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The Art of Lobbying in Poland

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The Art of Lobbying in Poland

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PREFACE

This guide has been prepared by the GEMINI Project, a United States Agency for International Development-funded initiative focusing on improving the enabling environment for private sector development. Led by Development Alternatives, Inc., an American international economic development consulting firm, several Polish and American experts participated in the drafting of this document. The principle authors are Dan R. Mastromarco of The Argus Group (Washington, D.C.), and Adam P. Saffer, Mirosław Zielinski, Urszula Biedrzycka, and Konrad Hryciuk from the GEMINI staff. Special thanks goes to Witold Michalek of the Business Center Club, Jolanta Tanas of the Polish Federation of Independent Entrepreneurs and Marek Matraszek of CEC Government Relations for their valuable comments and cooperation. Finally, we would like to mention the steadfast effort and patience of our translators Jerzy Zielinski and Ewa Teodorczyk.

The following text seeks to discuss the skills of lobbying that are both universal and unique to Poland's economic system. It is the hope of the authors that this will serve as a basic guide to which the relatively uninitiated may refer, and from which a great many more skills will be developed and tailored to the Polish context. The guide is not meant to be exhaustive but merely illustrative of some of the many tools that are available to lobbyists. It is meant to describe "lobbying" as an art form, with which the artist can and indeed must apply his or her own creativity.

A few explanatory notes:

- * The legal issues and examples used throughout this report to demonstrate the principles and practices of lobbying were chosen at random and do not reflect the views or opinions of the authors or any other domestic or international organization.
- * All names of individuals and organizations used in this text are fictitious and used solely for the purposes of this booklet.
- * *The examples used throughout this text refer to hypothetical government and Parliamentary-focused lobbying initiatives. This is not meant to imply an exclusive focus on the national level or that different principles and practices are needed to lobby regionally or locally. Conversely, most of the tools and techniques described herein are applicable in all situations when a lobbyist is trying to influence a decision or outcome.*
- * *Throughout this text, all gender choices are in the masculine form. This is consistent with the Polish language and does not imply any preference or bias.*
- * *The English version of this document is a translation from Polish.*

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I. LOBBYING IN PERSPECTIVE

Lobbyists

Since this guide has been primarily written for those who are or want to become “lobbyists”, it will probably come as no surprise that the term “lobbyist” does not always conjure up the most attractive image. In America, the term “lobbyist” describes someone whose profession is to influence, by whatever means permitted, outcomes of the public sector decision-making process. However, all participants in a democracy are lobbyists to varying degrees and lobbying, in one form or another, is an indispensable tool for input into the legislative or order-making processes.

At one end of the lobbying scale is the common denominator of all democratic institutions--public elections. As an expression of political will, voting may be considered as the most rudimentary form of lobbying and is required by law in many European nations. Put simply, it is the expression, based upon the voter's perception, of the capability and performance of publicly elected officials, be they Parliamentarians or local government representatives.

However, if voting were the only means available to express ourselves, it would be -- *albeit powerful* -- a very blunt tool for groups to influence the process and legal environment in which they live and work. In most cases a voter has only two choices; for or against, a particular issue or individual. Of course, a third option is not to vote at all.

This document is devoted to professional small and medium size business advocates who make it their business to influence policy and help construct the laws by which they and others whom they represent will be governed. These lobbyists create issues on which politicians are elected, shape the issues in the ballot box, and influence debates. They fashion arguments, create action plans, and plot to advance their position by constructive and objective persuasion. These are the professional lobbyists; the staff of trade associations and business organizations who have the interest of their members at heart in the policy-making arena.

What Is Lobbying?

In a philosophical sense, if politics can be described as the way people “decide their fate,” then lobbying can be described as the way in which people attempt to “control their fate.” In its broadest context, lobbying is a political process used to influence the outcome of a policy, act or order, through enactment, amendment, delay or repeal.

Looked upon another way, lobbying in its basic form is purely and simply sales. Lobbyists sell products in the same way as an author, a publisher, or an attorney. Lobbying differs only in terms of the product sold, the customers and the means of marketing that product.

The products lobbyists develop and sell are information and ideas. The products can be of various character; to persuade Parliamentarians or Ministers that a problem exists, to argue over the problem's importance or priority, to debate arguments relating to a proposal, to inject new concepts, to criticize old solutions to existing problems, and so on.

Marketing is critical to the art of lobbying. Marketing is our choice in the means by which lobbyists select, package, and present information. It is knowing what the “buyer” will respond to and when. It is the choice in who delivers the information. Successful marketing can be defined as the ability to convince the

decision-maker to do something he would not otherwise do or conversely, not to do something he would otherwise do. In other words, lobbyists change peoples' way of acting and consequently, the shape of their final decisions. Effectiveness as a professional lobbyist is directly proportional to one's ability to persuade.

The customers or target market of this activity are those that make or can influence policy-related decisions (i.e. Members of Parliament, Ministers, the world press, the local press, the public, other lobbyists, and anyone who directly or indirectly influences votes or is critical to political outcomes). Lobbying is merely the provision of relevant information to a decision-maker, who is involved in the formulation of policy, acts, implementation orders, rules and so on. Unlike the consumer whose money acts as an economic vote for the success of a product, Parliamentarians buy or reject arguments based upon the merits of the case, the credibility of the information provided, and the outcomes sought.

While the focus of this document is on the mechanisms of gaining influence over the legislative process in order to create a more conducive legal environment for the growth and expansion of private industry, another well-known aspect of lobbying is influencing the results of elections through supporting those candidates who understand and are most sensitive to the needs of a given community. Although beyond the scope of this document, it is worthwhile to mention one important and often misunderstood aspect of the Electoral Law: the "Poland-wide list." This is a prioritized list of candidates pre-selected by each party who will, based on election results, become Sejm members. When voting for a particular person from one ballot card, the Polish voter is actually casting two votes: one for the individual and the other for the party he represents (if the candidate is not independent). Thus, a vote for a given candidate is, at the same time, a vote for the party to which he belongs. The number of votes for a particular party determines the number of persons from the Poland-wide list who will assume seats in the Sejm. The volume of support for a particular party is then reflected in the percentage of seats won in the Sejm by its candidates. The rules allow for a total of 69 Sejm seats, out of a total of 460, to be reserved for people from the Poland-wide list. While information on all Parliamentary candidates can be found in the office of the National Electoral Committee, including who is on the Poland-wide list, the regional ballot cards do not indicate who is on this exclusive list. Thus, voters do not directly choose the candidates put forward by the parties on Poland-wide list.

One of the most important aspects of effective lobbying is to distinguish between those supporting your position, those against, and those you have a reasonable chance of persuading. Undoubtedly, a portion of your time will be spent maintaining your constituency and utilizing them to help advance a cause. You will also spend some time assessing and getting information about your opposition and negotiating with them, when possible, to reach a mutually acceptable solution. However, you will spend the most time on lobbying the "persuadable", those that can affect the debate but have not yet taken a position. This category includes lawmakers and bureaucrats, as well as associations and other business organizations.

Why Do We Need Lobbyists?

Now that we have a broad concept of lobbying and lobbyists, we arrive at our most important question to place the activity in perspective: why do we need lobbyists? Or perhaps more appropriately stated at this juncture: why do we need to encourage representation of the business community? Why do we need to listen to the business community? Why do we need to provide access and opportunity for the business community to express their views? And finally, what role do lobbyists serve in the Polish lawmaking and order-making systems? It is essential for the professional lobbyist to have this frame of reference.

Of course, one can argue that there is no need for lobbyists. As in the past, laws can be fashioned without trade associations, business groups or individuals interfering in the process. This attitude is based upon the assumption that a good legislator establishes his own mechanisms for communicating with his

constituency or knows implicitly what laws are best. Further, if the legislator is not responsive or doing a good job, he could be defeated during the next election.

More specifically, when considering the structure of the small and medium size enterprise sector, there are a litany of reasons to ignore small business:

- (1) The so-called "difficulty argument." There are too many small businesses to listen to and if we listen to one, we have to listen to them all. Further, small businesses are fiercely independent and can rarely agree on a single plan due to the diverse range of industries, regions, markets and therefore priorities. If they cannot reach consensus and communicate their needs, how can the Parliament?
- (2) The "burden argument." They ask for special treatment, complain too much, and are often simply trying to avoid compliance with the law.
- (3) The "realist argument." They are too small to impose measurable political pressure on politicians as compared to larger, better organized and more powerful constituencies.

Ignoring small business would certainly accelerate the process of legislating in the near term if success was defined by the rate at which Parliament passes laws or ministries issue orders. However, would a world without lobbyists and input from the electorate accelerate the process of creating the best laws and orders to enhance the ability of firms to prosper and grow with minimum disruption to the economy? The answer to this question is an emphatic "no."

The broadest input of business into the legislative process is justified by the following necessities:

- (1) to build consensus between the public and private sectors and to determine common priorities and objectives,
- (2) to fashion the best laws as vehicles to meet these objectives,
- (3) to develop a fertile environment for the growth of small firms, economic freedom and entrepreneurship,
- (4) to develop broad-based political support for needed reforms,
- (5) to ensure the widest possible compliance with the law; and
- (6) to provide feedback mechanisms on how laws are working in practice.

Hence, lobbyists can serve a vital purpose in the process of developing sound laws, orders and policies. Furthermore, the processes by which input is encouraged into the legislative and order-making systems are fundamental to democratic rights. Experience shows that systematic input by the business community is in most cases a necessary ingredient in the creation of legislative policies that achieve their objectives in the most efficient manner and with the least burden to those affected.

The lobbyist in Poland faces a difficult task. Indeed, influencing political outcomes is perhaps more difficult for a lobbyist than for an MP or Minister who has an established platform from which to speak. The lobbyist in Poland has to first create an environment where the decision-makers want to listen. Further, a lobbyist's voice may not reach the target audience immediately nor be automatically accepted. Success will initially depend to a larger extent upon persistence.

As described above, the lobbyist's role is critical to your members and to the development of a conducive economic environment for the growth and expansion of SMEs in Poland. It is with this understanding of the importance of your role, and with this level of commitment, that you must approach your job as a lobbyist.

II. THREE ESSENTIAL POINTS OF SUCCESSFUL ADVOCACY

While the art of lobbying, like the art of negotiating or sales, may take several years to perfect, there are three main principles all lobbying professionals rely upon as universally applicable. To be successful, lobbyists must combine:

- (1) Substantive knowledge of the issues;
- (2) An understanding of the decision-making and reform processes; and
- (3) Effective advocacy techniques.

Lobbying is a complex and sophisticated process of identifying the best way to achieve desired results, of shaping the right messages, of persuasively communicating those messages, and of engaging all available allies. Although in Poland, the subject matter, process and rules for lobbying will undoubtedly evolve, these three fundamental elements will remain constant and applicable.

Know the Subject

The first and most important principle is that representation be grounded in substantive knowledge of the issues. This extends well beyond a rudimentary understanding of how an order or law may relate to SMEs or to a particular industry or client. In order to properly monitor movements, interpret, anticipate and advise on draft provisions of rules and regulations, fashion legislation and policy arguments, and create opportunities by identifying and pursuing winning tactics and solutions, in-depth study is required. This includes knowledge about the nature of the issue, an appreciation of the historical, political and policy dynamics involved, an awareness of the positions of supporters and opponents, and a comprehensive understanding of the economic policy and revenue implications of the regulatory or legislative proposal sought.

How one gets this knowledge in Poland may be difficult, if not arduous. While information about the works of the Sejm and Senate, for example, is open to the general public, in practice, the information is inaccessible for the average citizen, and especially for those living far from Warsaw. Moreover, since much information is *ex post facto*, it is often received too late to be of value in influencing policy. Currently, there is no readily accessible vehicle or public form of precise information about future subjects of plenary sessions and the work of the Parliamentary Commissions. Unfortunately, even the information provided by the media cannot be relied upon as it is often fragmented, dispersed and not always accurate.

A few sources of information are known. For example, the Bureau of Information (Press Center of the Sejm Chancellery) is obliged to prepare and disseminate communiques, declarations, press releases and other information on the works of the Sejm to the media. In addition, the Bureau supplies the Sejm publications, minutes of the Sejm sessions and other documents which can only be read in the Sejm library.

The Bureau also has its own editorial team which publishes and disseminates the "Sejm Chronicle" and the "Sejm Commissions Bulletin." The publishing house of the Sejm also publishes the "Sejm Review."¹

In addition to these public sources of information, lobbyists in Poland must do what lobbyists do everywhere — cultivate good sources of information beyond the public record. This means, of course, that you must develop and maintain good relations with the decision-makers. However, it also means that you must work to cultivate relationships with staff and lower level individuals whose time and information is not as costly. Finally, it means you must cooperate with one another to gather this information. Whether by newsletter, conference or facsimile, a key success factor to well-managed lobbying campaigns is broad-based information sharing and cooperation amongst representative organizations. For your convenience, Appendix XIV contains a list of the most important public sector institutions and their telephone numbers where legislative and regulatory process information can be obtained.

Understanding the Decision-Making and Reform Processes

The second principle is defined partly as "access" to the decision-makers. This includes knowing the decision-makers and becoming an indispensable part of their landscape. This aspect of lobbying requires diplomacy, networking and the provision of value-added information.

However, relationships with the decision-makers is not enough. A lobbyist must also have an in-depth appreciation of how policy decisions are made and how best to affect those decisions. Knowledge of the process includes an understanding of the methods and means, often unwritten or informal, by which proposals become law, regulations or national policy. Some of these procedures are discussed more fully below.

For example, the legal system in Poland already provides an opportunity for external input. According to the regulations of the Sejm, any person, institution or organization has the right to submit its remarks and opinions related to the works conducted by the Sejm. If the motion is addressed to an individual Deputy, the Deputy receives it directly. However, Deputies are not obliged to respond or react to these motions.

If the motion is not addressed to a specific Deputy, it is sent to the Chancellery of the Sejm. Motions addressed to the Chancellery are sent to the Correspondence Department where they are registered in a Correspondence Log. The Correspondence Department then answers all motions related to the Chancellery, Sejm and its organs, according to internally determined rules. It also informs the mover of the motion that the letter was passed to the appropriate Sejm office for further analysis. This means, of course, that the Correspondence Department plays a key role in deciding the destiny of these letters.

Letters passed to Sejm Commissions are submitted to the Secretariats of the Commissions, and are then subject to internal procedures regarding such correspondence. The fate of any motion depends to a large

¹ *The "Sejm Chronicle" includes information on the works conducted by the Sejm, i.e. about what was considered during the plenary sessions, summaries of speeches by individual Deputies and information on the work of different Sejm Commissions. The "Sejm Chronicle" may be obtained from the Sejm library. It is also sent to the media for further dissemination. The "Sejm Commissions Bulletin" includes detailed information on the work of Sejm Commissions and is accessible through the Sejm library. The "Sejm Review" is the only publication that can be bought, but it is a publication of almost scientific profile. Scientific dissertations are published in it as well as Constitutional Tribunal verdicts and lists of inquiries of the Deputies. The "Review" provides only indirect information about the work of the Sejm.*

extent on the Head of a Sejm Commission, who may inform his members about the letter, formally present the letter to the Commission, or simply bury it in his files.

Based on the authors' experience and observation, random letters sent to the Sejm do not appear to be the most effective means of representing the interests of your constituency. To achieve measurable impact, more focused, proactive and effective tactics must be employed.

Know How to Argue Effectively

The third principle, effective arguing skills, blends targeted and creative communications strategies with sound political advocacy strategy. Cogent arguments, flawless technical analysis, and "access" seldom succeed without an effective and articulate voice to communicate your position at the appropriate level. How these communications are made and in what media and when, vary greatly with the message, subject matter and target audience.

In summary, as basic as these precepts seem, lobbyists often forget to fully employ them. Some lobbyists boast of access, sometimes defining access by their relationship with specific policy-makers. Other lobbyists, often those that previously served in government, rely on the bureaucratic rules of process without appreciating the nature of the changes being sought or the policy and political dynamics involved. A third general category includes lawyers and technical lobbyists who often understand the nature of the technical change, but lack the creativity and experience to effect the change through other than traditional, and typically less effective, channels.

III. DETERMINING PRIORITIES AND ESTABLISHING CONSENSUS

What Is Most Important to Your Members?

Even though you may represent an organization that has been in existence for some time, or know most or all of the members on a first name basis, when responsible for advocacy, you must seek direction as frequently and as accurately as possible. One of the worst mistakes that any lobbyist can make is to supplant his opinion for those of the members. In policy debates, which are often very heated, the lobbyist's role is to "represent" the members, not to substitute his judgment on what he thinks will most benefit the association or industry.

Your first and foremost task is therefore to accurately determine what is important to your members and what they want you to do about it. This is not an easy task as your role is also to partly guide your members to the most important and achievable objectives. This chapter will focus on a few of the more established ways in which this task is normally conducted: surveys of members, development of issues by committees, and the annual meeting. The authors realize that implementing these techniques in an effective and timely manner, given a) the scope and rapid pace of legal and regulatory changes and b) the lack of an enabling infrastructure for lobbying in Poland, may at first appear to be unrealistic and therefore not applicable. However, as these principles and practices are inveterate in a democratic society, we urge the reader to anticipate their arrival and incorporate them, to the extent possible, in your action plans.

Polling your Members

One of the best ways to get direct input is simply to poll your members. The mechanics of polling can and should vary depending on the context. Polling is a device to help you understand which issues are important to your members, and of these, their priority. It is generally a good idea to start out with very broad questions and work to the more specific. It is also advisable to permit and encourage members to submit issues of their own that you or your staff may have missed.

The results from such a survey should then be analyzed, for example, on a scale of one to five where one represents the highest level of interest and five represents no interest. With respect to each issue, it is then possible to rank the level of concern amongst the membership. Two alternative approaches to polling your members are provided in Appendices XI and XII. Such polls should be conducted at least once a year with the tabulated results being made available to the entire membership.

Voting by Committees

An alternative means of polling your membership is through committees. For example, larger associations will typically have committees on labor, trade, environmental, tax or other relevant issues. The members of these committees, usually from as few as five to as many as thirty, will select what issues the organization as a whole will focus on.

Committee members have the responsibility to discuss and debate the details of relevant issues. The committee will then determine its priorities and what position the organization will take based upon a resolution by a quorum of its members.

Members of committees can either be elected or appointed by the staff of the association. However, if the staff selects the members, they should have revolving chairmanships and be sure to include a diverse range

of firms, industries and regions. In most cases, committees meet as many as four times a year or on an ad hoc basis, upon reasonable notice.

The Annual Meeting

Another means of selecting priorities is at the association's annual meeting. During this forum, votes can be taken on a number of issues. It is important to limit the number of issues to what each committee and the entire organization as a whole can realistically handle. An annual meeting is also an excellent opportunity to have and honor guest speakers. For example, selected Members of Parliament or Ministry staff who have been of assistance in previous issues can be asked to describe and discuss various matters currently under review.

What Is the Lobbyist's Role within the Organization?

