITUTIONAL FRAMEWORK OF FISCAL GOVERNANCE IN LATIN AMERICA (CONTINUED)

	Parliamentary structure	Legislative budget committee (lower and upper chamber, where applicable) *	Legislative public accounts committee*	Legislative budget office
Argentina	Bicameral	FC: Comisión de Presupuesto y Hacienda (House); Comisión de Presupuesto y Hacienda (Senate)	FC; JC: Comisión de Parlamentaria Mixta Revisora De Cuentas de la Administración	no **
Bolivia	Bicameral	SC: Comisión de Hacienda (House); Comisión de Hacienda, Política Económica y Crediticia (Senate)	SC: Comisión de Hacienda, Comite de Presupuesto, Política Tributaria y Contraloría (House)	no ** (Oficina Técnica Económica de Presupuesto, OTEP, House)
Brazil	Bicameral	FC; JC: Comissão Mista de Planos, Orçamentos Públicos e Fiscalização (CMPOF)	SC; JC: Comissão Mista de Planos, Orçamentos Públicos e Fiscalização (CMPOF)	yes *** (Consultoria de Orçamento e Fiscalização Financeira, House; Consultoria de Orçamentos, Fiscalização e Controle, Senate)
Chile	Bicameral	FC; JC: Comisión Especial Mixta de Presupuestos; Comisión de Hacienda (House); Comisión de Hacienda (Senate)	FC: Comisión de Hacienda (House); Comisión Revisora de Cuentas (Senate)	yes (Unidad de Asesoría Presupuestaria del Congreso Nacional, Senate)
Colombia	Bicameral	SC: Comisión Cuarta (House); Comisión Cuarta (Senate)	FC: Comisión Legal de Cuentas (House)	no *** (Oficina de Asistencia Técnica Legislativa, OATL)
Costa Rica	Unicameral	FC: Comisión Hacendario (National Assembly)	FC: Control del Ingreso y el Gasto Público (National Assembly)	yes
Dominican Republic	Bicameral	SC: Comisión de Finanzas (House); FC: Comisión de Presupuesto (Senate)	SC: Comisión de Finanzas (House); Comisión de Finanzas (Senate);	no
Ecuador	Unicameral	SC: Comisión Especializada Permanente de lo Tributario, Fiscal, Bancario y Presupuestario (National Congress)	FC: Comisión Especializada Permanente de Fiscalización y Control Político (National Congress)	no
El Salvador	Unicameral	SC: Comisión de Hacienda y Especial del Presupuesto (Legislative Assembly)	SC: Comisión de Hacienda y Especial del Presupuesto (Legislative Assembly)	no
Guatemala	Unicameral	SC: Comisión Finanzas Públicas y Moneda (Congreso de la República)	SC: Comisión Finanzas Públicas y Moneda (Congreso de la República)	no
Honduras	Unicameral	FC: Comisión Ordinaria de Presupuesto (National Congress)	SC: Comisión Ordinaria de Presupuesto (National Congress)	no

Mexico	Bicameral	SC: Comisión de Presupuesto y Cuenta Pública (House)	SC: Comisión de Presupuesto y Cuenta Pública (House); SC: Comisión de Vigilancia of the ASF (House)	yes (Centro de Estudios en Finanzas Públicas, CEFP)
Nicaragua	Unicameral	SC: Comisión de Asuntos Económicos, Finanzas y Presupuesto (National Assembly)	SC: Comisión de Asuntos Económicos, Finanzas y Presupuesto (National Assembly)	yes (Dirección General de Análisi y Seguimiento del Gasto Público)
Panama	Unicameral	FC: Comisión de Presupuesto (Legislative Assembly)	FC: Comisión de Presupuesto (Legislative Assembly)	yes
Paraguay	Bicameral	FC; JC: Comisión Bicameral de Presupuesto; Comisión de Presupuesto (House);	FC: Comisión de Cuentas y Control de Ejecución Presupuestaria (House)	no
Peru	Unicameral	FC: Comisión de Presupuesto y Cuenta General (Congress)	FC: Comisión de Presupuesto y Cuenta General; and Comisión de Fiscalización y Contraloría (Congress)	no *** (Centro de Investigacion Parlamentaria)
Uruguay	Bicameral	FC: Comisión de Presupuestos (House); Comisión de Presupuesto (Senate)	SC: Comisión de Presupuestos (House); Comisión de Presupuesto (Senate)	no
Venezuela	Unicameral	SC: Subcomisión de Presupuesto, Comisión Permanente de Finanzas (National Assembly)	FC: Comisión Permanente de Contraloría	yes (Oficina de Asesoría Económica y Financiera de la Asamblea Nacional, OAEF)

Source: Author compilation, as of December 2004. Notes: *: FC: full committee; SC: sub-committee of finance and economic committee; JC: special joint committee of both chambers of parliament; **: Under consideration; ***: Legislative advisory capacity not exclusively assigned to budgetary matters.