When determining priorities, you and your staff play a vital role in at least two respects. First, as staff you are responsible for accurately describing the issues of most importance to the membership, and for ensuring that the list of issues constructed is as relevant and exhaustive as can be. You must always try not to leave out any issues which may impact your membership. Furthermore, care must be exercised when describing the issues and soliciting input from the members since the response to a question is almost always influenced by the manner in which the question is asked.

Second, based on extraneous information obtained in conjunction with your position as a lobbyist, your role is to guide your members into making the right decisions in prioritizing the issues. For example, what are the priorities of the Parliament? How much will implementation of the change sought cost? Who is the opposition? In other words, you must play an active role but must do so in a passive manner. Remember that as staff you will be responsible for carrying out the orders given by your membership. But as they listen to you explain the issues, they should also listen to you with respect to their viability or "winnability." Somewhere along the way, the staff must impose a template of reality upon the template of hopes. Lobbyists must learn to solicit and react to the needs and priorities of their constituency without losing control of the issues. The primary objective of this task is to achieve a list of priorities that are not only relevant but also achievable.

In survey instruments, it is often difficult to communicate the realities of the legislative process. Try to objectively incorporate your concerns in the description of the issue or in the proposed solution. In the committee structure, it is far easier to get your point across. Remember, if you are not successful in achieving a particular objective, even if that objective was founded on unrealistic expectations, you will nonetheless be held accountable. This is a fact of life for lobbyists. You are being paid for your expertise, not only on the issues, but also with regard to the intricacies within the Parliamentary and governmental processes.

Other Factors to Consider

Although many aspects of lobbying can only be learned through experience, two additional points must be made. First, when working on issues and determining priorities, make certain your membership knows which issues are short term, which are longer term, and which are issues of principle. Defining issues of principle is sometimes important, even if not attached to a specific legislative initiative.

Second, you should always remember to have resources in reserve for other issues that unexpectedly emerge. Your membership and the politicians themselves will soon start to doubt your efficiency if you cannot react quickly on the basis of principle, without always having to seek membership approval. For this reason, it is important that the organization's management board and/or chief executive has sufficient autonomy to authorize such actions.

IV. PREPARING FOR ACTION

Preparation is the key success factor in determining whether you will achieve the intended objective. However, preparation is, theoretically, the least stressful of all endeavors and the easiest to perform. Place yourself in an office, study the issue, give yourself sufficient time, and determine what it is that must be done and in what order to accomplish your mission. As stated in Chapter IX, Commandment VII, "*Thou Shall Be More Prepared Than Your Opposition.*" This is as true in lobbying as in war.

An essential component of preparation is the development of an overall strategic plan. The plan should consist of several components. The first of these is determining the goal or desired result you want to achieve. The goal, as an element of the plan, can be assimilated to war, the principle purpose of which is to win. The second component of the strategic plan is the list of objectives necessary to achieve the goal. Using the same analogy, objectives can be assimilated to the battles that are necessary to win the war. The third part of the strategic plan is the subobjectives. When applicable, these are merely expressions of those lesser objectives, or minor skirmishes, that are necessary to achieve a major objective. The last element in the plan are the action steps. The action steps are the specific tasks that must be executed to achieve the subobjectives, objectives, and in the end, overall goal of the strategy.

If everything goes exactly according to the original plan (and it rarely does), and you manage to accomplish all or most of your objectives, you should achieve your goal and win the issue. In the following section, we discuss in further detail, each element of the plan.

Determining the Goal

Once you have determined the issue that you will be working on, the next step is the task of reaching agreement on the most appropriate goal. If the issue relates to an existing law or order, the question is what aspects or articles of the law need to be repealed or amended to fulfill its essential objective without adversely affecting your constituency? If the issue is related to a draft initiative, the focus will be on the amendment(s) that both support the intended objective of the draft but also serve the needs of your constituency. Be as clear, focused, specific and accurate as possible when determining your goal.

If, for example, you had resolved to repeal a particular law, the goal would be expressed as a desire to simply repeal the law. However, if you do not believe that this is realistically obtainable, you should seek a lesser goal in terms of an acceptable modification to the law.

Although in general it is quite easy to express a goal in precise language, reaching consensus on the wording amongst your staff and members can be a difficult and frustrating exercise. This is because, by defining the goal, you are in fact defining a specific deliverable that is acceptable to everyone. If you exceed the goal, you have done an excellent job; but, if you fall short of it, the perception will be that you have lost. This is why the task of reaching agreement on a clearly defined goal is critical to everyone involved.

In the event you cannot reach consensus (and even sometimes when you can), it may be helpful to express the goal in the terms of the range of acceptable outcomes. Alternatively stated, you may want to express the goal in terms of the highest and lowest expectation that you and your membership will settle for. This will establish a field of victory on which to base your success or failure, and upon which your membership will judge your performance.

Agreeing upon the Message(s)

Formulation of the message is the next step in creating a strategic plan. Think of the message in the following way -- If you had only one or two sentences in which to describe the purpose of your effort, what would you say? The message is similar to a mission statement which, although short in length, should clearly state the goal and justify your position.

The importance of formulating a message is obvious. However, if you were to ask a group of lobbyists or businessmen working together on an initiative what is the significance of modifying a particular act or order, you would most likely get several different answers. It is far more difficult to formulate and reach agreement on the message than it is to establish the goal. This step requires you to consider all of the arguments in favor of your position, and focus on one all-encompassing statement that will effectively and concisely advance each of those arguments simultaneously.

Used as an example to illustrate various lobbying tools and techniques in Appendices II through XII, we have proposed that a construction industry association has resolved to modify an amendment to the law on Personal Income Tax which disallows deductions to homeowners for using non-VAT registered construction firms. Note that the message can be supported by several potential arguments. That the law will hurt small contractors is certainly true, but is this the essential message? Depending on the legislator who is looking at the issue, that might not even stir his interest. If the message is that homeowners will pay more, the response might be "if that is what it takes to get small contractors encompassed by the VAT rule than so be it." However, if the message is stated in a more results-oriented way, it will have a greater effect. For example, what if the message is stated as follows: "This article, while unnecessarily lowering revenues to the Treasury, destroys legitimate businesses, increases unemployment in a vital sector of the Polish economy, and forces many homeowners to forego needed home improvements." This is a more powerful message which has a greater likelihood of leaving a distinct image in the mind of the decision-making listener that the article is inappropriate and should be changed.

It is important to note that the message will not always be the same for every audience. Shaping the issue is the knack of accentuating or diminishing emphasis on various aspects of the proposal depending upon the target audience while at the same time maintaining its accuracy and consistency. To a group of homeowners, the message that contractors will be laid off will not resonate with great force, unless of course the homeowners are also construction workers. However, the claim that they will have to pay 22 percent more for home improvements or repairs will undoubtedly attract their attention. For the Treasury, additional costs to homeowners is meaningless, unless it is also pointed out that many homeowners will either not have the work done or will pay in cash so contractors can more easily avoid paying income taxes. Hence, always remember to tailor the message to the audience.

Lastly, in mobilizing your broadest and most influential constituency, it is important that the message be well understood by all members of the association who will be advocating the issue within their circles of influence and in their voivodships and gminas.

Determining the Objectives

The next step is determining the objectives which, as previously mentioned, are the means to achieving the goal. However, the objectives themselves can be fairly difficult tasks to achieve. For example, in Appendix IV, one of the objectives is to have legislation introduced. Another objective is to build a record of support, including the presentation of a colloquy on the floor of the Sejm. That is why, on occasion, we must have a series of subobjectives to achieve these larger and more complex objectives.

In order to determine the relevant objectives, we must also understand the key processes and key decision points involved. Who makes the final decision? How will this decision be made? What will motivate the decision? For example, with respect to the sample association resolution in Appendix III, we have made an overall strategic decision to seek amendment to the Law on Personal Income Tax in the Sejm. Have we accurately determined that the colloquy (see Appendix VIII) is an important device for convincing relevant Members of the Sejm? In this case, we have concluded that the expression of support from many Sejm Deputies will get the attention of the Commission for Economic Policy, Budget and Finance. Perhaps we should include them in the colloquy? In fact, that is exactly what we have planned.

The main purpose of the colloquy is, of course, to build a general level of awareness and support but notice what else it does. It builds a forum of relevant decision-makers around the issue; it gives the target audience an opportunity to become involved and knowledgeable about the issue; and it puts Members individually on record in support of the change. Therefore, even if nobody else reads the record, it is a valuable activity.

With the objective of the colloquy reached, what are the next steps? If the proposal requires a hearing before the relevant commission, we could try to facilitate supportive Members to communicate the key aspects of your position to their counterparts on the committee. We could also submit a comprehensive description of the problem along with documentation justifying the proposed change to the government. We could even send it to the media, together with our press release and alert our members and the Members of Parliament that they may be contacted about the issue. This is the process by which we build momentum for the change. This type of momentum should continue to be developed until the desired change is finally enacted or rejected.

The objectives are important for many other reasons that will become increasingly appreciated as the strategic plan concept is followed in actual practice. On any given day, a lobbyist may become engrossed in ensuring that a particular action step is completed. However, when investing the requisite amount of time in each action step, the objective itself may change, need modification or have already be reached. More frequently, it may become necessary to seek alternative means to achieve the original objective. Thus, stating and regularly reviewing the objectives are critical to ensuring that each activity relates to the goal and does not become, in and of itself, a fruitless exercise. Take a moment to observe the list of objectives contained in Appendix IV.

In summary, the process of determining objectives is the process of identifying the relevant decision-makers, determining how their decisions are reached, and addressing any predictable obstacles to a favorable outcome.

Defining the Action Steps

As you determine the goal and objectives, you will ultimately arrive at the most important component of the strategic planning process, the executory steps needed to achieve a successful result.

As shown in Appendix IV, the action steps are listed as the means to accomplish individual objectives for amending the Law on Personal Income Tax. It is these sanctioned steps that make up the day-to-day activities of the lobbyist. These are, of course, very specific items such as: writing a letter, attending a meeting, speaking with the press, writing a press release, getting an association member to call a Member of Parliament, and so on.

Note, there is a temptation for all lobbyists to start with the action steps before reaching consensus on the goal and objectives. It is advisable to try and resist this as it typically results in a deluge of activity without sufficient focus to have a measurable impact or result.

The Strategic Plan as a Working Document

A high quality strategic plan, whether for lobbying or a private business, is a document with many purposes. It acts as a guide to help the implementing body or individuals stay on track, it identifies priorities and the sequence of actions required, it assists in monitoring progress and its development helps build consensus and a common vision. However, one must also recognize that the plan is also a document which will change with changes in political priorities, as unexpected opportunities arise, and as the battle towards an objective or goal is fought. As the strategic plan becomes out of date, new or modified strategies may be required.

In other words, do not be tied to the original version. Rather, constantly modernize the plan as progress is made. It should be considered as a map or framework which will not only be of benefit to you but will also help to coordinate the activities of your support staff and membership.

V. INTEGRATING THE TOOLS OF LOBBYING

The action steps you must take in executing the strategic plan depend upon the tools available. In determining these tools, there is both good news and bad news. As you may have undoubtedly encountered, lobbyists cannot find comfort in any single instructional manual that will explain, step-by-step, the actions required to achieve diverse objectives, nor the tools required to effect these strategies. As discomfiting as it may seem, there is no set pattern or single formula to success. Rather, the means by which a goal is reached must be tailored to each issue, and is constrained only by your creativity, experience, resources and effort.

The good news is that no matter what the issue, there are commonalities in approaches and established techniques at your disposal. Like any craftsman, expertise in using these tools, understanding their limitations and their usefulness comes only with experience.

The Process of Developing Arguments and Counterarguments

Effective communication begins with the development of arguments, positioning, identification of the needs and expectations of the audience, and an element called “spin”, the latter of which does not change the direction of the argument but rather the way in which it is presented. In turn, successful advocacy starts with the process of developing arguments.

There are, one might generalize, three distinct situations for a lobbyist. You are either a) arguing for the defeat or amendment of an ill-considered law or order already on the books, b) arguing for the passage of a new law or order, or c) arguing that the proposal or amendment you are offering is a needed modification to a law or order that will soon be passed. In either case, experience suggests that the arguments for and against your position be thoroughly analyzed and clearly expressed in writing.

It is recommended that you do so, not within a group, but as the key individual who will be working on the issue. This document, like the strategy document, is for internal purposes. As such, it need not be written without mistakes. Rather, it need only set out in rudimentary form what the arguments are, in respect to the following three stages:

The first stage in this process is to sketch out the facts. This includes a description of the law's relevant articles. What is the law's intended objective? What is the relevant economic impact of the law? In this stage, you are merely citing facts, stating the issue and its intended impact on your and possibly other communities. At this point in the process, you must be wholly objective. This will allow both you and your members to view the issue in the broadest possible context.

The second stage is to define the problem with the current law and the current state of affairs. What is it about the current law that negatively affects the sector you represent? Exactly why does it need to be repealed, modified or initiated? Here you are seeking to develop and categorize those arguments in favor of your position. To be more specific, you may want to state, for example, that (1) the law is unfair and how it is unfair, (2) the law does not fulfill its intended objective and why, (3) the law is discriminatory or of unequal application and how, (4) the law will damage international trade and why, (5) the law is inconsistent with EU practices or with other policies of the government and where or (6) the law is too complex or difficult to administer and/or comply with.

The third stage is to raise and counter the arguments of your opponents. Think as they would and state their case to the best of your ability. Then, set out why the arguments of your opponents are wrong or

misguided. Once this is clear, the next stage is to share the document with your allies, your management board, board of directors, and others who can analyze the arguments and determine if they are exhaustive, correct and convincing. This feedback loop is of utmost importance.

Development of Written Materials

Some successful lobbyists claim that written advocacy documents, in any form, are not necessary for the advancement of an issue. These lobbyists prefer to rely on interpersonal relationships and handle almost every issue, no matter how complex, through one-on-one meetings. However, relying on purely oral communications in most circumstances is not recommended for several reasons.

First, documents can continue to represent the arguments when you are not physically present. In other words, documents can serve as your voice to refresh the memory of a Member of Parliament or Ministry official. The lasting impact of oral communication is often extremely limited, particularly when a significant amount of information is being conveyed. One month later, even one week later, a busy Member of Parliament or Ministry official may not remember what was said, but can always look to a document for reference. Second, the written word can be disseminated quickly to more than one person and ensures that the message being communicated is uniform. Often such documents are provided to several persons at critical stages of the action plan. Third, documents can serve to brief a party before your meeting. When issued prior to the meeting, the party with whom you are meeting will have an obligation (or will perceive it as an obligation) to become somewhat familiar with the material received. In most cases, documentation will help focus and enhance the productivity of the discussion.

There are several distinct forms of documents or combinations of documents that can be provided, often as a package of information, during a meeting, hearing, speech or other communication event.

The One-Pager

One of the most useful tools for advancing the arguments, primarily because of its brevity, is commonly known as a "one-pager". A one-pager is exactly what the name implies; a written document that reduces to one page the problem, recommendation, and arguments justifying the proposed action. See Appendix VI for an example.

The one-pager should only advance arguments supporting your position. Its purpose is to place, in bullet point or paragraph form, the strongest arguments in your favor and to condense and organize those arguments in a document that can be read and digested in less than two minutes. When advancing your arguments in the one-pager, as in any other documents, speech, testimony, or meeting, state the most important and convincing arguments first. The test of a well-written one-pager is how effectively it communicates the most salient points of your position in the least period of time and in the most understandable and memorable way.

The one-pager can also serve the purpose of refreshing those that are already convinced or in agreement with your idea. It should be one of the first tools presented to a decision-maker and the most widely disseminated.

The Broader Document

Whereas the one-pager sometimes serves only to intrigue, it is the broader document or 'position paper' which contains the arguments in significant detail. Usually, the broader document will contain at least four distinct parts. The outline of such a document (if the objective is to repeal or amend an existing law) may be structured as follows:

- I. *Executive Summary*
- II. *Statement of Current Policy and Relevant Facts*
- III. *Reasons Why The Policy is Misguided*
- IV. *Recommendations and Conclusion*
- V. *Justification*

It will most likely not be read by Members of Parliament, whose time constraints and diverse responsibilities may not permit such considerable analysis. However, it will be read by parliamentary staff and by bureaucrats who are more disposed towards, and responsible for, in-depth analysis. Even though the document is longer than the one-pager, it should be borne in mind that brevity and clarity are virtues to the lobbying profession. The document should again make the most important and hard-hitting arguments first.

Graphs and Charts

A key to communicating effectively is to clearly and comprehensively state your message in the most concise and understandable manner. One of the best ways to accomplish this is through charts and graphs, visually depicting your points.

Let us take a specific example. In the hypothetical case used in the appendices, it would be advisable, instead of merely stating how many small businesses are affected by the provision, to also depict this graphically. One chart could show the predominance of small firms in the construction industry, as they are most affected by the provision. If we had this information, which an association might be able to gather, it would also be important to discuss how many people are employed by small firms and likely to lose their jobs. Alternatively, it might be important to point out who the customers of these small contractors are as opposed to the customers of the larger, more established VAT-paying contractors. Thus, we might be able to visually depict the cost increases to homeowners. From a more social perspective, we might be able to show the disproportionate impact of the increase in costs on poorer homeowners or the elderly.

The visual image should convey the most powerful message to the target audience in the simplest possible terms. Be clever in your approach. Make the image clear and poignant.

The Question and Answer Format

Another communication document you may want to consider is the question and answer brochure. In this format, to convey the information you want, you simply pose the question for them, and then answer it.

Note, the questions posed should be the same as those the opposition would most likely ask. To take an example from our case study (Appendices VI through XII), two of the questions might read as follows:

- Q:** *Shouldn't small contractors be required to pay VAT taxes in the same way as large contractors, i.e. is it not fair to exclude them?*
- A:** Small contractors should be excluded on the basis of fairness! First of all, small contractors are in general not in competition with larger contractors, since they operate in different markets. Out of 10 contractors servicing office and commercial buildings, 9 are larger firms paying VAT. Small contractors on the other hand, almost exclusively service homeowners and entrepreneurial ventures which have little disposable income. Application of the VAT will therefore not equalize the opportunity between small business and large business. More importantly, however, we must recognize that small firms will generally not pay the tax, the homeowners will, since the tax will be passed along to them! But this is the best case scenario. The worst case is that small contractors will not be hired and the work that needs to get done will not be. Large contractors will not be interested in filling this market need.
- Q:** *But doesn't Poland need the revenue?*
- A:** Absolutely, but encouraging gray sector activity or putting Polish workers and entrepreneurs out of business will not achieve the objective. In fact, the loss of employment taxes and income taxes that will result from this article have been estimated by (*insert*) to cause a reduction in public revenue of over (*insert*) zlotys.

The Example Format

Examples on public policy issues should not alone prevail in debates, but if the example is blatant and graphic enough, it can significantly influence the debate. For instance, a homeowner who needed repairs to his home for electrical work but could not afford to hire a VAT-registered business, hires a contractor who does the job for cash on an “under-the-table” basis. Here, although the job was completed, the homeowner was unable to deduct it from his personal taxes, and the contractor avoided paying all taxes. This process leads to an increase in the “gray sector” of the economy, and the only one to lose is the State budget. If not a real example, it can be hypothetical. Again, carefully choose the best example(s) to make your particular point.

The Econometric Analysis Format

No lobbying package is complete, especially if it concerns a complex issue, without taking the time to provide an economic justification. The case study presented in Appendix II lends itself well to such an analysis. For example, instead of merely stating that the budget will lose money from the provision, one alternative is to conduct an analysis to make that point in macroeconomic terms on a greater scale.

Use existing government data when available to undertake this analysis. Remember, if you manage the data and the information, it is difficult to question your methodology. By demonstrating that the loss in compliance, or income tax, will more than equal the tax revenue expected, you should win the issue in this example.

Modes of Communication

Like documents and other tangible tools that are regularly used, there are also shared modes of communicating for lobbyists. Below are some of the more commonly used means of verbally getting your point across.

One-on-One Meetings

Perhaps the most simple and utilized mode of communication is the one-on-one meeting. These meetings typically take place between a lobbyist and a Member of Parliament, Minister, government official or staff member.

In the one-on-one meeting, there are several things to keep in mind. First and foremost, before holding a meeting, know exactly what you are trying to accomplish. This means that you must have a particular goal in mind. The rule is: never go into a meeting without first knowing what you want to achieve. This is true regardless of whether you arranged the meeting or are the target audience.

Second, as important as written documents can be, do not rely entirely on the document when advocating an issue. It is best to submit documentation several days before or immediately upon the conclusion of a meeting. Submission at the beginning of the meeting may result in the audience not paying attention or, worse yet, reading while you are speaking. You must try not to allow this to happen for meetings are the only time in which you can directly gauge the reaction of the other party.

Third, face-to-face meetings with a politician, as a general rule, should only last from twenty to thirty minutes. This should provide ample time to cover what you need to say. Because of these self-imposed time constraints, you have to be extremely organized. Few in a position of authority have neither the time nor the inclination to listen to lengthy discussion about an issue. What is more, if you take too long to get to the point, it may be lost in a sea of less meaningful chatter. Whether in a meeting, letter or testimony, it is best to say it fast, say it early and say it in as few words as possible.

Also, as a general rule, a meeting should progress in discrete stages. After the preliminary introductions, if you have arranged the meeting, immediately take charge by explaining to the target audience the purpose for the meeting and what your objective is. Next, explain the problem with the current law, order or proposal. Progressing onward, develop your arguments. Remember when stating your arguments, as a rule of diplomacy, do not disagree with the spirit or purpose of your opposition. Explain that while the opposition may have a worthy objective, the means by which they seek to accomplish that objective is ill-considered. It is during this stage that you will clearly receive questions, some of which may inadvertently lead to issues outside your particular objective. Try to keep the meeting on track. Always conclude the meeting by asking the Member directly for the action step you would like him to take.²

A corollary to this point is once you have achieved your intended objective, get out. If the individual has reached a decision or offered to help, thank them and leave. Do not linger any longer than need be or the decision may change.

² *Remember that as you establish yourself in the marketplace as a credible lobbyist, your power to influence increases. Two of your key tools are access to information and political support to those who assist you in accomplishing your objectives. In order to maintain the value of your political currency, do not readily give your support for matters which are not related to the issue you are interested in and never give support if it violates the consistency of your positions. Cherish your political currency, spend it wisely, and it will increase in value.*

When selecting the target audience for a meeting, always utilize a top-down, bottom-up approach. Even the most humble bureaucrat should not be excluded from lobbying. Often ideas and drafts germinate from lower levels, and when they do, the bureaucrat on whose shoulders this responsibility falls is often the easiest to reach and the most open-minded. Do not only work from the top, since these individuals are typically more political and less concerned with the details. They will often listen and defer judgment to their staff. Recall, however, that lower level staff, whilst more approachable, are not, in the end, the decision-makers or target audience.

Inter-Member Communications

Another method of having your views heard is through the voice of a Member of Parliament if allied with your position. Apart from introducing and voting on legislation, there are several ways in which a Member of Parliament can help (i.e. a floor statement, member-to-member dialogue, letters to other members, hearings, and colloquies).

On the floor of the Sejm or Senate, a Member simply makes a statement to support or oppose a proposed bill or amendment. The value of the floor statement is that it is entered into the public record and can help build a record in support of your position. Here you can take advantage of the credibility of the Member and gain additional political support through his allies. When asking a Member for a floor statement, it is important to provide written notes or even a draft ahead of time to assist the Member in preparing his version. In most cases, the actual floor statement will not significantly differ from your submission.

Of course, there is nothing preventing a Member of Parliament from carrying on a discussion with other Members outside of the official forum. Member-to-Member contacts are the way work is done on a daily basis in the Senate and the Sejm.

There is also nothing preventing a Member from sending a letter to other Members. This type of "Dear Colleague" letter is a way of showing that the legislation or issue is a top priority to that Member, and, as such, is usually read with care.

In a colloquy, Members on the floor of the Senate or Sejm carrying out a public ("on the record") dialogue about the issue. Often, statements made during the colloquy have been presented before in different forums. However, once part of a parliamentary colloquy, they become part of the official record. Lobbyists should try to shape the colloquy with the participating Members. An example of such a colloquy is illustrated in Appendix VIII.

Letters

Unless there is a special relationship between a lobbyist and a Member of Parliament or Minister, it is generally advisable that any letters sent directly to the target audience be from members of the association or organization you represent. When a business leader or constituent writes to a Member seeking help, that letter is generally logged, recorded and read. Contrary to popular opinion, these letters do make a difference for they are a distinct communication of public interest in the particular subject matter.

It is important to note that such letters have the greatest impact when they are both plentiful and consistent. A series of letters received in one week may be forgotten over the course of a legislative year, but one letter per week for 52 weeks on one topic can be very influential.

Speeches

Speeches can provide an excellent opportunity to convey a message. For example, an annual meeting of a trade or business association could host several Members of Parliament or government officials as featured speakers. These speeches, if well attended by the press (see below) tend to be printed and put Members "on the record" in support of or in opposition to specific issues.

The Mass Media: Editorials, Television and Radio

A discussion on the use of the media is provided in Chapter VIII. At this juncture, suffice it to say that the media, as an "objective" voice, can be extremely valuable in conveying messages. Sometimes lobbying firms actually take out an advertisement in the media just to get their point across. The most effective input, however, is when the media voluntarily covers a particular subject or event. Policy-makers tend to listen to the media, since they represent an independent voice which speaks directly to the electorate.

VI. BUILDING A POWER BASE

A lobbyist must recognize that he never succeeds alone on any particular issue. Regardless of how much impact any one lobbyist has, their efforts are only a tributary to the stream of efforts that are required. On the contrary, lobbyists strive to enlarge the number of supporters who will assist in communicating their essential message. Two means of garnering this support are through organized “coalitions” and through “grass roots support.”

The Coalition

A coalition is an *ad hoc* group of organizations or individuals that may, on the same day, find themselves in total unison on one issue and mortal enemies on another. A coalition can be as few as two organizations or as many as hundreds. The coalition’s power stems from two sources: strength in networking and strength in combined resources. A few of the advantages of building a coalition are listed below:

- Reaching Members you could not reach on the basis of your own contacts and constituencies alone.
- Shaping the issue in a more credible fashion by discussing your position from several different perspectives.
- Increasing the number of messages and the number of messengers.
- Responding quickly and comprehensively to questions and opportunities.
- Having access to greater sources of information.

Coalitions are formed through the efforts of a “lead” organization. Typically, this is the organization that is the most influential or has the greatest stake in the outcome of a particular debate. Generally, meetings will take place at the request of the lead organization. All that is required to establish a coalition is to identify other interest groups who share a similar position on an issue and invite them to a coalition meeting to work on achieving common objectives.

When calling a coalition meeting, do not be overly concerned if every group you have invited does not show up, especially at the first meeting. Participants will have varying interests and some of those that do attend will likely be working directly with those that do not. A trick to getting good attendance is to ask an influential government official or Member of Parliament who is on your side, to participate. Another method is to have other groups who share your position on the issue also extend invitations.

The coalition meeting consists of several typical items on an agenda usually handed out prior to the meeting. The first of these is a recitation of the current status of the issue. The second is clearly defining and reaching consensus on the problem at hand. Third is discussing particular strategies and actions needed to resolve the issue. The fourth is the creation of a list of action steps that need to be followed, including the allocation of personal responsibility for each step. Finally, it is typical for the key decision-makers and otherwise influential names to be announced to the coalition to determine who has the best contacts with each and is willing to initiate contact. You will find that some participants are more willing to help than others. Following the meeting, every effort must be made to summarize the discussion and agreements reached into minutes and distribute them shortly thereafter to all the invited organizations.

The most effective coalitions are those that consist of unrelated industries. They, by their very nature, have a broader circle of influence. They also have greater credibility because of the diversity of their interests. In the case illustrated in Appendices II through XII, the coalition leader may want to invite an association of homeowners, real estate agents, building material and equipment suppliers and small contractors, all of whom are adversely affected by the provision.

Coalitions also have their weaknesses. A common problem is that participants sometimes “go around the coalition's back” to negotiate a separate arrangement of singular advantage to them. Coalition leaders can admonish their members not to take such action, but must also recognize that it can always and often does occur. By their nature, coalitions are partnerships of convenience, not of choice.

In larger coalitions, when addressing complex issues, it is important to develop small teams or subcommittees of experts that can better focus on and help fashion solutions to particular issues. For example, a committee of four to eight persons from different organizations can more quickly structure the language of an amendment or a bill than can a large group. Once constructed, the amendment can be shared with the entire group for comment. Recognize, however, that the speed at which an agreement is reached is often inversely proportional to the number of participants.

Grass Roots Support

Apart from the coalition, one of the most effective means of communicating is through grass roots support. The term “grass roots” refers to communication at the community or firm level, where the voices are most numerous. A grass roots lobbying campaign is distinguished from a coalition campaign in that the appeal is made directly to the business owner or citizen to take action and make their concerns heard.

Grass roots support has proven to be a powerful tool when used correctly. Despite the fact that Members of Parliament and government officials may work with you on a regular basis, they often want and need to see a direct correlation between the issue and the voters for political decisions to be reached. Consequently, real examples of the effects of a law or expressions of concern by the politician's constituency usually have more impact than statements made by lobbyists. As indicated in chapter IX, one of the ‘Ten Commandments’ is that the messenger is as important as the message.

Obtaining grass roots support is also a science in and of itself, but it is a science that can be learned with great success by business associations. For example, if you want to have an impact on a particular Member of Parliament, why not seek to evoke a flood of letters from his home region. A box full of letters from businesses in the voting population will almost always receive serious attention.

The success of a grass roots campaign is dependent upon four variables: timing, targeting, volume and credibility. First, the campaign has to be timed correctly, not too far in advance nor too close to the desired action. Timing can be controlled with relative ease since you are in control of when the request to take action goes out. This, however, assumes you have good information to accurately gauge the current status of the issue.

Second, in targeting, instead of holding countless one-on-one meetings, letters should be sent directly to relevant decision-makers. Here, knowing the players, their interests, and their circle of influence is an important element in targeting. In securing the help of the grass roots network, it is, of course, essential that you have a good list from which to draw quickly. It is also important to know who your association members are. Are they characterized by geographical area? Do you know how many are small versus large business owners? Do they have any special relationships with Members of Parliament or in government? Do you have their telephone and fax numbers? To have effective grass roots support, it is

essential to keep good data on your members so they can be called upon at the most appropriate juncture to take action.

Third, steps should be taken whenever possible to increase participation in an issue. One of the most important considerations when asking for grass roots support is to be clear in specifying the desired actions as well as to make the task as easy as possible. For example, create a draft letter for the business or individual to sign. If you can afford it, provide a pre-addressed and stamped envelope. In the sample letter shown in Appendix V, the association states the issue, why it is important and provides a sample response. It may also be useful to supply your members with the names and addresses of their political representatives.

Finally, the last key success factor of grass roots support is credibility. On one end of the spectrum are letters and other actions that merely repeat a theme. Such letters are no better than getting individuals to sign a petition. The most effective messages are those that are tailor-made to the particular constituent. As shown in Appendix V, space is left for the participant to tell their own story. Above all, everything that goes out under your name or in association with your organization must be accurate and justifiable. Misinformation or exaggeration, although tempting, is the quickest and most common means to destroy your credibility.

VII. THE TARGET AUDIENCE

Every issue that you lobby will involve a different set of decision-makers. Sometimes the issue can be confined to one ministry; for example, in the case of an implementational order. However, legislative issues will likely involve at least two main audiences: the government (the Council of Ministers and individual ministries) and the Parliament (the Sejm and Senate). Within each of these broader audiences are specific commissions, councils, bureaus and departments, each with their own agenda.

How each of these bodies of Parliament and government are addressed will depend upon the personalities, internal procedures, and the unique perspective they bring to the issue as an institution. For example, the Ministry of Finance will always have the budget in mind, including the administration of and compliance with its tax policy. On the other hand, the Sejm will be more concerned about constraints facing small firms as a growing sector of the economy and an influential voting block. The message to each would therefore be different. Additionally, in all cases, the lobbyist should be aware of the political and party-related implications of both the issue and proposed solution.

In order to better understand the various decision-makers and processes, please refer to Appendix I which describes the jurisdiction and procedures of the various government policy-making bodies, including the Prime Minister, the Council of Ministers and its various committees, individual Ministries, the Sejm and the Senate. In this chapter, we confine our discussion to the opportunities for external input into the legal and regulatory processes.

Critical Points of Influence for Legislation

As defined within the “Small Constitution”, drafts of laws may originate from a wide variety of forums including the scientific or legal communities, political parties, trade unions, associations and even from individuals. However, to be formally considered by the Parliament, they have to be officially submitted. The right to officially submit a draft for parliamentary debate is called the right of legal initiative which only belongs to the following entities: MPs, if part of a group of at least 15 Members, Sejm committees, the Senate, the Council of Ministers and the President.

In a very general sense, to introduce a change or proposal, one must first thoroughly study an issue and identify an opportunity to present, directly or indirectly, the arguments to policy-makers. Throughout the legislative process, there are specific stages where the lobbyist is most likely to gain such an audience and therefore an opportunity for impact. In order to better understand these critical points of influence for legislation, this section is devoted to the process by which ideas become law. For the purpose of this manual, we have identified eight such stages.

Stage 1 is the phase when an idea or concept is first developed and promoted. As previously stated, drafts may originate from a multitude of entities. This aspect of legislative process is important to the lobbyist from the perspective of initiating legislative drafts. In other words, this is the process by which an organization or business association can pro-actively identify, draft and submit issues for consideration. The most effective way to do this is to work closely with and through one of the groups which has the right of legislative initiative. If officially submitted by an entity with the right of legislative initiative, the Parliament is obliged to consider the draft in accordance with the statutes and rules of the Sejm and Senate. Individuals or institutions which do not have this right may request the Parliament or others who have this right to study a proposed draft but they are not obliged to consider it.

If a concept for a new law or an amendment to existing legislation is being developed by designated organizational units of the President or government (i.e. departments, bureaux, etc.), the lobbyist should strive, as early as possible, to gain an audience with them in order to have his points included in the discussion. In such cases, task forces consisting of representatives of relevant internal bodies or divisions are usually created. Remember that at the very initial stages these task forces may be of an informal character. Hence, it is often very difficult to receive information or have access at this point in the process.

Stage 2 (see *Table I*), the pre-legislative stage, is when an idea becomes a conceptual bill and when initiators begin to prepare their drafts.³ This is probably the most important stage for shaping or opposing an initiative as it is far easier to influence the outcome of a draft. However, as important as this stage may be, as in Stage 1, it is often difficult to get timely and accurate information about an initiative this early on in the process.

With bills originating from Parliament Members, the only mechanism is to have good personal contacts in the appropriate Parliamentary Clubs.⁴ Rather than establishing relations with every Member of a targeted Club, it is preferable to identify and focus on the leaders or Parliament Members who are interested or "responsible" for questions on SMEs, private sector policy reform, economic trends, or whatever your particular focus. All drafts of government initiated bills must be sent to the other relevant ministries for comment, and then be discussed by the KERM or KSPRM, before finally being adopted or rejected by the Council of Ministers. For example, government bills relevant to SMEs must go through the Ministry of Industry and Trade as this Ministry is responsible for establishing a conducive environment for the development of this sector. When deciding how to best focus and utilize your resources, one option, as shown in the following example, is to evaluate the relevant statistics of the legislative process.

For example, statistics from the 1993-1994 Session of Parliament, indicate that of the 336 bills submitted, 60 percent came from groups of Members, 27 percent from government, 8 percent from Commissions and less than 3 percent from either the President or the Senate. 95 bills were adopted, 43 rejected or withdrawn and 170 were in process when the Parliament was dissolved by the President in June 1994.⁵ Among the 95 acts actually adopted, 48 percent emanated from government, 30 percent from Members, 15 percent from Commissions, 3 percent from the President and 4 percent from the Senate.

Once legislation is introduced, its probability of success can therefore be estimated. Using the statistics above, it can be shown, for example, that bills introduced by the Commissions during this particular session had the greatest likelihood of being adopted, approximately 53 percent. The Commissions, however, introduced only 8 percent of the legislative initiatives. Government initiated bills were the second most likely to pass, with a success rate of approximately 50 percent. Although few bills are introduced by the Senate or the President, once introduced, these bills had the third highest probability of success. Surprisingly, bills introduced by Parliament Members had the least probability of success. Stated differently, a government or Commission bill is roughly 3.5 times more likely to pass than a bill introduced by Members and 50 percent more likely to pass than a bill introduced by the President or the Senate. With these statistics, we can begin to understand the relative probability and importance of each institution in the legislative process.

³ Tables illustrating Stages 2 through 8 can be found at the end of this chapter.

⁴ "Having good relations with the decision makers" is a truism but is especially true in Poland, where one can often achieve much more on a "personal" or informal basis.

⁵ Among the 170 bills, 69 (40%) related to the economy.

These numbers should not be taken as representative nor serve as a basis for drawing general conclusions because they are only valid for this particular term. However, this type of methodology can be used to better focus your resources during all sessions of Parliament.

All drafts or proposed amendments submitted to the Sejm must include a justification. The justification should at a minimum, include:

- a description of the current status of the issue to be regulated and an explanation of the reasons for creating a new or amending an existing law;
- an explanation of the differences between the existing and proposed legal status together with the expected social and economic as well as financial outcomes when the law comes into force;
- identification of the sources of financing to implement the proposal; and
- the results of public consultations or discussions together with information about alternative options and opinions suggested.

The requirement to assess legal drafts from the perspective of their consistency with EU laws is a very important element which only relates to governmental drafts. Such assessment is prepared by the Government Plenipotentiary for European Integration and Foreign Assistance. Lobbyists should note that this recent Council of Ministers resolution (see Appendix XIII for more complete procedural details) can be used as an important tool in implementing your strategy. For example, reference to this resolution can be used to support initiatives which comply with the EU laws or to oppose those which do not. However, do not forget that the opinion, although required, is not binding for legislators.