FIGURE 1: ACCOUNTABILITY CYCLE IN PUBLIC FINANCE MANAGEMENT

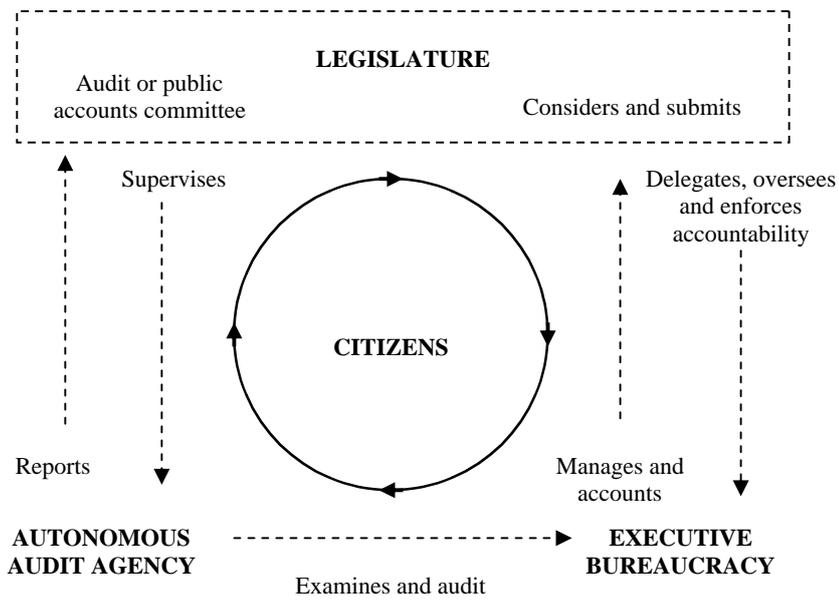


FIGURE 2: TYPOLOGY OF AAAs

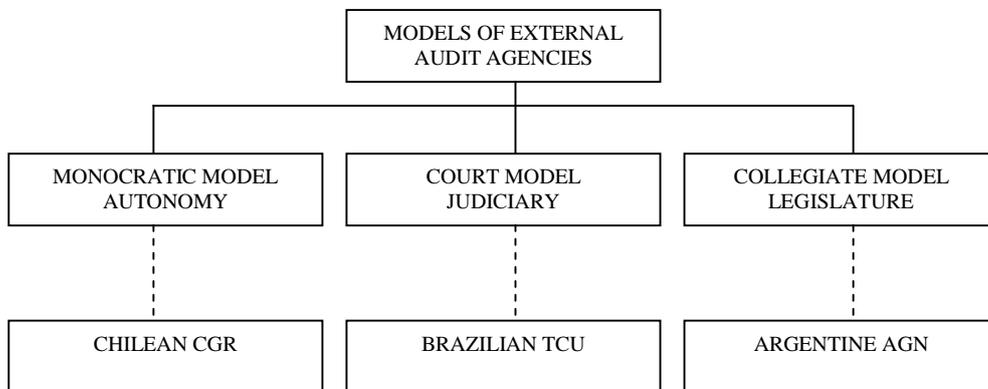


TABLE 3: LEGAL FRAMEWORK OF AAAs IN LATIN AMERICA

Country	Constitutional provisions	Financial administration law or Organic budget law	Organic law (where applicable)	Antecessors (after independence)
Argentina Auditoría General de la Nación, AGN	Constitution of 1994, art. 85	Ley de administración financiera y de los sistemas de control del sector público, 24156, 1992; Ley Complementaria Permanente de Presupuesto, 1997		Tribunal de Cuentas de la Nación, 1956
Bolivia Contraloría General de la República, CGR	Constitution of 1967, art. 154-155	Ley de Administración y Control Gubernamentales, SAFCO, 1990	Ley Orgánica de la Contraloría General de la República, 1977; Reglamento para el Ejercicio de las Atribuciones de la Contraloría General de la República, 1992	Tribunal Nacional de Cuentas, 1883; Contraloría General de la República, 1928.
Brazil Tribunal de Contas da União, TCU	Constitution of 1988, art. 71-75 and 161	Law 10180, 2001	Lei Orgânica do Tribunal de Contas da União, 1992	Tribunal de Contas da União, 1891
Chile Contraloría General de la República, CGR	Constitution of 1980, art. 87-89	Ley Orgánica de Administración Financiera, LOAF, 1975	Ley de Organización y Atribuciones de la Contraloría General de la República, 1953, reformed in 1964	Contaduría Mayor y Tribunal de Cuentas, 1839; Tribunal de Cuentas, 1888; Contraloría General de la República, 1927
Colombia Contraloría General de la República, CGR	Constitution of 1991, art.267-268	Law 819, 2003	Law 42 (reformulated), 1993; Law 106, 1993; amended 1999, 2000	Contaduría General de Hacienda, 1821; Corte de Cuentas, 1847; Departamento de Contraloría, 1923
Costa Rica Contraloría General de la República, CGR	Constitution of 1949, art. 183-184	Ley de Administración Financiera de la República y de Presupuestos Públicos, 2001	Ley Orgánica de la Contraloría General de la República, 1951, 1994	Tribunal de Cuentas, 1825; Centro de Control, 1945; Contraloría General de la República, 1949
Dominican Republic Cámara de Cuentas de la República, CCR	Constitution of 1966, art. 78-81 and 107	Ley Orgánica de Presupuesto para el Sector Público, 1969	Ley 10-04, 2004	Cámara de Cuentas de la República, 1942
Ecuador Contraloría General de la República, CGR	Constitution of 1998, art. 121-122 and 211-213	Ley Orgánica de Administración Financiera y Control, LOAFYC, 1977 (1986, 1993)	Ley Orgánica de la Contraloría General del Estado, 2002	Contaduría General de Hacienda, 1822; Tribunal de Cuentas, 1861; Contraloría General del Estado, 1927
El Salvador Contraloría General del Estado, CGE	Constitution of 1983, art. 195-199	Ley Orgánica de la Administración Financiera del Estado, 1995	Ley de la Corte de Cuentas de la República, 1995, 2002	Tribunal Superior de Cuentas, 1872; Auditoría General de Hacienda, 1930; Corte de Cuentas de la República, 1939