Stage 3 (see *Table I*), before the first reading, draft bills are submitted to the Presidium of the Sejm (the Speaker and Deputy Speakers).⁶ This is the most important body in the Polish Parliament which makes many discretionary decisions on issues like the plenary schedule, the agendas for plenary Sejm sittings, and the promulgation of newly introduced bills. The Speaker then orders the printing and promulgation of the draft bill to the Deputies, Speaker of the Senate, Prime Minister and President.

If a bill is unacceptable (i.e. incompatible with legal or formal requirements), the Presidium may return it to the author or send it to the Legislative Committee, which may reject it with a three-fifths majority vote. Before such a decision, the Presidium may request legal advice from the Legislative Bureau of the Sejm Chancellery which analyzes draft acts from a legal and procedural point of view. The Legislative Bureau also provides similar services to the Committees upon request.

Information about works of the Sejm and its organs is passed by the Press Center to the media. This Center also provides information on agendas, proceedings, results of votes and publishes these in the "Sejm Chronicle". Copies of the Chronicle are disseminated to the media and given to the Sejm Library which is open to the public.

⁶ Note that the Council of Ministers may submit so-called "urgent bills." In this case, the legislative procedure is faster. The Sejm Presidium must immediately define a preliminary schedule of proceedings as follows: Promulgation of the bill is to be immediate; Committees have 30 days to present a report which is put on the agenda of the next plenary sitting; and the Senate and the President have 7 days, instead of 30, to arrive at a decision.

Stage 4 (see Table II) is the first of three required readings of the bill. With most bills, the first reading takes place in the relevant Committee(s). In this case, any Member may take part in the Committee(s) sitting. Any bill proposing a change in the constitution, involving an act on civil rights and duties, electoral laws, or any bill leading to significant financial consequences for the State budget shall have its first reading at a plenary sitting. This also holds for any bill deemed by the Sejm Presidium to be of particular importance. The Sejm Plenary then votes to send the bill to the relevant Committee(s) or to reject it.

Debate within the Committee(s) is a critical time to influence the shape of legislation. Here is often where Members present arguments for or against a given solution and amendments are introduced.⁷ The Committee presidium or chairman may request written opinion or verbal testimony from experts, organizations, agencies, etc. In addition, experts from the Sejm Research Bureau may attend the meeting or be requested to provide written information and analysis. Besides the chairman, the role of the Committee Secretary is critical since it is the Secretary that is responsible for providing the necessary information and expertise to the Members. Thus, establishing contacts with the relevant Committee(s), being asked to testify or submit evidence as an expert and developing relations with the Committee Secretaries are all priority options for the lobbyist.⁸ Once finished, the Committee's report is sent to other related Committees and to the Research Bureau.⁹

A particular Committee may establish a subcommittee to address more problematic bills and/or appoint a team of Members to draft the Committee report. At the end of the proceedings, the Committee's report recommends that the Sejm a) adopt the bill as is, b) introduce specified amendments or c) reject the bill entirely. Amendments which do not have full Committee support may be attached to the report as minority positions. If not rejected entirely, the Speaker orders its printing and promulgation to the Members, with the second reading taking place in no less than 7 days after delivery of the Committee's report to all of the Members.

We have classified Stage 5 (see Table III) as the second and third readings. If there are no new amendments or motions proposed during the second reading, the Sejm begins the third (and final) reading without delay. When there are new amendments, the bill is usually sent back to the Committee(s) where they debate these amendments in the same manner as during the first reading (including experts and testimonies) and make an additional report. At this point, the Speaker may refuse to accept any new amendments and order promulgation of the report. Following distribution, the third reading takes place. The Sejm may then a) adopt the bill without change, b) adopt it with all or part of the amendments introduced, or c) reject it entirely. If not rejected entirely, the bill then goes to the Senate.

Stage 6 (see Table III), is when the bill arrives in the Senate. The Speaker of the Senate receives the bill and refers it to the relevant Committee(s). The Senate procedure is similar to that in the Sejm, with debate, experts, testimonies, etc. The Senate also has Research & Analysis and Legislative Bureaus which play similar roles to their counterparts in the Sejm. The Committee(s) review the draft and propose amendments

⁷ *According to the Law on obligations and rights of Sejm Members and Senators, Sejm Members are required to seek the opinion of their constituency and to take it into consideration in their parliamentary work. However, they do not have to agree with or abide by it. In other words, the fate of motions submitted to Sejm Members depends exclusively on the Members as the motions and initiatives they support do not have to be connected with the remarks expressed by their constituency.*

⁸ *If more than one Committee are to work on a bill, the Committees have their sessions together. Bills relating to the State budget have a separate procedure involving many Committees.*

⁹ *The Sejm Research Bureau publishes many reports, most of which are available to the public at the Sejm library. Although not available for sale, one can review and photocopy as desired.*

where deemed necessary to be adopted by the Senate. The Senate may decide to a) adopt the bill without change, b) introduce amendments or c) reject it entirely. Any amendments imposing a burden upon the State budget must indicate the required source of finance. The Senate has 30 days to react. If a resolution is not concluded within 30 days following submission of the bill, the original version of the bill is considered passed by the Senate. The bill, with the resolution of the Senate, then goes back to the Sejm.

Stage 7 (see Table IV) occurs when the bill returns to the Sejm and relates to the final parliamentary phase. If the Senate adopted the bill without changes, the Speaker of the Sejm submits it directly to the President. Otherwise, the Sejm Presidium directs the bill with the Senate resolution to the relevant Committee(s), who in turn prepare a report recommending adoption of all or part of the changes introduced by the Senate or rejection of the Senate resolution. The Sejm can only reject Senate decisions with an absolute majority, otherwise they are considered passed. In cases when the Senate resolution is to reject the proposed bill, and if the Sejm does not overrule this decision, the bill is voted down.

Finally, the Speaker of the Sejm submits the acts adopted by Parliament to the President for signature. The President has a few options. First, he can sign these Acts into law within 30 days and order their promulgation in the Journal of Laws. If not in agreement, he may refuse to sign and do one of two things. He may refer it back to the Sejm for reconsideration, giving reasons thereof. This is what we have labelled as Stage 8 (see Table V). This is the last chance a lobbyist has to try to block or change an act one finds unacceptable.¹⁰ Alternatively, he may refer the act to the Constitutional Tribunal for an adjudication (this suspends the time allowed for signing). However, the President cannot refuse to sign an act which has been judged by the Constitutional Tribunal as conforming to the Constitution.

Despite a presidential veto, the Sejm may repass the act by a two-thirds majority vote. Similarly, the Sejm may reject the negative judgment of the Constitutional Tribunal. Then, with a two-thirds majority, the President must sign the act and order promulgation in the Journal of Laws.

Another point the lobbyist should be aware of regarding the legislative process and more specifically, voting practices within the Sejm, is what is commonly known as "Club or Party Discipline." This refers to a procedure whereby Parliamentary Clubs issue a directive to all Club members to vote either for or against a particular motion in accordance with the Club. This occasionally used practice is not governed by Polish law. Rather, it is defined and regulated by the internal provisions and statutes of each political party.

Abstaining from voting or voting against the recommendation of the Parliamentary Club may result in the expulsion of the voter from the Club. Apart from his political identity, voting against the Club directive has no other repercussions for a Member, who will retain a seat in the Sejm until the end of his term. However, one likely consequence of such behavior is a lack of support for the Member from the party in future elections.

Pressure related to the observance of club discipline can present serious obstacles to the process of lobbying. For example, even if a lobbyist wins a Member's support for a particular legislative initiative, he may be "obliged" to vote against it in accordance with the Parliamentary Club directive.

This practice is rarely used but when employed, one can expect almost all Members to vote in line with their Club. Further, it is usually difficult to anticipate which legislative initiatives will be subject to club discipline as Parliamentary Clubs normally impose this at the last minute. Generally speaking, the practice

¹⁰ *When taking decisions, the President uses the advice and opinions of his advisory bodies.*

of club discipline is only used in exceptional circumstances and mainly when there is a distinct risk to the governing coalition.

Another important issue regarding political parties is their indirect influence on the final shape of laws and policies. In Poland, over two hundred political parties are registered. As a result of recent parliamentary elections, less than fifty are represented in the Sejm. Lobbyists should also be aware that the competition and level of influence amongst political parties is constantly changing. As previously shown, it is not unusual, for example, for parties within the ruling coalition to orchestrate many of the proposed changes to the legal and regulatory environment. Thus, it is essential that the lobbyist be sensitive to the current political winds and adjust the strategy accordingly.

Critical Points of Influence in the Order-Making Process

Executive orders are passed by the Council of Ministers or by particular Ministers. Influencing this process is perhaps even more difficult than influencing the legislative process. This stems from insufficient openness, transparency, access and procedural guidelines. Without either notice, due process or correct procedures to influence orders, the lobbyist's job is an onerous one. To further complicate matters, each ministry has its own procedures and perspectives when issuing executive orders. But don't give up; orders are an extremely important element of the legal system and therefore, efforts should be taken to build contacts and information sources in the applicable ministries. Once you have a good understanding of the process of creating executive orders, you will be able to determine where and when it will be possible to obtain information and influence the outcome.

Always bear in mind three basic rules:

- Try to develop solid contacts in the appropriate ministries where executive orders are typically drafted and reviewed. This includes, for example, contacts within legal departments and departments responsible for particular issues. Also seek to develop lasting relationships with Ministers and Vice-Ministers themselves and with the government departments supporting the work of the KERM and KSPRM committees.
- Understand and utilize the elements of political process. Seek assistance from interested Members of Parliament. If you cannot find information about an order, draft a letter to a Senator or Member requesting him to forward it to the relevant Minister. You can also ask the Member of Parliament to personally direct a question to a particular member of the government. Always use your power as an organization of voters to demand input into the decision-making process.
- As noted before, do not only seek information at the higher levels. Rather, work to establish a network of information providers throughout the State administration at all levels.

By using these guidelines, you can influence and sometimes induce government action. The rules stated above may at first seem unrealistic. However, the professional lobbyist knows that there are many methods and that through creativity and determination, there is always a way to make their point in the appropriate forum.

The following section focuses on three procedural alternatives in the order-making process. They are:

- orders by the Council of Ministers,
- orders by individual Ministers, and
- directives issued by State administrative units.

As defined earlier, orders are normative executive acts. They are issued in order to implement laws and are based on a specific power of attorney. A law may oblige specified administrative organs to issue a particular order regarding a given matter. For example, many laws contain the phrase: "The Council of Ministers will determine by its order" A law may also give the option to issue an order to a particular administrative organ. In these cases, the law would state for example the phrase: "The Minister of Finance may determine by the way of an order ...". In such a case, the order is issued when the authorized body views it as necessary. In both cases, orders must refer to the provision of the law obliging or allowing the administrative organ to issue the order. Not surprisingly, orders cannot exceed the scope of the authorization. In some cases, the law may require that an order be developed by several ministers collectively or by one minister in agreement with other minister(s).

Orders by the Council of Ministers

The majority of executive orders are issued by the Council of Ministers with their range and forms governed by the provisions of relevant laws. The Council of Ministers conducts its activity following the agreed-upon government workplan, including legislative programs, which is prepared by the Secretary of the Council of Ministers. Once approved by the Prime Minister, the workplan is submitted for approval to the Council of Ministers. The members of the Council of Ministers and heads of central offices, within the framework of their authority, draft, review, and submit for discussion within the Council of Ministers "governmental documents" such as executive orders.¹¹ The task of preparing draft orders for the Council of Ministers depends on the issue (i.e. if the law which requires issuing an order related to retirement pay, the Minister of Labor and Social Policy will be entrusted to prepare the draft determining the volume of social security shares). Preparing draft orders may also be entrusted to an advisory body to the Council of Ministers, Prime Minister, Government Plenipotentiary or to a relevant commission or team of experts.

Prior to submitting drafts of orders for the approval of the Council of Ministers, the responsible ministry formally reviews the documents through interministerial discussions with members of the Council of Ministers. Executive orders are sometimes also reviewed by other state administrative bodies, in particular by the Sejm Chancellery, Senate Chancellery, Presidential Chancellery, Supreme Chamber of Control, National Bank of Poland, and heads of central offices.

Lobbyists should also be aware of the fact that each draft has to be justified. Such a justification attached to the draft of an order should include:

- a presentation of the current state of affairs which are to be regulated by the order and an explanation of the need and purpose for the particular order.
- an explanation of the differences between the existing and proposed legal solution as well as an assessment of the social, economic and financial impacts resulting from the implementation of the order. Sources of financing for the implementation and enforcement of the order must also be included.

¹¹ *Examples of central offices of the government include the Central Planning Office, Customs Department, Antimonopoly Office, Central Statistic Office, and the Social Insurance Department.*

- commentary on the results of consultation and discussion with the general public including information on proposed options and presented opinions.

Administrative bodies to which the draft was submitted for consultation are obliged to deliver their opinion of the draft on an established day in writing or to announce that they have no comments.¹² The period of time during which a State organizational body has to review the draft and express its opinion is established by the responsible ministry which takes into consideration the type and subject matter of the document as well as the urgency of the issue. Generally, this period is not longer than 30 days. Setting the period shorter than 7 days requires a specific justification and agreement with the Secretary of the Council of Ministers. Whether 7 or 30 days, to the lobbyist, this means that your information and network of contacts must be very efficient to allow time for review, analysis, positioning and promotion. Of course, not every draft order will be of interest to your organization.

The differences of opinion arising from the process of consultation are discussed by the responsible ministry during conferences called by this body. Unfortunately, these meetings are closed to the public. This means that the lobbyist must utilize contacts and work with ministry staff to gain access to and influence the debate. A new version of a draft or a discrepancy protocol is developed after the conference. If it is not possible to eliminate discrepancies during the process of consultation, the responsible ministry submits the draft to the KERM (Economic Committee of the Council of Ministers) or KSPRM (Social and Policy Committee of the Council of Ministers) for review.

This is the forum where all parties try to reach agreement on the final text of the order. If it fails and they do not manage to reach agreement on the text, another discrepancy protocol is made and the opinion of the head of the committee is attached together with his proposal to resolve the discrepancies. One has to recognize that very often, the committee head's comments are critical in determining the final shape of the draft. Therefore, a lobbyist should also establish his own relations with heads of committees and Council of Ministers staff.

The next step is for the responsible ministry to submit drafts of executive orders and protocol of discrepancies where necessary, for consideration by the Council of Ministers through the Secretary of the Council of Ministers. The Secretary then transfers the drafts to the members of the Council of Ministers and permanent bodies of the Government at least 7 days before the meeting. This period may be shortened but only in extraordinary and justified circumstances.

In some extremely important cases, in order to fully prepare the issues submitted for the review of the Council of Ministers and to efficiently discuss the differences of opinion, special preparatory conferences are organized in the Office of the Council of Ministers (URM). These conferences are attended by representatives of the responsible ministry, interested state administrative bodies, and, if needed, by invited experts. As these conferences are usually closed to the public, it requires the lobbyist to work through relevant contacts and supporters in and associated with the Council of Ministers. These conferences are chaired by the Secretary of the Council of Ministers or another person authorized by him.

The decisions and conclusions, as agreed during the conferences, are then submitted by the responsible ministry to the Council of Ministers through the Secretary of the Council of Ministers in the form of a new

¹² *Similar to the case of drafting or amending laws, it is necessary to obtain the opinion of the Government Plenipotentiary for European Integration and Foreign Assistance regarding consistency with EU laws. Detailed procedure and important components of the applied COM resolution are included in Appendix XIII. However, bear in mind that this opinion, although required, is not binding for legislators.*

draft of the executive order or through the “self-amendment” procedure, which can take place during the conference proceedings, or in the form of a protocol of discrepancies. The Council of Ministers meets on a regular basis. The Secretary of the Council of Ministers distributes the agenda and notifies participants at least three days in advance to give them enough time to prepare for the meeting. The notification time may not be shorter than 3 days unless called under extraordinary circumstances.

Decisions of the Council of Ministers are only valid if the meeting was attended by at least half of the members. Council of Ministers meetings are closed. The chairman of the meeting may take a decision to keep the entire meeting or part of the meeting confidential. A record of the meeting is made in two forms: minutes and a “consensus protocol.” The minutes and protocol, once signed by the chairman, are immediately delivered to the members of the Council of Ministers, interested State bodies and, if there is need, to the institutions directly affected by these decisions.

To approve executive orders and pass resolutions without a Council of Ministers meeting, members may express their opinions in writing through the internal governmental post. This is called the “circulation procedure.” Under this procedure, each member of the Council should have at least three days to declare his position. The circulation procedure includes the Secretary of the Council of Ministers who will act as the intermediary. In this case, the lobbyist must have information sources within the Council of Ministers to alert him to the fact that a particular order of interest will follow this procedure. Only then will there be enough time to develop a strategy and meet with the lead and other ministries. Once a particular draft has been approved through this procedure, it is submitted for the approval and signature of the Prime Minister. The Secretary of the Council of Ministers then presents those orders which were approved in accordance with this procedure at the next full meeting of the Council of Ministers.

Orders by individual Ministers

The draft of this type of executive order is developed by the organizational unit within the ministry responsible for the issue which is to be governed by the new regulation. This unit consults the draft with other interested departments within the Ministry and, when necessary, with groups outside of the ministry. If comments are submitted, this “leading” unit either takes them into consideration or, in the case of their rejection, organizes a review conference attended by representatives of the departments which expressed their comments. If agreement on controversial issues is not reached, the decision is made by an appropriate Ministry staff member. Once decided, the draft executive order is submitted to the Legal Department of the Ministry and checked for consistency with the legal system. If the Legal Department suggests further amendment, the review procedure (as described above) is repeated.

Once agreed upon, the draft is submitted for the Minister's approval and once signed, undergoes interministerial consultations. The comments from these consultations are analyzed by the responsible unit within the ministry together with the Legal Department. If the leading unit does not approve of these comments, it prepares its rationale in writing and organizes a review conference. Minutes from this conference are recorded in writing and are sometimes confidential. Issues which still have not been agreed upon during the conference are finally submitted to the appropriate Minister who makes the decision.

Directives issued by State administrative units

Directives are normative acts issued on the basis of laws and are issued by the Prime Minister, individual Ministers, and other central offices of the State administration.

While most of the elements of the consulting process remain as described above, such directives do not require interministerial consultation. Drafts of directives, once signed by the appropriate ministerial representatives and the Legal Department, are submitted and signed by the Minister. This completes the legislative procedure.

These are typically of a very focused nature pertaining to a more narrow line of activity, and in many cases, strictly administrative. Directives can also be related to the internal operation of various government agencies.

Although of “lesser” impact than the other types of orders described, they can still be very important and greatly affect your membership. Hence, the lobbyist should also establish and maintain good relations with key ministries to have information on and influence in this type of order.

Publication and timing

Executive orders, once approved, are published in the following official journals:

- * Orders issued by the Council of Ministers and particular Ministers are published in the Legal Journal.
- * Directives or “lesser” orders falling within the jurisdiction of a particular ministry are published in Monitor Polski.

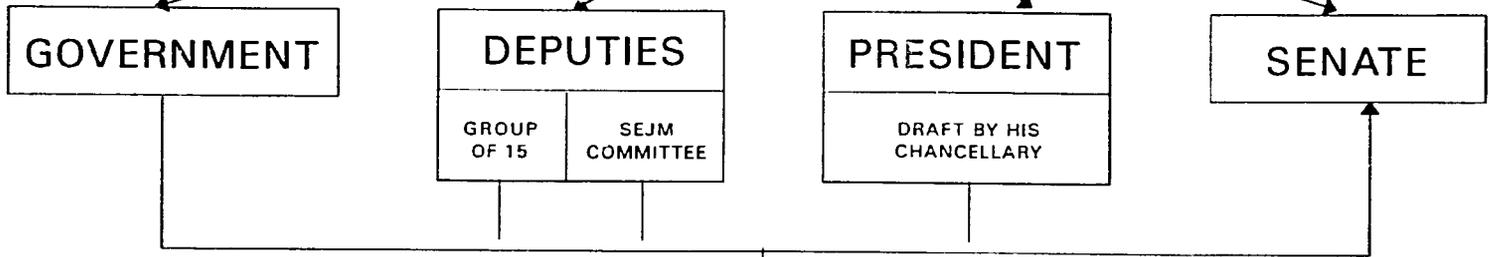
The date executive orders come into force is either specified within the order itself or on the day of publication.

In summary, understanding the various aspects of the legislative process, whether it be laws or orders, is time consuming and difficult but well worth the investment. Without trying to introduce too much uncertainty, lobbyists should also realize that these established procedures are not always followed in their exact form. In all circumstances, however, one of the success factors is obtaining information on a particular initiative in time to react. Although occasionally discouraging, lobbyists must never stop exploring opportunities to develop and expand their information network.

One word of caution: keep it in mind that when gathering data you must not infringe upon the State and Trade Secrecy laws. As this may occasionally be a serious obstacle in obtaining indispensable information, we strongly recommend reviewing the appropriate laws governing information and secrecy and to reconfirm or validate all data before incorporating it as part of a formal proposal or justification.

IDEA

STAGE 2



GROUP OF 15

SEJM COMMITTEE

DRAFT BY HIS CHANCELLARY

Return to the author

LEGISLAT. BUREAU

Opinion

SEJM PRESIDUM (SPEAKERS)

STAGE 3

LEGISLAT. COMMITTEE

SEJM

TABLE I

SEJM

SEJM PRESIDIUM

STAGE 4

REGULAR PROCEDURE

SPECIAL PROCEDURE

Ist READING
IN COMMITTEE(S)

SEJM PLENARY
Ist READING

DEBATE IN
COMMITTEE(S)

VOTE:
SEND TO
COMMITTEE(S) | REJECT

SUBCOMMITTEE(S)

TEAM

(REJECTED)

COMMITTEE REPORT
REQUESTING THE SEJM TO:

ADOPT THE BILL WITHOUT CHANGE	INTRODUCE SPECIFIED AMENDMENTS (minority position attached)	REJECT THE BILL
----------------------------------	--	--------------------

TO THIS POINT, THE AUTOR
MAY WITHDRAW THE BILL

SEJM PLENARY
IInd READING

TABLE II

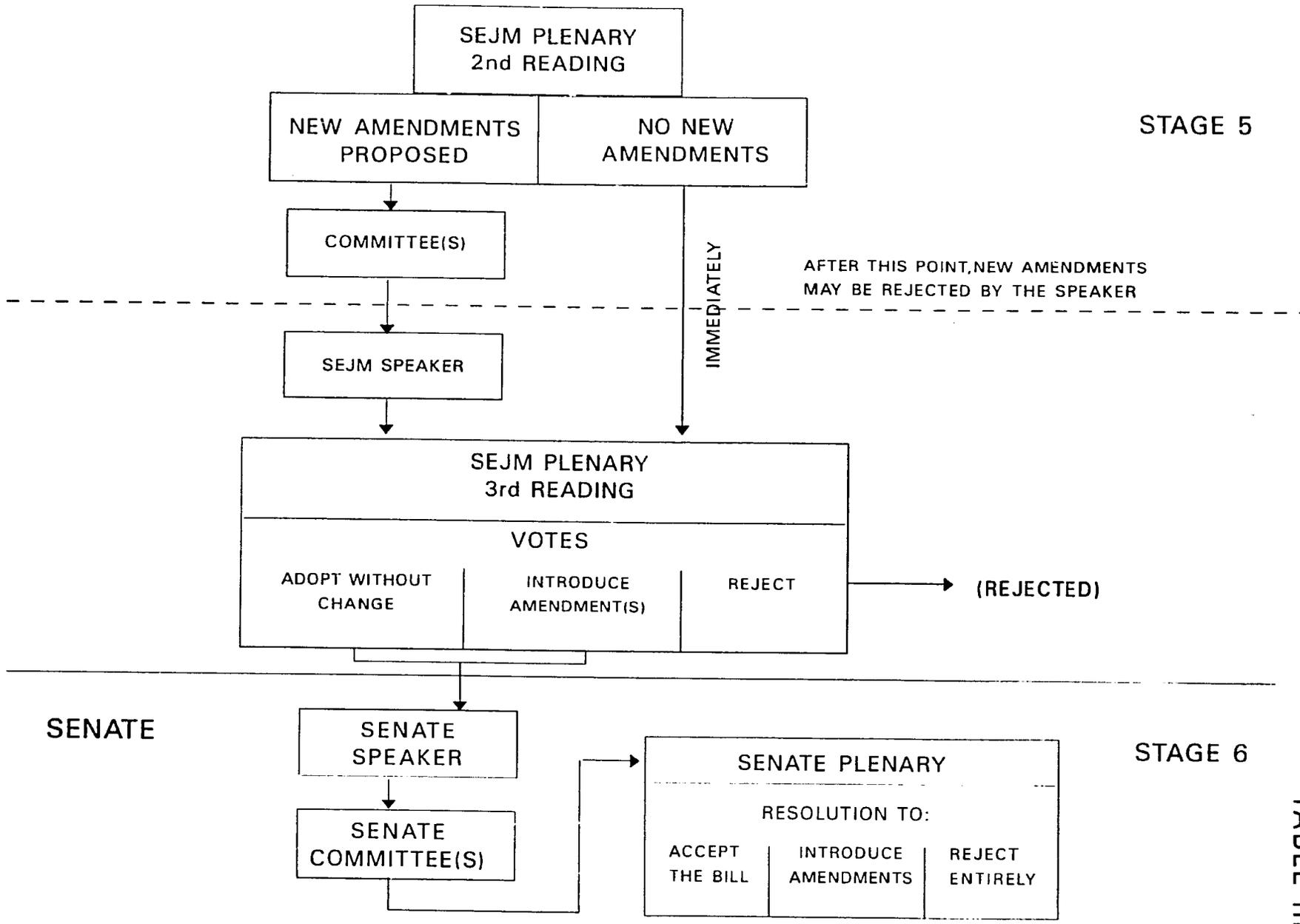


TABLE III

TABLE IV

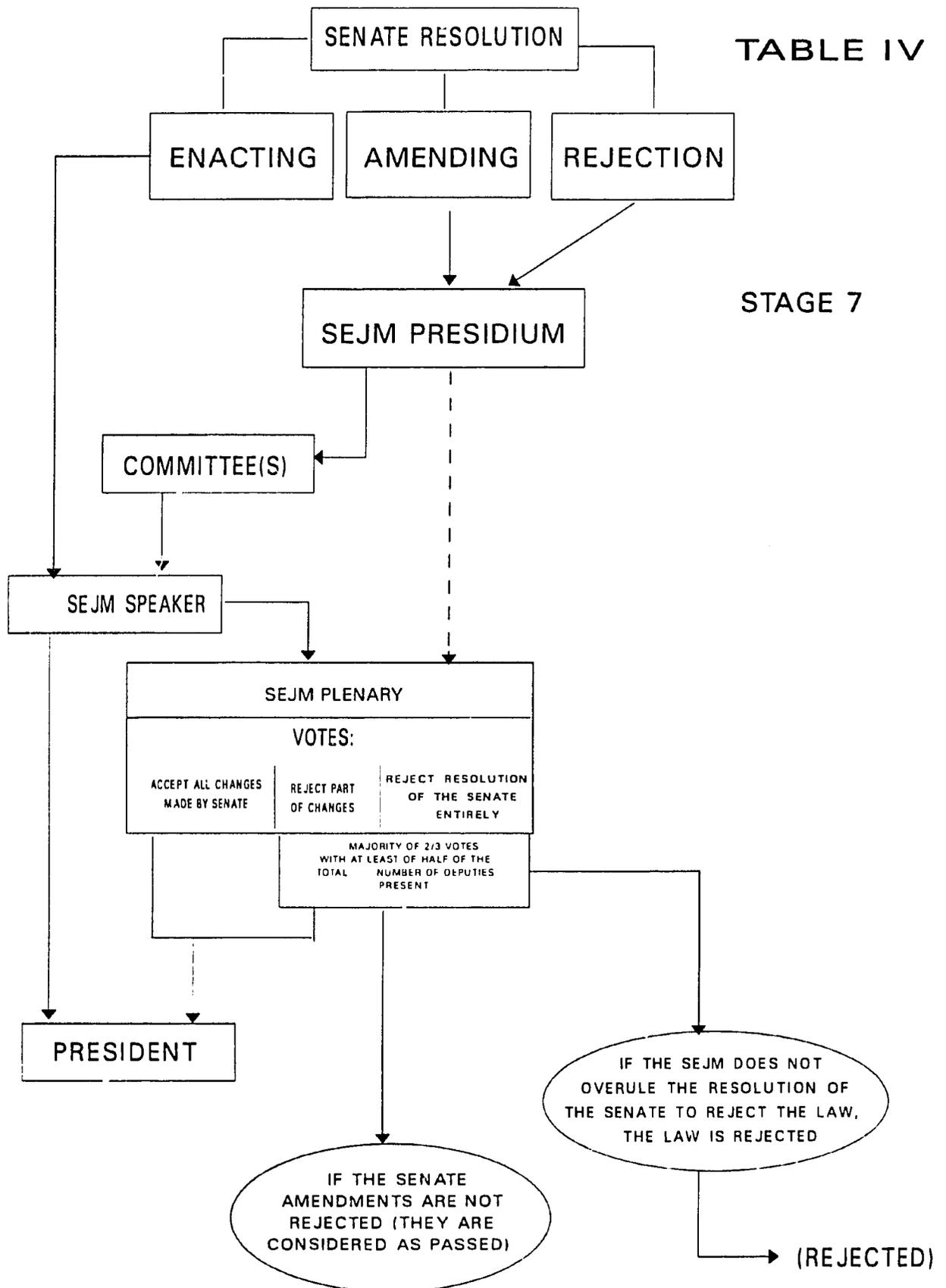
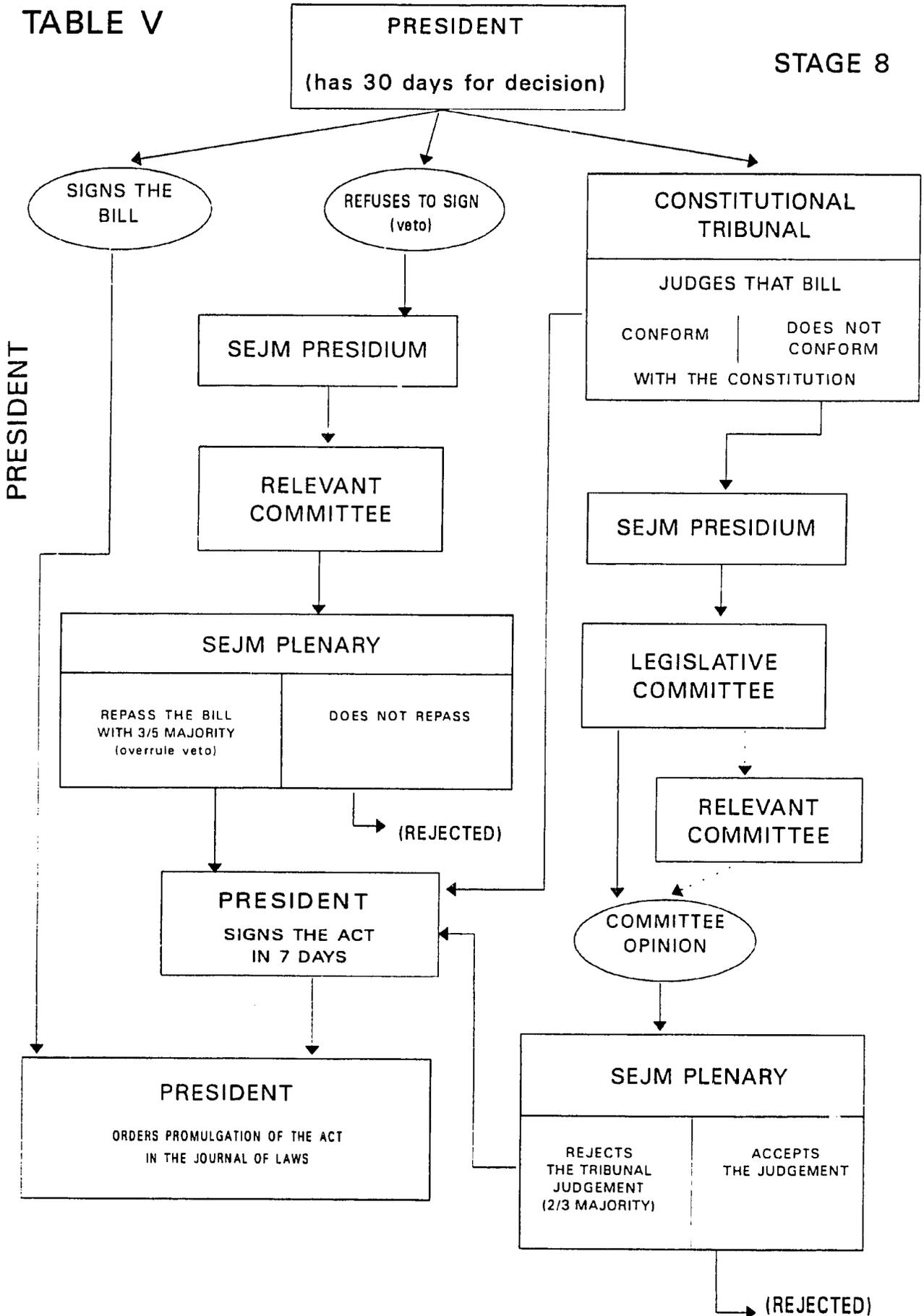


TABLE V

STAGE 8



VIII. WORKING WITH THE MEDIA

Although not always easy, you should strive to achieve an effective working relationship with the media. The media wields a great amount of power, deriving from two principle sources. First, the media has a much louder voice than you which will be heard at all levels, from local communities to the Parliament. Second, the media's power base is further strengthened by the perception of objectivity.

The media, if used properly, can help generate grass roots support and help influence government and Parliament action. As a focal point of discussion, it is also a great source of information. Good relationships with journalists can often be used to learn about your opponents' activities and arguments. If used improperly, however, the media can be a formidable force against you. The best way to work with the media is to establish an on-going relationship long before a story is written. The most effective way to do this is to give them something they need. In other words, become a timely and accurate source of information.

Together with these words of caution, there are certain rules to keep in mind when working with the media. First and foremost, remember that your effectiveness is dependent upon your ability to give them news of interest to their readers. The media are professionals at reporting and digesting the relevance of news. What *you* think will seldom persuade them what is or is not newsworthy. In a similar fashion, a press release is of no value if it does not excite their readership. Yesterday's news is also worthless. Consequently, when working with the media, learn how to package your position in the most attractive way. This varies depending on the publication and will come with experience. It is also advisable to establish your relationships on an individual, reporter-by-reporter basis.

A good way to keep the media advised is through press releases (see Appendix X). However, many reporters are offended if they are not given the information before their competition. In this regard, it is sometimes useful to establish a smaller group that get your favored attention. For example, send the press release out to your favorite contacts in the media before it is formally distributed to your mailing list.

Second, you must resist efforts to provide the media with too much information or too bold a statement. There is an unwritten rule which states that the more radical or controversial, the more likely it will appear in print. Always remember that when talking to the media, you are literally speaking to thousands of people and by self-selection, they are usually the people who are interested in the issue you are discussing. Never say anything to the media that is not 100 percent accurate or something you would not want repeated to several thousand.

As a corollary to this rule, never assume that your remarks are "off the record." Overuse of this tactic will confuse both you and the reporter as to what statements can and cannot be used.

Third, when you have given information to a reporter, especially if he asks you for your name, ask for a draft of the article before printing. Reporters are often reluctant to provide an advance copy. However, experience indicates that most of the time, even if the reporter has taped the discussion, quotations will not be reported in exactly the same way as they were originally expressed. In some cases, it will take on an entirely different meaning. A professional reporter should at least call to verify the accuracy of specific statements.

Fourth, always try to appoint one focal point for communication between the media and your association. The media may not like this and may attempt to go around the spokesperson to get other angles on the story. The purpose of designating one focal point is two-fold. First, an appointed spokesperson assures that the association's message is uniformly provided and is cohesive. Second, it assures that the media

treats the organization fairly. By having to return to the same information provider time-and-time again, the media will learn there can be rewards and repercussions from failing to present a story fairly; namely, the development or loss of a reliable information source. To enhance consistency, therefore, ensure that the media, the opposition and others know that there is one center for communication in your association or coalition. The designated individual will represent the whole group, and therefore must be well informed, supported and conservative in his response.

Fifth, if you do not know the answer to a question posed, do not guess. Rather, tell the reporter that you need to verify a particular issue and will get back with them. They, in turn, will respect you for your accuracy and diligence.

IX. LOBBYING TECHNIQUES: THE TEN COMMANDMENTS

This chapter attempts to draw from the preceding text the ten most important and applicable principles of lobbying in Poland. Although somewhat general in nature, they are the building blocks from which to establish yourself as a professional lobbyist and conduct a successful campaign.

Commandment I

“Thou shall never forget the essential message.”

All conversations are windows of opportunity to reinforce the essential message. However, such forums also present the risk of being caught off-guard or unprepared to address new arguments against your position. In these cases, it is vital to never lose control of the discussion or be pulled into a fight by your opposition. If you get caught responding in an ad hoc manner to your opponent's arguments, you have lost. You must keep control of the debate at all times.

As a related point, do not attack individuals. While you may have personal disdain for the arguments or actions of a particular opponent or Member of Parliament, never let that be known and never insinuate arguments against a person, as opposed to an idea. Such an approach is unprofessional, unnecessarily redirects the debate and is typically detrimental to your cause and reputation.