Guatemala Contraloría General de Cuentas, CGC	Constitution of 1985, art. 232-236	Ley Orgánica de Presupuesto, 1997	Ley Orgánica de la Contraloría General de Cuentas, 2002	Tribunal y Contaduría Mayor de Cuentas, 1824; Tribunal y Contraloría de Cuentas, 1945, 1948

Country	Constitutional provisions	Financial administration law or Organic budget law	Organic law (where applicable)	Antecessors (after independence)
Honduras Tribunal Superior de Cuentas, TSC	Constitution of 1964, reformed in 2002, art. 222-227	Ley Organica del Presupuesto, 1976	Ley Orgánica del Tribunal Superior de Cuentas, 2002	Tribunal de Cuentas, 1928; Contraloría General de la República, 1956
Mexico Auditoría Superior de la Federación, ASF	Constitution of 1917, reformed 1999, art. 73, 74, 78 y 79	Ley de Presupuesto, Contabilidad y Gasto Público Federal, 1976 (1995) Ley de presupuesto y responsabilidad haciendaria, 2006	Ley de Fiscalización Superior de la Federación, 2000	Contaduría Mayor de Hacienda, 1824, 1963, 1978
Nicaragua Contraloría General de la República, CGR	Constitution 1987, 1995, 200, art. 154-157	Ley del Régimen Presupuestario, 1988, 1991 Ley de administración financiera y del presupuesto público (Law 550, 2005)	Ley Orgánica de la Contraloría General de la República y Systema de Control gubernamental, 1979, Law 361 2000	Tribunal Supremo de Cuentas de la República, 1900; Tribunal de Cuentas, 1930, 1966
Panama Contraloría General de la República, CGR	Constitution of 1972, 1978, 1983, art. 275-276	Ley de Presupuesto, 1999	Ley Orgánica de la Contraloría General de la República, 1984	Visitador Fiscal, 1904; Tribunal de Cuentas, 1904; Agente Fiscal, 1918; Oficina de Contabilidad y Contraloría, 1930; Contraloría General de la República, 1942
Paraguay Contraloría General de la República, CGR	Constitution of 1992, art. 281-284	Ley de Administración Financiera del Estado, 1999	Ley Orgánica y Funcional de la Contraloría General de la República, 1994	n.a
Peru Contraloría General de la República, CGR	Constitution of 1993, art. 82	Ley marco de la Administración Financiera del Sector Público, 2003. Ley General del Sistema Nacional de Presupuesto, 2004	Ley del Sistema Nacional de Control y de la Contraloría General de la República, 2002	Tribunal Mayor de Cuentas, 1823; Contraloría General de la República, 1929, 1964
Uruguay Tribunal de Cuentas, TC	Constitution of 1996, art. 208-213	Ley de Contabilidad y Administración Financiera, TOCAF, 1991 (1999)	Texto Ordenado de Contabilidad y Administración Financiera, 1997	Comisión de Cuentas, 1830, 1834; Tribunal de Cuentas, 1934
Venezuela Contraloría General de la República, CGR	Constitution of 2000, art. 287-291	Ley Orgánica de la Administración Financiera del Sector Público, LOAF, 2003	Ley Orgánica de la Contraloría General de la República y del Sistema Nacional de Control Fiscal, 2001; Ley Orgánica del Poder Ciudadano, 2001	Contraloría de la Nación, 1938; Contraloría General de la República, 1961