Commandment II

“Thou shall build a wide network of support.”

Success in lobbying is seldom achieved individually, but is a result of a stream of efforts towards a common objective. Therefore, establish broad-based support by building allies throughout the relevant public and private sector communities.

Some of these allies may not be obvious at first. As a corollary to this commandment, you should strive to find consensus with your opponents' objectives as much as possible. Often policy debates are motivated by a good cause. For example, a law that has a devastating impact on SMEs may still be motivated by a socially desirable objective. However, it is seldom the cause on which SMEs will vehemently oppose. Rather, it is the incorrect way in which the goal is being sought. In order to attract the attention of politicians that support your opposition, you have to understand their desire to achieve the underlying goal in the best way possible.

Of course, you cannot afford to waste your time preaching to the choir or giving information to the opposition. Further, posing your arguments to a knowingly unchangeable opposition is worse than a waste of time, it can be destructive.

As a corollary to this rule, when building allies you must also try to neutralize potential opposition early. The great mass of groups and politicians that are neither supporters nor opponents are still important. The reason is obvious: they are *potential* supporters or opponents. Put simply, get to them first, before they are influenced by your opposition. If you cannot obtain their support, settle for their neutrality.

Commandment III

“Thou shall always be accurate, honest and consistent.”

You, your organization and its members are presumably in place for the long term. A reputation for accuracy and honesty can take many years to develop, but can be destroyed in an instant. The strength of your reputation and eventual success is directly proportional to the level of trust established within the decision-making community, be they in government, Parliament or elsewhere. The same can be said for “consistency”, since your position should not be swayed by every political wind. Remember, your most powerful weapon is information and with this, you must become a valuable, sought after and highly respected commodity.

Commandment IV

“Thou shall choose your battles and establish realistic goals.”

It is, of course, a virtue to be ambitious but some lobbying actions, even if needed and important, are not realistically achievable. Focus on targets that can be achieved so that your energies and resources are well spent. Further, do not let the strength of the opposition prevent you from achieving your goals even if the long range objective must be temporarily put aside for another day.

One of the most common mistakes is to expend energies on unrealistic goals. Remember that there will always be far more issues worth fighting for than you have the capacity to address. It is therefore critical for you and your association to establish issue selection and prioritization criteria, keeping in mind the human and financial resources at hand.

Commandment V

“Thou shall strive to have information that is timely and accurate on the position of your opponents and on the progress of related issues.”

Information may not be everything, but without it you have nothing. Timely and accurate information is the strategic weapon of the lobbyist and as such, you must actively work to establish a network of information providers. Identify sources of information in many places and nurture them. Once information is revealed, you may make it available to allies, but take steps not to reveal your sources. Moreover, sources of information should be systematically and strategically located. For example, with respect to particular issues, you may find it important to have information sentries or “trip cords” which will alert you if an issue is moving in Parliament or in a particular ministry.

Of course, one of the primary purposes for gathering intelligence, in addition to contributing to your own analysis, is to know the position of your opposition. You must determine the arguments of your opponent as quickly and comprehensively as possible in order to respond without hesitation and with confidence.

In a related point, you should also know what the opposition is saying about your arguments. After all, one can only assume that each and every side of the issue will at some point be presented to the decision-makers who will, in turn, consider each position. As such, knowing this will help to better understand and predict the decision-makers' thought process.

Commandment VI

“Thou shall always remember that the messenger is as important as the message.”

The most profound statement can go unnoticed unless carried by the right messenger. At the same time, an essentially meaningless or incorrect statement can assume importance well beyond its merits if presented by the right person. Take time to select the most appropriate messenger for each audience. For example, when visiting a Member of Parliament, you may want to bring an association member from the Member's home town.

Your role as a lobbyist is not to claim victory for yourself or be in the spotlight. Your job is to ensure that the desired result occurs. This often means that you must give the “microphone” or floor to someone else who is better positioned to state the message -- even if that message is yours. Remember, as a lobbyist, all glory is reflected.

Commandment VII

“Thou shall be more prepared than your opposition.”

Be prepared for the battle you must fight. As previously stated, the key to victory is preparation. This is as true in lobbying as in war. A key component of preparation is to know in advance of each meeting exactly what it is that you intend to achieve during the meeting. As basic as this premise is, many lobbyists still forget to employ it.

Commandment VIII

“Thou shall effect the process at the earliest possible decisional juncture.”

Acts and orders can be thought of as parts along an assembly line. The longer you wait to spot a defect or correct a problem, the more difficult and time consuming it will be to change. It may be arduous to identify concepts and ideas at the ministerial level that will later emerge as draft legislation or orders but you must try. The earlier you can respond to these ideas, the simpler your task and the greater the likelihood of success.

Commandment IX

“Thou shall never give the politician an easy way out; always be direct and precise in what you ask for.”

It is a natural tendency of polite people to be indirect in their requests, i.e. to imply what they want rather than blatantly and formally state it. Similarly, it is a natural tendency of politicians to be indirect in their response. Politicians rely upon indirect or implied responses to effectively convey a “yes” message when the real message is “no” or when they simply want to avoid taking action. The last thing any politician wants to say is “no.”

In order to avoid this common pitfall when seeking support, be specific and precise when describing the action step you are requesting them to take. As shown in the sample letter in Appendix V, we do not merely tell them that the proposal is a good idea and assume they will do the right thing, nor do we ask

them loosely for their “support”; what we did is ask them for their “vote” on a specific proposal. If you want them to send a letter to their colleague, draft the letter for them asking them to sign and send it on their letterhead. If you want them to make a statement on the floor, prepare it for them or at least draft a brief list of the most pertinent points. If they do not vote as requested or if they do not take the steps asked for, at least you tried and now know their position and the extent of their willingness to cooperate with you.

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Commandment X

“Thou shall not always take from politicians. Find a way to return the favor.”

Policy-makers thrive off two things: political exposure for re-election and campaign resources. Find a way to assist Members of Parliament, government officials, press staff or others who are supportive to your organization. Be appreciative. Provide them with an award, target them for campaign contributions where applicable, or invite them to speak at your next general meeting. Do whatever is culturally and legally appropriate, but find a way!

X. ONCE THE CAMPAIGN IS OVER

Once the process is over and there are no more opportunities to influence the outcome of a particular issue, there remain certain actions to be taken. This “close-out” phase includes a number of steps a lobbyist should go through regardless of the outcome of the lobbying campaign as well as some specific actions that should be taken in case victory has been achieved. This is also the time to recognize all the lessons that can be learned from the campaign. Lobbying on behalf of an organization is a dynamic process made up of individual but related tasks. Therefore, it is essential that you learn from and build upon your experience.

First and foremost, alert your membership and your broader constituency about the outcome of the campaign. Regardless of the final result, your constituency will appreciate being kept informed and involved. Second, find some way to thank the Members of Parliament, government, and any others who supported your efforts. Particularly if you were victorious, you may want to go beyond a thank you letter or a telephone call and invite them to address your association, provide them with a reception (and invite other associations), or send out a press release indicating their support and how it contributed to your success. Of course, you would clearly want to feature them and the resultant success in an association newsletter or some other association publication, if you have one. But also, do not forget to thank them for their effort even if the initiative failed. There will undoubtedly be other issues in which their support will be desirable and valuable.

Third, it is recommended to draft a short report on the issue for the files and for the Management Board of your organization. Since lobbying by its very nature is a joint effort of many voices, a brief summary of key steps, successes and failures of the campaign will undoubtedly prove useful to all of those involved. The most important point here is to share the critical steps with your key counterparts within the organization. This also builds a record of activities which can be used as a quick reference in future efforts.

Fourth, you should follow up the issue and note in your file of contacts how individual Members voted. Other notes could include who was most helpful or obstructive in the cause, etc. The contact file can be organized in numerous ways: by Parliamentary Commission or Club, party, government or ministry, region, and so on. You may further characterize contacts as “hot, warm or cold” or some other way to distinguish their level of support for the issue and/or their level of cooperation with you. The contact file is a lobbyist's bible and should be continually updated and expanded. The greater the strength and diversity of supportive contacts and information sources, the more influential and therefore successful the lobbyist. Take care of this book as it is one of your primary assets in building your network.

Additional actions may be desirable when victory is achieved. For example, the period immediately after a “win” may be an excellent time for a public relations campaign. The campaign can be used to attract and retain members as well as to deepen relationships with other associations, the press, Parliament and government. You may also want to write up a complete record of the strategy employed and the results obtained. The importance of building a record of the impact you and your organization have had must not be overlooked. An ability to present and discuss the benefits which resulted from the support of various members and colleagues will also help build credibility, strength and influence.

Finally, and this may be a long time after the fight is over, take a moment to relax. You will have earned it. The road to influencing a legislative proposal is long and hard, and tomorrow it will be time to start or continue working on other issues.

To conclude, the authors hope this preliminary guide to the art of lobbying will assist in improving the quantity and quality of information exchange and substantive dialogue between the public and private sectors in Poland. We wish all of you who are actively engaged in this most important and exciting field, good luck.

Appendixes

Appendix I. Jurisdiction and Structure of the Policy-making Apparatus

Government

Council of Ministers

The primary pillar of executive power in Poland is the Council of Ministers. The provisions of the "Small Constitution" appoint the government as the organizational unit responsible for overall State policy, both domestic and foreign, with the exception of those rare circumstances when the Constitution and other laws dictate otherwise.

The Council of Ministers consists of the Prime Minister, Deputy Prime Ministers, Ministers and Chairmen of Governmental Committees and Commissions of the rank of Principal State Administrative Units. The Council of Ministers works collectively, led by the Prime Minister, and manages the government's overall policy. The Prime Minister calls the meetings and prepares the agenda, with the members of government being notified at least three days in advance. During the meetings, the Council reviews drafts of normative acts, other governmental documents, and examines issues proposed by members of government. Resolutions of the Council of Ministers are valid if the meeting was attended by at least half of the members. Resolutions are determined by a majority vote with the Prime Minister having the deciding vote in the case of a tie. The Secretary of the Council of Ministers is responsible for coordinating and organizing the work of the government.

The Council of Ministers has within its capacity the ability to issue executive orders to implement laws from within the framework of its power of attorney.

The Council of Ministers has two critical internal organizational units: the Economic Committee of the Council of Ministers (KERM) and the Social and Policy Committee of the Council of Ministers (KSPRM).

Economic Committee of the Council of Ministers (KERM)

The KERM is a powerful internal collective organizational unit of the Council of Ministers, coordinating the actions of the State Administration to ensure consistent and effective implementation of government policy. Currently, the KERM consists of the Chairman (Deputy Prime Minister); two Deputy Chairmen (the Minister of Industry and Trade and the Head of the Central Planning Office); and Members of the Committee including the Minister of Land Development and Construction, Minister of Labor and Social Policy, Minister of Privatization, Minister of Transport and Marine Economy, Minister of Agriculture and Food Economy, Minister of Foreign Economic Cooperation, and Minister for Environmental Protection, Natural Resources and Forestry.

One of the most significant tasks of the Committee is to ensure coordination of all actions of the government administration related to preparing, for the decision of the Council of Ministers, economic-related projects, programs, actions and drafts of normative acts. Some of the areas that are within the jurisdiction of the KERM include:

- outlines of the economic policy of the State
- the draft State budget
- structural changes and privatization
- international economic cooperation

- foreign capital involvement
- forecasts of economic trends

Another task of the KERM is to analyze the economic situation of the State and to ensure consistency between adopted economic policy and other government policies, submitting appropriate proposals and motions when required to the Council of Ministers. Finally, the KERM assesses drafts of governmental documents related to the implementation of State economic policy and, following a motion by the appropriate Minister, reviews drafts containing solutions to economic problems that require coordinated action by State administrative units.

In order to implement its goals, the KERM may delineate the method and timing of its efforts to execute works related to preparing an opinion or a position for the Council of Ministers. The KERM may also assign responsibility for implementation of the above tasks to the appropriate governmental unit. Technical and organizational assistance is provided to the KERM by the Office of the Council of Ministers (URM).

Social and Policy Committee of the Council of Ministers (KSPRM)

The KSPRM is the internal collective organizational unit of the Council of Ministers providing coordination of actions in the field of social policy. Currently, the KSPRM consists of the Chairman of the Committee (Deputy Prime Minister); 3 Deputy Chairmen (the Minister of Labor and Social Policy, the Minister of Health and Social Welfare, and the Minister of Culture and Fine Arts); and selected Members of the Committee who are Members of the Council of Ministers.

The goals of KSPRM are multi-faceted. First, the KSPRM ensures coordination of all government administrative action related to preparing, for decision by the Council of Ministers, projects, programs, actions and drafts of appropriate normative acts in the field of social policy. In addition, the KSPRM is charged with monitoring and analyzing the social and political context of the State and the implementation of social policies, which includes submitting, when appropriate, proposals and motions to the Council of Ministers. More specifically, the KSPRM is given responsibility to systematically monitor and assess the following:

- human and citizen rights
- law and order and security of citizens
- social policy, unemployment, and labor conditions
- education, science and higher education
- culture
- health and social welfare
- environmental protection

As in the KERM, in order to implement its goals, the KSPRM may delineate the method and timing of its efforts to execute works related to preparing an opinion or a position for the Council of Ministers. The KSPRM may also assign responsibility to implement the above tasks to the appropriate governmental unit. Technical and organizational assistance is provided to the KSPRM by the Office of the Council of Ministers (URM).

Prime Minister

The Prime Minister's position is not limited to guiding the work of the government. The Prime Minister also controls and coordinates the work of the Ministers and supervises the Central Offices of the State

Administration, the heads of which are appointed by the Prime Minister but do not belong to the Council of Ministers (*e.g.* the Antimonopoly Office, Agency for Agricultural Marketing, and Central Office for Statistics). The Prime Minister is also the highest representative of the government to other organs of the State (*i.e.* the President, Sejm, and Senate). Finally, the Prime Minister is the final signatory for executive orders passed by the Council of Ministers.

Individual Ministers as Organs of the State

Ministers supervise the part of the Administration entrusted to them and, *inter alia*, issue orders, directives and make decisions. It is the ministers who plan and execute government policy within the framework of the overall policy goals of the Council of Ministers. However, they are not entirely independent. The contents of their normative acts have to be consistent with existing and corresponding laws.

Ministers have at their disposal an administrative apparatus called "the Ministry." The particulars related to the structures of ministries are described in their statutes which are established by the government. Despite differences in the organization of particular ministries, their structures are always hierarchical. The Minister is the chief executive, followed by Secretaries and Undersecretaries of State (in some ministries -- Deputy Ministers), Directors General, and Directors of Departments. Secretaries, Undersecretaries of State and Deputy Ministers are appointed by the Prime Minister following a motion by the Minister.

The Office of the Council of Ministers (URM)

As previously stated, technical and organizational assistance for the KSPRM and the KERM are provided by the appropriate units of the Office of the Council of Ministers (URM). The works of the URM are managed by the Minister, who is also the Chief of the Council of Ministers Office and the Head of the Government Administration. The responsibilities of this position are broad and significant. For example, the Chief of the URM is responsible for coordination and co-organization of the employment policy of government offices, and as such, has the right to supervise the activities of voivods.

It is important to underline the political role of this Office. The Head of the URM usually collaborates closely with the Prime Minister and therefore has important influence over the work of the government and the policy of the State.

The structure of the URM includes the following secretariats and cabinets:

- Prime Minister
- Deputy Prime Ministers
- Minister - Head of the Office of the Council of Ministers
- Secretaries, Undersecretaries of State, Directors General
- Council for Ownership Transformations
- Legislative Council

Additionally, there are numerous Bureaux, including the:

- Presidial Bureau
- Legal Bureau
- Parliamentary Bureau of the Government
- Program Bureau of the Government

These Bureaux are typically headed by Secretaries or Undersecretaries of State or Directors General. Finally, the URM consists of various Teams and Councils, including advisors to the Prime Minister, advisors to the KERM, and an administrative support team to the KERM.

The President

The President, the highest ranking representative of Poland, is entrusted by the Constitution with the duty to watch over the security and sovereignty of the State and to watch over its territorial integrity. A presidential term lasts for five years.

The executive organizational body of the President is the Chancellery of the President. The President determines its rules and regulations and appoints and dismisses the Chief of the Chancellery. The Chief of the Chancellery has a deputy. The structure of the Chancellery consists of bureaux and divisions reflecting the responsibilities of the President.

Among the most important bureaux are:

- Cabinet of the President
- Bureau of National Defence
- Press Bureau
- Legal Bureau
- Political Service Bureau

In addition to the above, there are units dealing with letters and complaints, honors and awards, amnesty, law and public order, local and self-government, staff issues, finances and organizational matters.

The President also has several advisory bodies which can be established at any time. Currently, the main advisory units of the President are as follows:

- Council for Economic Development
- Council for Social Policy
- Council for Rural Areas
- Council for Environmental Protection
- Council for Media and Information

In order to execute laws, the President issues directives which require counter signature from the Prime Minister or the appropriate member of government. Presidential actions that do not require the counter signature by the Prime Minister, called "prerogatives", include, but are not limited to, the following:

- dissolving of the Parliament
- decision to call for Parliamentary elections in the Sejm and Senate
- legislative initiative
- signing or refusal to sign a law or order

- addressing the Constitutional Court with a request to check if any law or order is consistent with the Constitution
- appointing the Prime Minister and the Council of Ministers in its full capacity
- requesting the Supreme Chamber of Control to investigate any State institution or institution with a share of State capital
- appointing and dismissing the Chief of the Main Administrative Court
- submitting a motion to the Sejm to appoint or dismiss the chairman of the National Bank of Poland (NBP)

The Parliament (the Sejm and Senate)

The Parliament in Poland consists of two Houses: the Sejm and Senate. Article 1 of the “Small Constitution” defines the Sejm and Senate as the legislative bodies of the State. Both Sejm and Senate are elected for a period of four years. The Sejm consists of 460 Deputies or Members and the Senate of 100 Senators.

The bodies of the Sejm are: the Speaker of the Sejm, Presidium of the Sejm, Caucus of Seniors and the Sejm Commissions. The administrative bodies of the Senate are: the Speaker of the Senate, Presidium of the Senate, and the Senate Commissions.

The Speaker of the Sejm is a one-man, internal administering body. His tasks are, *inter alia*, representing the Sejm, moderating Sejm discussions, leading the works of the Presidium of the Sejm (including heading the Presidium), modifying the discussions of the Caucus of Seniors and appointing and dismissing the Chief of the Sejm Chancellery.

Members of the Sejm and Senators may establish political groups called Clubs and Circles within the Parliament. Clubs are organized according to political party membership whereas Circles are issue-based. The regulation of the Sejm provides that a Club must be established by at least 15 Members and a Circle by at least 3 Members.

The Presidium of the Sejm guides the Sejm's work by establishing work plans after consultations with the Caucus of Seniors. It supervises the work of the Sejm and its organs, calls the meetings, develops the agenda, passes it to the Sejm for approval and begins the procedures required for legislative initiatives. The Chairmen of the Clubs together with the Presidium of the Sejm form the Caucus of Seniors. The main task of the Caucus of Seniors is to ensure cooperation among the Clubs in the Sejm and to provide assistance to the Presidium in planning and organizing the work of the Sejm.