Sources: Author compilation based on the external audit agencies' website; Respondanet of the America's Accountability and Anticorruption Project (AAA) (2005) *Banco de Datos Administración Financiera y Auditoría Gubernamental América Latina y el Caribe* (www.respondanet.com; 8 March 2005); Political Database of the Americas (1998) *Comparative Analysis of Audit Institutions* (<http://www.georgetown.edu/pdba/Comp/Control/control.html>; 20 March 2005); University of Salamanca, Instituto Interuniversitario de Estudios de Iberoamérica y Portugal (2005) *Database on Parliaments in Latin America* (<http://iberoame.usal.es/legislativo/legislativos/basededatos/basededatos.htm>; 22 March 2005); as well as Santiso (2006a, 2004c), UNDP (2004), Moreno et al. (2003), Payne et al. (2002:228-231); Petrei (1998).

TABLE 4: INSTITUTIONAL ARRANGEMENTS OF AAAs IN LATIN AMERICA

Country	Name	Type	Leadership	Ex ante control	Institution linked to the executive	Institution linked to the legislature	Quasi-judicial powers
Argentina	Auditoría General de la Nación, AGN	Collegial	Board of 7 Auditor Generals, headed by a President.			✓	
Bolivia	Contraloría General de la República, CGR	Uninominal	Comptroller General		✓ (President)		
Brazil	Tribunal de Contas da União, TCU	Collegial	Board of 9 Auditor Generals (“Ministers”); President elected by his peers, rotating every year.			✓	✓
Chile	Contraloría General de la República, CGR	Uninominal	Comptroller General	✓			✓ (Accounts Tribunal within CGR)
Colombia	Contraloría General de la República, CGR	Uninominal	Comptroller General				✓
Costa Rica	Contraloría General de la República, CGR	Uninominal	Comptroller General	✓		✓	
Dominican Republic	Cámara de Cuentas de la República, CCR	Collegial	Board of at least 5 members, with Executive Committee composed of a President, Vice-President and Executive Secretary.	✓			
Ecuador	Contraloría General del Estado, CGE	Uninominal		✓			
El Salvador	Corte de Cuentas de la República, CCR	Collegial	President and Magistrates; Second Instance Chamber (President and 2 Magistrates); First and Second Instance chambers.	✓ (selectively)		Submits report to Congress	✓
Guatemala	Contraloría General de Cuentas, CGC	Uninominal	Comptroller General			✓	✓ (Tribunal de Cuentas)
Honduras	Tribunal Superior de Cuentas, TSC	Collegial	Board of 3 members			✓	
Mexico	Auditoría Superior de la Federación, ASF	Uninominal				✓	
Nicaragua	Contraloría General de la República, CGR	Collegial (since 2000)	Board (“Consejo Superior”) of 5 members; President and Vice-			✓	

Country	Name	Type	Leadership	Ex ante control	Institution linked to the executive	Institution linked to the legislature	Quasi-judicial powers
			President elected by peers within the Council for one year by simple majority				
Panama	Contraloría General de la República, CGR	Uninominal		✓			✓ (Tribunal de Cuentas)
Paraguay	Contraloría General de la República, CGR	Uninominal				✓	
Peru	Contraloría General de la República, CGR	Uninominal		✓ (selectively)			
Uruguay	Tribunal de Cuentas, TC	Collegial	Board of 7 members (5+2 since 1952); President designated by peers within the Board.	✓		✓	
Venezuela	Contraloría General de la República, CGR	Uninominal					✓

Sources: Author compilation based on the external audit agencies' website; Respondanet of the America's Accountability and Anticorruption Project (AAA) (2005) *Banco de Datos Administración Financiera y Auditoría Gubernamental América Latina y el Caribe* (www.respondanet.com; 8 March 2005); Political Database of the Americas (1998) *Comparative Analysis of Audit Institutions* (<http://www.georgetown.edu/pdba/Comp/Control/control.html>; 20 March 2005); University of Salamanca, Instituto Interuniversitario de Estudios de Iberoamérica y Portugal (2005) *Database on Parliaments in Latin America* (<http://iberoame.usal.es/legislativo/legislativos/basededatos/basededatos.htm>; 22 March 2005); as well as Santiso (2006a, 2004c), UNDP (2004), Moreno et al. (2003), Payne et al. (2002:228-231); Petrei (1998).

TABLE 5: INDEX OF EFFECTIVENESS OF AAAs IN LATIN AMERICA

Country	Index of institutional effectiveness	Independence	Credibility	Timeliness	Enforcement
ARG	0.28	0.46	0.22	0.13	0.33
BRA	0.63	0.88	0.42	0.24	1.00
CHI	0.60	0.81	0.40	0.18	1.00
COL	0.61	0.78	0.46	0.21	1.00
CRI	0.50	0.69	0.48	0.16	0.67
ECU	0.28	0.67	0.14	0.00	0.33
SLV	0.41	0.58	0.08	0.00	1.00
MEX	0.36	0.61	0.38	0.12	0.33
NIC	0.43	0.82	0.20	0.03	0.67
PER	0.33	0.82	0.12	0.04	0.33
LAC10	0.44	0.71	0.29	0.11	0.67

Note: Indicators are in a scale from 0 to 1, with lower scores meaning lower performance.

Sub index of independence of audit agencies: Author compilation based the constitutions, organic budget laws, financial administration laws and organic laws of fiscal control and government auditing along 12 key variables. Sources include the AAAs' websites; America's Accountability and Anticorruption Project (AAA) (2005) *Banco de Datos Administración Financiera y Auditoría Gubernamental América Latina y el Caribe* (www.respondanet.com; 8 March 2005); Political Database of the Americas (1998) *Comparative Analysis of Audit Institutions* (www.georgetown.edu/pdba; 20 March 2005); as well as Santiso (2006a, 2004c), UNDP (2004), Moreno et al. (2003:126 – 127), Payne et al. (2002:228-231), and Petrei (1998). The normalized value for the sub-index ranges from 0, reflecting limited independence, to 1, signifying strong independence.

Sub-index of credibility of audit findings: Author compilation based on the IBP's indicator of the credibility of external auditing, which is itself a sub-index of the Index of Budget Transparency (Lavielle et al. 2003). Four statements were taken into consideration to quantify this variable: (i) the external comptroller is trustworthy; (ii) the recommendations of the external comptroller have contributed to combat corruption; (iii) the external comptroller verifies that the executive complies with the physical goals of the budget programs; (iv) the external comptroller has the capacity to effectively oversee federal spending. The normalized value for the sub-index ranges from 0, reflecting low credibility, to 1, signifying high credibility.

Sub-index of timeliness of audit reports: Author compilation based on the IBP's indicator of the quality and timeliness of fiscal information, which is itself a sub-index of the Index of Budget Transparency (Lavielle et al. 2003). The sub-index of timeliness of audit reports measures the perception of timeliness of fiscal and audit information during the control stage of the budget process. This variable measures 'with what degree of timeliness is budget information made public during the control and oversight phase of the budget' (Lavielle et al. 2003:21). Its normalized value ranges from 0, reflecting low perception of timeliness, to 1, signifying high timeliness.

Sub-index of enforcement powers of audit agencies: Author compilation derived from a proxy indicator measuring their formal enforcement powers of the AAAs, provided by the UNDP (2004, Table 16). It reflects the binding nature of audit decisions and AAAs' capacity to enforce sanctions. It nevertheless measures whether external audit agencies are legally capable to enforce their decisions, not necessarily whether they do so consistently. As a result, the construction of this dummy variable is not particularly robust. The normalized value for the sub-index of enforcement ranges, from 0, indicating low enforcement capabilities, to 1, reflecting high enforcement capabilities.