A great deal of Parliamentary activity falls under the responsibility of the Commissions. There are two types: permanent commissions and extraordinary or *ad hoc* commissions, the later of which are established on a temporary basis to address specific issues.

Permanent Sejm Commissions are as follows:

- Administration and internal affairs
- European Treaty
- Education, science and scientific development
- Trade and services
- Culture and mass media
- Communication with Poles abroad
- Youth and sport

- Ethnic minorities
- National defense
- Environment protection, natural resources and forestry
- Constitutional responsibility
- Economic policy, budget and finance
- Land development, construction and housing
- Social policy
- Privatization
- Regulatory and issues concerning the Deputies
- Agriculture and food economy
- Local Government
- Justice
- Foreign affairs
- Foreign economic relations
- Economic system and industry
- Legislative
- Health

Permanent Senate Commissions are as follows:

- National economy
- Regulatory and Senators issues
- Science and national education
- Culture, mass media, physical education and sport
- Agriculture
- Emigration and Poles abroad
- Foreign affairs
- Local Government and state administration
- Social policy and health
- Human rights and law and order
- National defense
- Environmental protection

The work of the Sejm Members and Senators is supported by the Sejm and Senate Chancelleries respectively. One of the main bureaux in both Chancelleries is the Bureau of Studies and Research, which prepares opinions, analyses and drafts of laws at the request of the Members of Parliament.

Appendix II. A Hypothetical Issue as an Example

Note: The following example is for discussion purposes only and does not reflect the position of the authors or any other foreign or domestic organization.

The mechanisms for lobbying can best be described in a hypothetical case study. The example selected is a recent Parliamentary Act amending the Personal Income Tax Law. The article in question prohibits homeowners and others from taking a tax deduction for monies paid for home improvement services to non-VAT registered construction companies. This provision was obviously intended by the Ministry of Finance to bring more small construction companies under the VAT system and therefore generate more public revenue. However, the effect on micro and small businesses in the construction trade and on the businesses and homeowners that utilize them has been extremely negative.

The practical effect of this amendment is that it encourages homeowners and businesses seeking construction work to use VAT registered construction businesses, which tend to be larger and more established. Two immediate results of the amendment, which will be discussed in more detail, are 1) smaller, non-VAT registered firms are put at a disadvantage when competing for contracts and 2) prices for small construction works have increased substantially. An existing Act, exempting small construction firms from VAT registration, was, however, justified on important economic grounds. Namely, small companies not used to complying with VAT would find such regulations overly burdensome. Statistics show that rather than encouraging the formation of small firms, the provisions within this amendment have acted as an impediment to the growth and expansion of new and existing firms. When small firms do become VAT registered, the costs of compliance are extremely high relative to their profit. In other words, these costs, and this amendment in particular, disproportionately burden small firms.

The amendment is viewed as necessary by the tax administrators. However, while small businesses are willing to pay their fair share of taxes, they cannot withstand provisions which put them at a competitive disadvantage with larger firms. In fact, it is quite possible that the revenue implication of this amendment on the small construction trade will result in fewer taxes collected.

Let us assume that you are a lobbyist for a hypothetical business organization called the Polish Association of Construction Entrepreneurs (PACE) and that the Board of Directors has authorized you to take action to amend this article. The small businesses, your members, want a clear and simple result: they want this restriction in the law removed. However, the task may not be that easy.

The assumed scenario is as follows: No motions or draft bills have yet been introduced to counter this article but you are working with a Sejm Member, Mr. Jan Nowak, who shares your view and is prepared to draft a legislative initiative. To date, no other business groups have expressed an interest or concern.

The following documents are, of course, not exhaustive in demonstrating the techniques applicable to the lobbying process, but nonetheless illustrate some of the tools that can be used.

Appendix III is the resolution of the Board of the Polish Association of Construction Entrepreneurs, Appendix IV is a sample of a lobbyist's strategic plan, Appendix V is a letter seeking grass roots support together with a sample letter back to Members of Parliament, Appendix VI is a "one-pager" that can be handed out in meetings when building your network of support with Members of Parliament and other influential citizens, Appendix VII explains the change sought, Appendix VIII is a sample colloquy on the floor between Members of Parliament, Appendix IX is a draft of the desired legislative change sought, Appendix X is a sample press release, Appendix XI and XII are letters to your association's members and a simple questionnaire asking them to identify their priorities, Appendix XIII is an excerpt from a recent

Council of Ministers resolution regarding procedures to assure consistency with EU laws, and finally, Appendix XIV is a brief directory of key organizational units within the legislative process.

Appendix III. Sample resolution of the Polish Association of Construction Entrepreneurs

The Polish Association of Construction Entrepreneurs

Resolution No.

of the Polish Association of Construction Entrepreneurs

dated

At the meeting on (*insert date*) of the Management Board of the Polish Association of Construction Entrepreneurs resolved the following:

In accordance with the provisions of article 26, section 6 of the Law on Personal Income Tax which allows deductions to homeowners for home improvement services (building a house or a flat, major repairs, reconstruction works) provided by VAT registered construction enterprises (on the basis of invoices issued by VAT registered companies), the Management Board of the Polish Association of Construction Entrepreneurs resolves to take action to amend the aforementioned Law by deleting the part of section 6 requiring the invoices to be from VAT registered firms.

Having in mind the interest of small and medium sized enterprises, many of which are discriminated against by this provision, the Management Board obliges itself to undertake appropriate steps in order to implement the aforementioned amendment.

President of
the Management Board

Vice President of
the Management Board

Members of
the Management Board

.....

Appendix IV. Sample Strategy Document

Note: This document is meant to be an example of how one group might initiate a draft proposal. The procedures contained herein are by no means exhaustive.

Goal: Amend article 26, section 6 so that homeowners and others will again be able to deduct from their taxes amounts paid to small, non-VAT registered construction companies.

General Message: The current law is unacceptable and serves neither the policy objectives of the government, homeowners nor the construction industry. The law unfairly discriminates against small firms and unnecessarily increases costs to homeowners -- all at a minimal or even lower return to the government in tax receipts.

Objective I. Create documents developing your issue and position.

Action Steps:

1. Create a one pager explaining the arguments in a clear and convincing manner (see Appendix VI).
2. Create a document setting out the current law and the justification for the changes sought (see Appendix VII).

Objective II. Build a coalition of allies among the business community.

Subobjective: Solidify support within your own organization.

Action Step:

1. Alert members to the problem, the Association's intended action and the need for support from the membership. In this case, the initiating organizational body is the Parliamentary group represented by Mr. Jan Nowak, which has already publicly declared its commitment to this issue.

Subobjective: Garner support from banking, homeowner, construction equipment and materials suppliers and other associations whose members will be negatively impacted by the article.

Action Steps:

1. Write letters to associations of banks that finance such construction explaining the issue and asking for their attendance at a coalition meeting.
2. Write letters to homeowners and homeowners associations as in Step 1.
3. Write letters to construction equipment and material suppliers as in Step 1.

Subobjective: Establish the coalition.

Action Steps:

1. Host the first coalition meeting after the strategy document has been prepared and internally approved.
2. Present and discuss the strategy, have participants declare their interest and commitment and determine respective responsibilities. Note, this may require several meetings and strategy revisions.

Objective III: Prepare for the introduction of legislation that amends the relevant article within the Law.

Action Steps:

1. Prepare draft legislation (see Appendix IX).
2. Identify the most appropriate “champion” or initiative leader in the Sejm.
3. Get approval from the selected champion on the draft legislation prepared.
4. Create floor statements, colloquies and other materials to be used by Members when introducing the proposed amendment (see Appendix VIII).
5. Coordinate the timing of the initiative. Be prepared. Give yourself time to a) establish a broad base of support and b) maximize your chances of success by utilizing all relevant contacts within the coalition.

Objective IV: Establish enough support for the proposed amendment among Members of Parliament to assure victory.

Subobjective: Maximize the influence of the coalition by coordinating their lobbying efforts.

Action Steps:

1. Hold a second coalition meeting to discuss progress, strategy and next steps.
2. Request all coalition members to arrange meetings with Parliamentary Members asking them to participate in the colloquy.
3. Set a date for the next coalition meeting and coordinate communication to supporters of the colloquy and draft legislation.

Subobjective: Coordinate efforts of the members of the Polish Association of Construction Entrepreneurs (PACE).

Action Steps:

1. Arrange field visits to disadvantaged construction firms and other prominent members of the association. Collect accurate economic data from the field which quantitatively demonstrates the negative consequences of the article and therefore further justifies the proposal.
2. Utilize member support in coordinating meetings with coalition members, always trying to advance the issue with supportive Parliamentary Members.
3. Follow up! Answer questions raised by potential coalition members and write letters to others thanking them for their support. Always be responsive and proactive towards your target audience -- the decision makers.

Objective V: Once publicly announced, obtain favorable press coverage and media support for the proposed amendment.

Action Steps:

1. Draft a press release capturing the main issues, objectives and justification for your proposal.
2. Identify the most important publications and journals to target.
3. Fax or send material in advance to selected key media groups.
4. Arrange for a press conference by influential members of your association in support of the amendment. Invite Members of Parliament who support your proposal.

Objective VI: Have the “champion” formally introduce the legislation in Parliament and immediately begin to build a record of support.

Action Steps:

1. The champion must initiate the colloquy on the floor which then becomes part of the official and permanent record.
2. The various floor statements should then be made as planned. If possible, try to attend and observe this Parliamentary session.
3. Implement the media plan.
4. Send a copy of the colloquy to the Minister of Finance and to the press in connection with the media plan.

Objective VII: Obtain the support of the Ministry of Construction and the Ministry of Finance.

Action Steps:

1. Identify all government decision-makers regarding this initiative.
2. Have a letter sent to the appropriate decision-makers from the author of the bill or, if possible, to the Chairman of the Tax Commission.
3. Arrange a meeting with the decision-makers (through and with a Member of Parliament if possible).
4. Spend time with lower level decision-makers to get technical and bureaucratic levels of support.
5. Inform Members and ministers about the technical subject matter as well as the political nature of the issue.

Objective VIII: Participate in the hearing or in a vote on the proposal if scheduled.

Subobjective: If a hearing is arranged, work to provide favorable witnesses.

Action Steps:

1. Identify and secure witnesses.
2. Assist them in preparing their testimony.
3. Design and plant questions during the testimony for supporters. For example, if a particular minister is supportive, plant questions with Members of the appropriate Parliamentary Commission, thus putting the minister on record. Remember that ministers can only pronounce their support when granted authorization to do so by the government.

Subobjective: If a vote is scheduled, establish needed support.

Action Steps:

1. Send letters asking for support from all Members (see Appendix V).
2. Urge all coalition members to release an "action alert" seeking supportive responses from members of their organizations.

Objective IX: Conduct the same process focusing on the Senate starting from Objective III.

Appendix V. Sample letters from the Association to small business and from small business to Parliament Members

**The Polish Association of Construction Entrepreneurs Warsaw
ul. Lisia 12**

**Mr. Jaroslaw Kowalski
80-120 Zielona Gora**

Warsaw

Dear Sir,

I would like to inform you that the Polish Association of Construction Entrepreneurs is working towards amending the provisions of art. 26, section 6 of the Law on Personal Income Tax which now restricts the allowable tax deductions to homeowners for home improvement expenses to only those services provided by VAT registered construction enterprises. We are seeking to amend the law to allow deduction of expenses upon the submission of invoices, whether they are issued by VAT registered or non-VAT registered companies.

This issue is of crucial importance for many small and medium-sized enterprises (SMEs) and your opinion in this respect would be most helpful in supporting our efforts.

Thus, we kindly request you to write a letter expressing your support for this initiative to the concerned Member of Parliament from your constituency (or any other Members with whom you have contact). For your convenience, we have attached a sample letter. Of course, expanding the presented arguments by enriching them with your personal knowledge and experience will undoubtedly add to their credibility.

We kindly request you to forward this letter before (*insert date*) and to send a copy to the Association. Please, accept our thanks in advance for your kind and needed assistance in achieving this mutually important objective.

Sincerely yours,

Edmund Malinowski
President

Jaroslav Kowalski
Building and Construction Services
80-120 Zielona Gora
ul. Mysia 31 m 6

Mr. Krzysztof Zalewski
Member of Parliament
80-311 Zielona Gora
ul. Zawiszy 33
Member of Parliament's Office

Warsaw

Dear Member of Parliament,

I am writing this letter to seek your assistance. I kindly request you to vote in the Sejm in favor of the change to the Law on Personal Income Tax by supporting the amendment brought forward by your colleague, Mr. Jan Nowak. The proposed amendment refers to the provisions of art. 26, section 6 of the Law on Personal Income Tax which allows tax deductions for expenses on home improvement services based upon the submission of invoices from VAT registered or non-VAT registered companies. This provision, recently modified in Parliament last year, restricts the allowable deductions only to services provided by VAT registered firms.

My company as well as many others working in the construction business have been hurt by this regulation. It is beyond doubt that this provision undermines our competitiveness and has led to both business failure and an increase in the number of firms operating in the informal or "gray" sector of the economy. In my case, the existing regulation puts the future profitability of my firm at risk.

We also have to take it into account that this provision has resulted in an increase in prices of goods and services to the consumer. Additionally, those small construction companies that chose to comply with the strict requirements of VAT will be forced to maintain much more complicated tax and VAT records. This, in turn, will be time consuming and will impose an additional financial burden which many firms are not prepared to bear and cannot presently afford. You may recall that the Law on Value-Added Tax of 1993 provides an option to small firms to not be VAT registered for precisely these reasons.

I would like to express my appreciation for your understanding and consideration of the importance of this issue for my business and many other small enterprises in Zielona Gora. Your vote in favor of this initiative will be recognized by your constituency and contribute to the further growth of SMEs in our region.

Sincerely,

Jaroslav Kowalski

cc: Edmund Malinowski, The Polish Association of Construction Entrepreneurs

Appendix VI. Sample “One-Pager” for distribution to Members of Parliament

The Expense Tax Deduction for Homeowners Must Be Reinstated

Despite the importance of the construction industry, a recent amendment to the Law on Personal Income Taxes (article 26, section 6) passed by Parliament will adversely effect the industry by requiring homeowners to obtain a VAT registered invoice as a condition to deduct improvement costs on their homes. The majority of construction firms are not VAT registered nor are they required to be. This law will have a direct and negative impact on both homeowners and the small construction industry sector. In summary this article will have the following effects:

- ◆ It will unfairly discriminate against small businesses. Within the construction industry, there are more than (*insert*) firms, (*insert*) percent of which are small with fewer than (*insert*) employees. Almost all of these firms are not VAT registered.
- ◆ It will damage an industry vital to the Polish economy. Construction, by definition, is essential to Poland's development. The construction industry is also an enabling industry, for each zloty spent on construction has a substantial multiplier effect on related industries.
- ◆ It will drive many small companies out of business by the imposition of complex rules that impose disproportionate costs, excessive paperwork and time burdens.
- ◆ It will make many businesses choose between going out of business and moving to the gray sector to avoid paying taxes. The businesses that will suffer the most are those that are trying to cope with these new burdens.
- ◆ The added costs of the VAT tax will ultimately be passed along by the company to the customers (i.e. homeowners), who are price sensitive and cannot often afford the higher home repair costs.
- ◆ It will encourage many homeowners, who cannot afford the services of a VAT registered firm, to forego needed improvement or use unqualified and unscrupulous amateurs at discounted prices.

Appendix VII. Sample explanation of the proposed amendment for the Members of Parliament

The Existing law

Article 26, section 6 of the Law on Personal Income Tax allows tax deductions on expenditures for home improvement services (building a flat or a house, re-building services, major repairs) only when confirmed by invoices issued by VAT registered companies.

Problem

The provision significantly limits the access and competitiveness of small construction companies which are not VAT registered. It could also be viewed as an unjustified and unfair preference to VAT payers, as well as incongruous with the Law on Value-Added Tax enacted in 1993 which provides small businesses the option of not being VAT registered to counterbalance the disproportionate burden and administrative costs of compliance.

Proposal

Article 26, section 6 of the Law on Personal Income Tax should be amended to allow tax deductions on expenditures for house/flat improvement services based upon the submission of valid invoices, whether the contractor is or is not VAT registered.

Justification

This discriminatory provision has not been well received by SMEs, as it undoubtedly weakens their competitiveness. The observed outcome is that in order to stay alive, many firms have chosen to operate within the informal or "gray" sector of the economy. Companies that remain in the formal sector must become VAT registered and maintain more complicated tax and additional VAT records. This will require more time and impose an additional financial burden which not all will be able to accommodate. Another repercussion of this provision is the increase in prices of goods and services to the end consumer.

Appendix VIII. A Sample Colloquy

Deputy Jan Nowak: (presenting the legislative initiative) Mr. Speaker, I rise today to discuss legislation I intend to introduce. This legislation makes only a small technical change in the Law on Personal Income Taxes. However, it will rectify a large problem that has been caused by a recently enacted amendment to the Act. My proposal will amend a section of this Act -- Article 26, Section 6 -- that disallows the tax deductibility of small construction costs, such as home repair, when using non-VAT registered construction companies. And, may I add, it would do so not a moment too soon, for the construction industry is a critical industry to the economic development of our country.

Mr. Speaker, as the Government of Poland has adopted a national policy on SMEs, we can no longer afford to ignore these firms or to implement discriminatory provisions at their expense. While foreign investment, privatization, and strategic industry sectors, typically dominated by large firms, are all important, consideration must also be given to small and medium-sized businesses which are providing an increasing share of Poland's GDP and employment. Thus, when designing the legal and policy environment for economic activity, we must take into consideration the impact on SMEs. Moreover, we must seek to understand how we can create a fertile environment for the growth and expansion of small firms.

Deputy _____: Like many of my colleagues, I have also studied this recent legal initiative. The former amendment was passed in the last Parliament with little debate. This is certainly not a way to show our commitment to the development of small firms. In its present form, I feel the existing provision is not acceptable. Small construction companies in my Voivoidship are vibrant businesses. The owners of these businesses have employees to pay, families to provide for, and an important service to offer. The present provision has undoubtedly weakened the competitiveness of these firms and has driven many of them out of business. Also worthy to note is that the present wording works directly against the intentions of a previous parliamentary ruling on the Law on Value Added Tax which exempts small businesses from VAT registration.

Deputy _____: This law, in its present form, to me, makes little sense, even from the government's point of view. Since deduction of such expenses is allowed only if documented with an invoice from a VAT registered firm, SMEs with VAT immunity will be driven into the "gray sphere" of our economy. This will, in turn, encourage further erosion of the tax base or a further increase in tax rates.