FIGURE 3: INDEX OF EFFECTIVENESS OF AAAs IN LATIN AMERICA

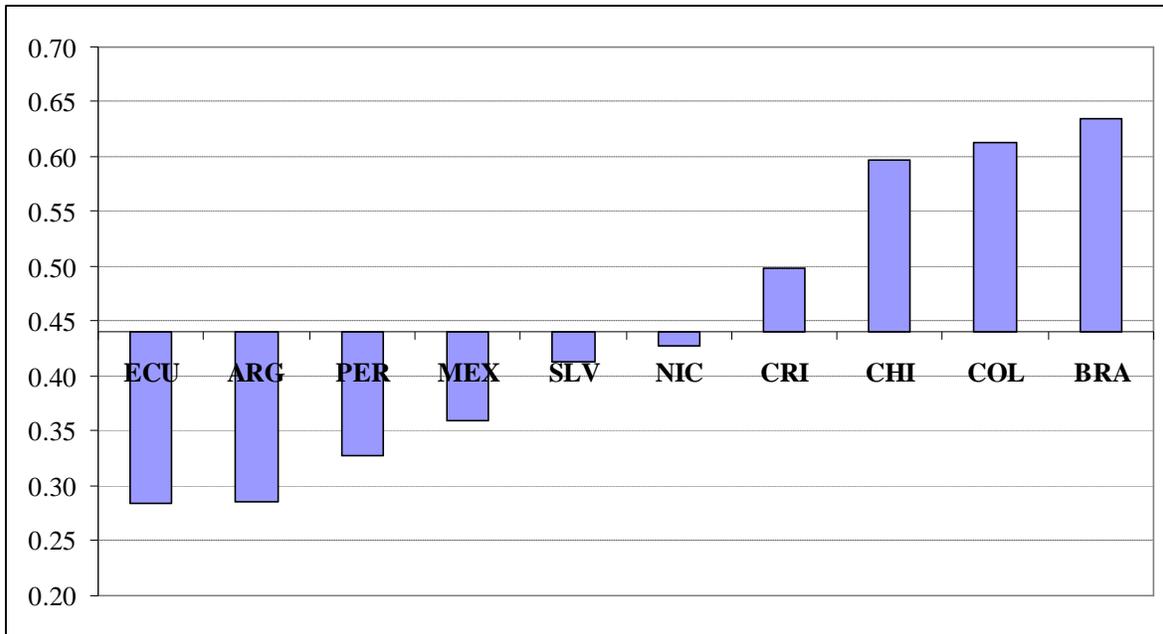
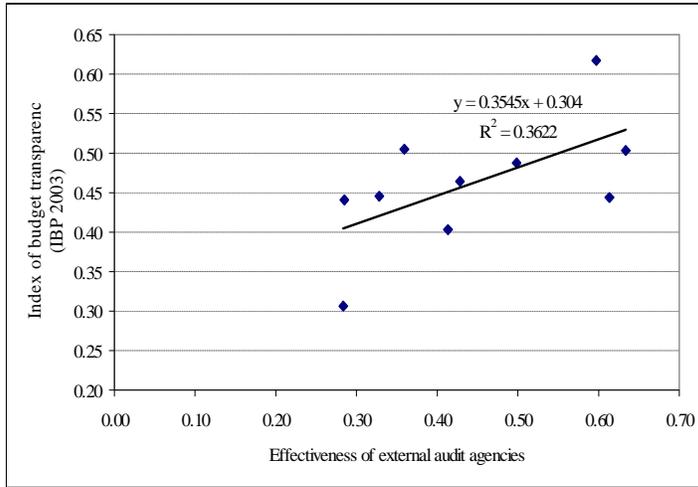


TABLE 6: INSTITUTIONAL ARRANGEMENTS AND ORGANIZATIONAL PERFORMANCE

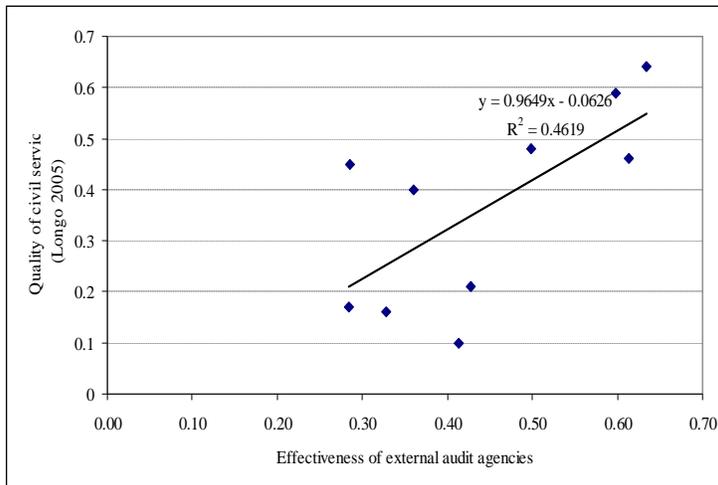
Monocratic model	Court model	Collegiate model
	Brazil (0.63)	
	Colombia (0.61)	
	Chile (0.59)	
	Costa Rica (0.49)	
		Nicaragua (0.42)
	El Salvador (0.40)	
	Mexico (0.36)	
	Peru (0.32)	
	Ecuador (0.28)	
		Argentina (0.28)

FIGURE 4: EXTERNAL AUDITING AND BUDGET TRANSPARENCY



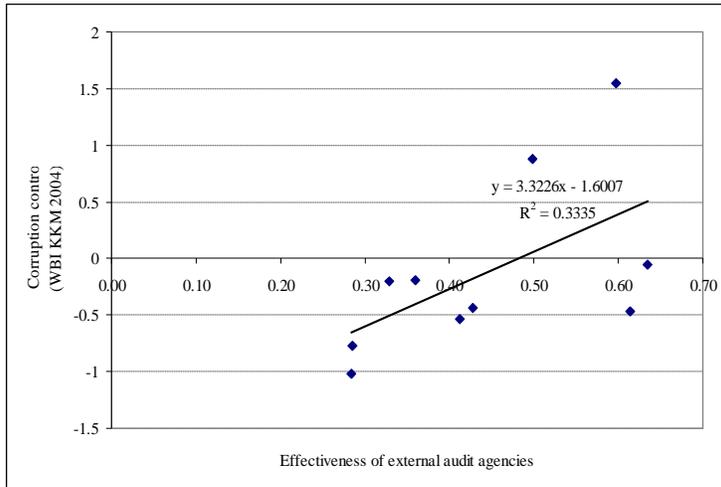
Source: Budget transparency is measured by the Latin American Index of Budget Transparency of the International Budget Project (IBP) (Lavielle et al. 2003). To mitigate endogeneity problems, we use the aggregate perception index of budget transparency, which is constructed differently from the series of disaggregated indicators of transparency of the different phases of the budgetary process.

FIGURE 5: EXTERNAL AUDITING AND BUREAUCRATIC QUALITY



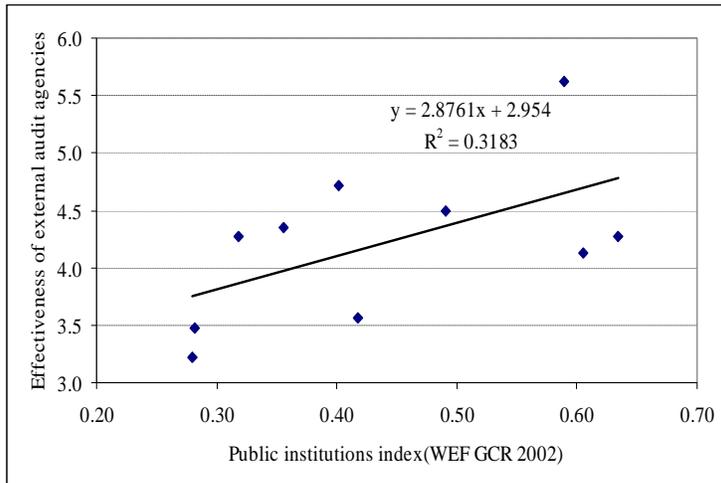
Source: Government effectiveness and bureaucratic quality are measured using a recently devised indicator of the quality of civil services in the region, on a normalized scale from zero to 1, with greater values reflecting more effective bureaucracies (Longo 2005, 2003).

FIGURE 6: EXTERNAL AUDITING AND CORRUPTION CONTROL



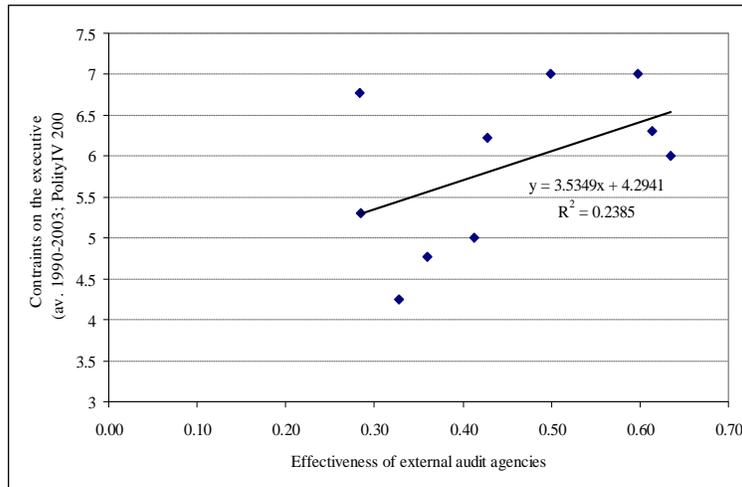
Sources: Control of corruption is measured by the World Bank’s Control of Corruption Indicator (Kaufman et al. 2005). Its value ranges from -2.5 to 2.5, with high values meaning greater control of corruption.

FIGURE 7: EXTERNAL AUDITING AND PUBLIC INSTITUTIONS



Source: The Political Institutions Index is derived from the World Economic Forum’s Growth Competitiveness Index, of which it is one of the three sub-indices (World Economic Forum 2002). It is composed of two equally weighted components, one measuring the reliability of contract enforcement and adherence to the rule of law, and a second one gauging the extent of corruption. The normalized value index is on a scale from 1 to 7, where higher values indicate better institutional quality.

FIGURE 8: EXTERNAL AUDITING AND CONSTRAINTS ON EXECUTIVE



Source: The indicator for *restraints on executive discretion* provides a commonly used indicator for the strength of the systems of checks and balances and separation of powers. . It provides a measure of the number and strength of veto players in public policymaking and the number of independent branches of government with veto power over policy change. We use the normalized value of the average index of executive constraints of Polity IV for the period 1990-2003 (Polity IV 2003), where lower values indicates more executive discretion and higher values more constraints on executive discretion.

TABLE 7: STATUS OF THE REPORTS ON GOVERNMENT PUBLIC ACCOUNTS IN ARGENTINA

Status of the public accounts	Fiscal year	Year processed
Last report completed by the AGN	2004	2006
Last report approved by the AGN	2004	2006
Last report approved by the CPMRC	1998	2006
Last report approved by the legislature	1998	2006

As of December 2005. Sources: Lamberto (2005) and Uña (2005:29), based on Makón (1999), AGN (2003) and information available provided by Gerardo Uña and Damián Staffa in May 2007. In 2007, the CPMRC was processing the audited public accounts of 1999 and 2000 and the AGN is reviewing the public accounts of 2005. However, the public accounts of 1994, 1995, 1996, which had been audited by the AGN in 1997, 1998 and 1999, respectively, are pending approval or disapproval in the legislature.

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Dr. Carlos Santiso is a political economist from Johns Hopkins School of Advanced International Studies (SAIS), a non-resident fellow with the Argentine Centre for the Implementation of Public Policies Promoting Equity and Growth (CIPPEC), a founding member of the board of Burkina Faso Center for Democratic Governance (CGD). The views and interpretation of this paper are those of the author writing in his individual capacities and should not be attributed to the aforementioned institutions. This article is based on the author's doctoral dissertation, *Auditing for accountability? Political economy of government auditing and budget oversight in emerging economies* (Johns Hopkins University, 2007) and research carried out in Argentina, Brazil and Chile between 2002 and 2005, as a research fellow in the Argentine Anticorruption Office in 2003, a visiting fellow in the Chilean Contraloría General de la República in 2004 and a visiting fellow in CIPPEC in 2005. Policymakers and auditors provided much of the factual information contained in this article. However, to preserve the reserve of these interviews, insights are not individually attributed. The author gratefully acknowledges the comments and suggestions from many over the years of Anja Linder, Linn Hammergren, Anne Mondoloni, Gerardo Uña, Damián Staffa, Javier Santiso, Beatriz Boza, Julie Lynn, Vinod Sahgal, Allen Schick, Julio Faundez, Robert Klitgaard, Warren Kaftchik, Koldo Echeberría, John Williamson, Nelson Schack, Liliana Alfaro, Aimee Figueroa Neri, James Wesberry, Leandro Despouy, Enrique Paixão, Isabel dos Santos Caetano, Jesús Rodríguez, Oscar Lamberto, Alfredo Fólica, Juan Héctor Rodríguez, Irene Esculi, Francisco Cullen, Julio Rodolfo Comadira, Miriam Ivanega, Roberto Martirene, Delia Ferrera Rubio, Eduardo Delle Ville, Bruno Speck, Lynette Asselin, Jose Eduardo Cardozo, Ernesto Jeger, Luiz Carlos Bresser Pereira, Fernando Henrique Cardoso, Renato Jorge Brown Ribeiro, Claudio Weber Abramo, Carlos Pereira, Charles Pessanha, Carlos Mussi, Hermán Llanos González, Patricia Llanos, Gustavo Sciolla Avendaño, Noemí Rojas Llanos, Joaquín Vial, Mario Marcel, Arturo Aylwin Azócar, Alejandro Foxley, Edgardo Beoninger Kausel, Pedro Ortiz Gálvez, Álvaro Ramírez Alujas, Eduardo Azócar, Omar Rebolledo Martínez, and Martín Garrido Araya.

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