Deputy _____: I appreciate the support of my colleagues for this change and support the spirit of Deputy Jan Nowak's proposal. I can certainly understand the need to comply with the tax laws and the need to expand budget revenue. However, one must also consider the long range effects. As it stands today, this article in the Law on Personal Income Taxes is woefully problematic. Homeowners needing repairs or construction services will certainly seek larger, and more costly, firms in order to obtain the tax deduction. However, it is my belief that this law does not benefit the people of Poland nor the construction industry. It discourages entry into the market and investment by smaller firms. It also acts to inhibit the distribution of income and the purchase of Polish services by other entrepreneurs not yet able to afford the higher costs of a VAT registered business. It is high time we focused on the fastest growing segment of our economy, small and medium-sized enterprises, and Deputy Nowak's proposal is one step in solving the problem. Hence, I urge this body to support this proposal.

Deputy _____: I could not agree more with the points raised by Deputy Nowak and the other speakers before me. SMEs account for more than 50 percent of all employment in Poland, and more than 60 percent of GNP. They are the lifeblood of this economy, the engine of growth, and are surely essential to our success in attracting investment from abroad. Yet when is the last time any discussion has taken place on this floor as to how we can support this sector? The proposal being discussed today is a good start in increasing the

awareness of the disproportionate impact legislation has on small firms but we must go much further than simply determining how to remedy errors in the legal code.

Deputy _____: I appreciate the comments of my colleagues. As a small business owner myself, I can assure you that Deputy Nowak's proposal will go a long way towards assisting the survival and growth of small contractors. The average contractor cannot afford to stay in business if he has to comply with complicated tax policies as such requirements can often constitute a significant portion of a small firm's resources and earnings. Restricting the growth of this sector will not achieve the intended goal of the original piece of legislation. The proposed initiative, amending Article 26, Section 6, is right on target.

Deputy _____: Let me just add a few points as an economist. What many may not understand is that if we fail to make this change, as small as it is, we will trigger negative and cascading effects upon the economy. When the growing small contractor, described by Deputy _____, purchases more and better equipment, productivity increases. As the purchaser of capital equipment, he benefits the manufacturer, distributor, salesman and service contract provider of that equipment. The result is an increase in earned income, a substantial portion of which is typically reinvested to expand the enterprise's service capability. Hence, the small contractor increases our standard of living by improving the quality and security of our homes and business premises. While doing all of this, we should not lose track of one other factor: the contribution he makes to the State Treasury by added economic activity through the income tax system. My calculations show that the law, as it stands today, has both negative economic and social consequences, including a reduction in State tax revenue, an unnecessary increase in the cost of construction services, a disincentive to enter or stay in the construction market, encouragement to enter the gray economy, and an increase in unemployment. Copies of my analysis are available upon request or through the Polish Association of Construction Entrepreneurs.

Deputy _____: Getting beyond the economic points, there are more important underlying factors at stake here. Remember, my fellow colleagues, SMEs are the seeds of growth for our future economy. As SMEs grow and prosper, Poland grows and prospers. But if we do not adequately fertilize these seeds, SMEs will never produce to their full potential. Perhaps most importantly, in addition to the entrepreneur's willingness to assume the risk, is to create a legal and regulatory environment which provides them with the possibility to succeed. This opportunity is an essential element of all functioning democratic societies.

Deputy _____: Every developed economy of the world respects the vital role of small firms, and nurtures their growth. This provision may be a small, technical change but it is a matter of great importance to the future of Poland's construction industry. Let me take a moment to introduce to the record a letter I recently received from Mr. Jaroslaw Kowalski, a small business entrepreneur about this very law. *(Reads the letter)*

Question asked by one of the Deputies: _____, How many business would be able to benefit from this provision, and what would be the economic impact? Has our Ministry of Finance provided a projection of the issue?

Answer: Deputy _____, the statistics available to us today indicate that there are more than *(insert)* construction related businesses that are not VAT registered. The vast majority are, of course, small businesses. Only yesterday I received from the Ministry of Finance statistics showing that the construction sector's share of GNP equals *(insert)* %. According to further calculations, *(insert)* % of the sector's total sales amounting to *(insert)* % are not subject to VAT. Based on the statistical data related to typical profit margins in the sector and conservatively assuming only a 10% drop in orders for construction services, we may assume that *(insert)* firms will go out of business. This can be further estimated to cause a loss of *(insert)* jobs and a decrease in *(insert)* zlotys in budget revenues due to personal income tax. *(Authors note: Always make the quantitative analysis as comprehensive and as convincing as possible.)*

Deputy _____:

Deputy _____:

Deputy _____:

Et cet.

Appendix IX. Sample draft legislation**Draft of the amendment to Article 26, Section 6
of the Law on Personal Income Tax****Current wording:**

The value of expenditures on purposes specified in Section 1 is established on the basis of documents which confirm the incurred expenditure. Deductions of expenditure for the purposes specified in section 1, under point 5, letters b and d-g, point 6, with the exclusion of an expenditure on the purchase of a plot of land and under point 7, with the exception of expenditures on professional literature, can be made upon the confirmation of this expenditure with a customs clearance document or with an invoice issued exclusively by VAT registered companies which are not entitled to special VAT exemptions.

The following amendment shall be introduced to Article 26, Section 6 of the Law on Personal Income Tax:

“6. The value of expenditures on purposes specified in Section 1 is established on the basis of documents which confirm the incurred expenditure. Deductions of the expenditure for the purposes specified in section 1, under point 5, letters b and d-g and point 6, with the exclusion of expenditure on the purchase of a plot of land, can be made upon the confirmation of this expenditure with an invoice or a customs clearance document.”

Appendix X. Sample Press Release**PACE calls for amendment to the Law on Personal Income Tax**

The Polish Association of Construction Entrepreneurs has called for amending Article 26, section 6 of the Law on Personal Income Taxes introduced in the last Parliament.

The article in question has deeply affected and unfairly burdened the members of our association. While the amendment was clearly designed to have more firms paying VAT and therefore adding to the State budget, its effect has been quite the opposite. It has discouraged the growth of small construction firms, discouraged entrepreneurs from entering the construction trade, resulted in many firms going out of business or operating illegally and, in the end, lowered the amount of revenue the State receives from this industry.

The existing provision disallows the tax deductibility that was provided to homeowners and businesses using non-VAT registered construction firms. The effect on the construction trade alone is devastating, with many entrepreneurs now having to decide whether to stay in business at all. It is estimated by the association that the cost of doing business with contractors who obey the law would rise by more than (*insert*) percent. The provision's greatest impact is in the smaller regions and gminas where the few large firms are now acting in an oligopoly. We estimate that more than (*insert*) businesses are being negatively affected by this poorly drafted provision.

We have targeted this provision for rescision. It is an issue that greatly affects our membership, but also reveals an unfortunate insensitivity by the government and Parliament on the impact of legal initiatives on small and medium-sized firms. In this broader sense, this provision has a negative impact on the overall economy of Poland. If the Government is truly committed to its recently adopted national SME Policy, it will react accordingly and support the proposed amendment.

The Polish Association
of Construction Entrepreneurs
Edmund Malinowski
President

Appendix XI. Polling Members (by level of interest)

**Polish Association of Construction Entrepreneurs
Warsaw ul. Lisia 12
President Edmund Malinowski**

**Mr. Jaroslaw Kowalski
80-120 Zielona Gora**

Warsaw.....

Dear Colleague,

As you may know, the Polish Association of Construction Entrepreneurs takes an annual survey to determine which issues we should focus on over the course of the coming year. The attached survey asks you to rank, by level of interest, the issues which are most important to you. For your convenience, we have prepared a list for you consideration but welcome additional suggestions as you feel necessary.

The survey results will be used by the Association Management Board to determine our priorities for the coming year. The results will also be discussed at the next plenary meeting and be published in the next addition of the PACE newsletter as well as disseminated to all Members of Parliament.

Thank you in advance for your attention, contribution and continued support in making PACE the leading private sector business association in the construction industry.

Sincerely,

Edmund Malinowski
President

Instructions: Please respond to all questions by indicating your level of interest. Space is provided for you to write in issues which we may have neglected to include. Thank you!

Issue: A recent change in the ZUS regulations requires all employers pay up to 80 percent of the salaries of workers who are sick for an annual period up to 35 days. Before introducing this provision, sick leave was fully covered by ZUS with no limits.

This substantial change in the law will increase the burden to small employers. With respect to this issue, are you:

- strongly concerned
- highly concerned
- mildly concerned
- unconcerned
- object to PACE resources being spent on this issue

Issue: A recent amendment to the Law on Personal Income Tax passed by Parliament (Article 26, Section 6) requires homeowners and others to have a VAT registered invoice as a condition of deducting the costs of improvement to their homes and business premises. Prior to the amendment, all valid invoices were tax deductible, whether the contractor was VAT registered or not.

This provision will adversely affect the majority of firms in the industry. With respect to this issue, are you:

- strongly concerned
- highly concerned
- mildly concerned
- unconcerned
- object to PACE resources being spent on this issue

Issue: In accordance with the Law on Personal Income Tax and a new order of the Minister of Finance, a lump sum tax is obligatory to taxpayers who started business in this tax year or to those whose previous year revenues were less than 1,200 mln zlotys. The lump sum tax does not take into consideration the structure of costs or the firm's relative profit or loss.

In many cases it may turn out that companies, due to this order, will become unprofitable and have to close down their businesses. With respect to this issue, are you:

- strongly concerned
- highly concerned
- mildly concerned
- unconcerned
- object to PACE resources being spent on this issue

Issue:

Issue:

Appendix XII. Polling Members (scoring by priority)

**Polish Association of Construction Entrepreneurs
Warsaw ul. Lisia 12
President Edmund Malinowski**

**Mr. Jaroslaw Kowalski
80-120 Zielona Gora**

Warsaw.....

Dear Colleague,

As you may know, the Polish Association of Construction Entrepreneurs takes an annual survey to determine which issues we should focus on over the course of the coming year. The attached survey asks you to list, in order of priority, the issues which are most important to you. For your convenience, we have prepared a list for your consideration but welcome additional suggestions as you feel necessary.

The survey results will be used by the Association Management Board to determine our priorities for the coming year. The results will also be discussed at the next plenary meeting and be published in the next addition of the PACE newsletter as well as disseminated to all Members of Parliament.

Thank you in advance for your attention, contribution and continued support making PACE the leading private sector business association in the construction industry.

Sincerely,

Edmund Malinowski
President

Instructions: Please respond by indicating your level of interest, in order of priority the issues which are most important. Space is provided for you to write in issues which we may have neglected to include. Thank you!

List of issues:

Issue A: A recent change in the ZUS regulations requires all employers pay up to 80 percent of the salaries of workers who are sick for an annual period up to 35 days. Before introducing this provision, sick leave was fully covered by ZUS with no limits.

This substantial change in the law will increase the burden to small employers.

Issue B: A recent amendment to the Law on Personal Income Tax passed by Parliament (Article 26, Section 6) requires homeowners and others to have a VAT registered invoice as a condition of deducting the costs of improvement to their homes and business premises. Prior to the amendment, all valid invoices were tax deductible, whether the contractor was VAT registered or not.

This provision will adversely affect the majority of firms in the industry.

Issue C: In accordance with the Law on Personal Income Tax and a new order of the Minister of Finance, a lump sum tax is obligatory to taxpayers who started business in this tax year or to those whose previous year revenues were less than 1,200 mln zlotys. The lump sum tax does not take into consideration the structure of costs or the firm's relative profit or loss.

In many cases it may turn out that companies, due to this order, will become unprofitable and have to close down their businesses.

Additional issues: (optional)

Issue D

Issue E

Issue F

Priority ranking of issues: (starting from the most important)

Issue Ranking

1	<input type="checkbox"/>	2	<input type="checkbox"/>	3	<input type="checkbox"/>
4	<input type="checkbox"/>	5	<input type="checkbox"/>	6	<input type="checkbox"/>

Appendix XIII. Excerpts from the Council of Ministers Resolution No 16 dated March 29, 1994

The following resolution refers to the introduction of additional procedural requirements for all governmental draft normative acts. The rationale behind this initiative is the necessity to be consistent with the European Union legal system.

In connection with art. 68 of the European Treaty associating the Republic of Poland with the European Communities and their member countries signed in Brussels on December 16, 1991, the Council of Ministers has resolved the following:

§ 1.1. Draft normative legal acts prepared by members of the Council of Ministers, heads of the Central Offices of the State Administration and Voivodas, are subject to inspection regarding their consistency with EU laws, with the exception of the Council of Ministers resolution No 20, dated Feb. 12, 1991 concerning Council of Ministers Regulation (Polish Monitor No 7, item 47, and No 25, item 180).

2. This resolution regulates the procedures of consultation of normative acts from the perspective of their consistency with the laws of the EU. The consultation procedures include providing preliminary and final opinions.

3. The provisions of section 1 above specifically concern the following areas:

- 1) Customs law
- 2) Corporate law
- 3) Banking law
- 4) Tax law - regarding taxation of enterprises and indirect taxes
- 5) Laws concerning the establishment and operation of enterprises, including financial record keeping
- 6) Intellectual property protection
- 7) Employee rights protection
- 8) Financial services
- 9) Principles of competition
- 10) Protection of human life and health
- 11) Sanitary protection of animals and plants
- 12) Consumer rights protection
- 13) Technical regulations and standards
- 14) Transport
- 15) Environment protection
- 16) Statistics

§ 2.1. According to the procedures set by the Council of Ministers Resolution No 20, dated Feb. 12, 1994, drafts of legal normative acts together with a preliminary opinion must undergo a consultation procedure.

2. A preliminary opinion is a necessary element in justifying draft legal normative acts, and in particular, it specifies:

- 1) the need and scope, if necessary, of adjusting the drafted solutions to the EU legal system.

- 2) draft provisions which are not consistent with EU laws.
 - 3) expected procedures and the time required to fully adjust the provisions which are inconsistent with EU laws or arguments which support leaving a given provision temporarily inconsistent.
3. The preliminary opinion mentioned in section 2 above should also include a description of the anticipated financial, social, and economic ramifications of the drafted act, within the context of compliance requirements of the European Treaty.
- § 3.1. The preliminary opinion is prepared by ministries and central offices of the State administration, and by staff employed within their structures specifically responsible for examining consistency with EU laws. (...)
- § 4.1. Following the consultation procedures mentioned in § 2.1, the Government Plenipotentiary for European Integration and Foreign Assistance will assess drafts of normative legal acts from the perspective of their consistency with EU laws and will express his final opinion in this respect within the period provided for consultations of normative legal acts.
2. The final opinion is attached with the justification supporting the final draft of the normative legal act. The provisions of § 2, section 2 and 3 are also applicable.
- § 5.1. Draft legal normative acts submitted to the Council of Ministers for consideration must contain the opinion mentioned in § 4. The Secretary of the Council of Ministers, after notifying the Prime Minister, will return drafts to the author which do not contain such an opinion.
2. Drafts adopted by Council of Ministers are submitted to the Sejm of the Republic of Poland together with a justification which includes the opinion mentioned in § 4.
- § 6.1. The Government Plenipotentiary for European Integration and Foreign Assistance is obliged to provide individual members of the Council of Ministers, government agencies and the Chancellery of the Sejm and Senate, Chancellery of President and other interested State organs with information regarding basic problems which require the application of adjustment procedures. (...)
2. The Government Plenipotentiary for European Integration and Foreign Assistance may also initiate actions related to Poland's adjustment with respect to the European Treaty. In order to do so, he may submit proposed solutions to interested Ministers and other State organs. (...)

Appendix XIV. Institutional Directory

CHANCELLERY OF THE PRESIDENT

Operator	621-03-31
Press Spokesman	695-10-70

SEJM AND SENATE

1. Operator	694-25-00
2. Parliamentary Group of Private Entrepreneurs	694-16-02

Chancellery of the Sejm

1. Research and Analyses Bureau	694-17-27
2. Bureau of the Sejm Commissions	694-18-19
3. Legislative Bureau	694-17-75
4. Information Bureau	694-22-31

Chancellery of the Senate

1. Senate Works Bureau	694-10-85
2. Legislative Bureau	694-18-31
3. Information Bureau	694-10-49
4. Research and Analyses Bureau	694-24-32

STATE AGENCIES AND BUREAUX

INDUSTRY DEVELOPMENT AGENCY

Operator	661-63-01
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**OFFICE OF THE GOVERNMENT PLENIPOTENTIARY FOR
EUROPEAN INTEGRATION AND FOREIGN ASSISTANCE**

Secretariat 694-63-05
694-75-45

OMBUDSMAN OFFICE

Operator 27-62-61

CENTRAL PLANNING OFFICE

1. Operator 693-50-00
2. Legal Department 693-53-07
3. Press Spokesman 693-59-21
621-27-53

CENTRAL CUSTOMS OFFICE

1. Operator 26-10-31
2. Legal and Organizational Department 694-53-12
26-73-02
3. Press Spokesman 694-58-82
26-89-45

CENTRAL STATISTIC OFFICE

1. Operator 25-32-41
2. Legal Department 25-38-45
3. Department of Analyses 25-15-52
4. Director of Information Department 25-18-46
25-42-89

MINISTRY OF FINANCE

1. Operator 694-55-55
2. Department of Direct Taxes 694-55-24
3. Department of Indirect Taxes 694-30-72
4. Legal Department 694-75-02
5. Press Spokesman 694-41-82

MINISTRY OF CONSTRUCTION

1.	Operator	661-81-11
2.	Legal Department	661-80-44
3.	Department of Construction Markets	661-80-38
4.	Press Spokesman	661-80-66 29-46-10

MINISTRY OF LABOR AND SOCIAL POLICY

1.	Operator	661-01-00
2.	Department of Social Insurance	628-85-97
3.	Department of Employment	29-07-87
4.	Press Spokesman	661-02-05

MINISTRY OF PRIVATIZATION

1.	Operator	695-80-00
2.	Legal Department	695-84-20
3.	Department of Privatization of SMEs	695-87-72
4.	Press Spokesman	695-86-13 628-76-37

MINISTRY OF INDUSTRY AND TRADE

1.	Operator	661-81-11
2.	Legal Department	661-86-20
3.	Department of Strategy and Economic Policy	661-87-51
4.	Press Spokesman	661-86-61 628-03-18

MINISTRY OF AGRICULTURE AND FOOD ECONOMY

1.	Information	623-10-00
2.	Legal Department	623-23-67
3.	Department of Agricultural Market	628-58-37
4.	Press Spokesman	628-05-70 623-22-62

MINISTRY OF JUSTICE

1.	Operator	628-44-31
2.	Legal Department	628-07-74 621-61-04
3.	Press Spokesman Office	628-65-52

MINISTRY OF FOREIGN ECONOMIC COOPERATION

1.	Operator	693-50-00
2.	Legal Department	693-52-17
3.	Press Spokesman	693-50-07

ANTIMONOPOLY OFFICE

- | | | |
|----|----------------------------|----------|
| 1. | Operator | 26-10-31 |
| 2. | Legal Department | 26-53-65 |
| 3. | Press Spokesman | 27-28-92 |

COUNCIL OF MINISTERS OFFICE

- | | | |
|----|---|-----------|
| 1. | Operator | 694-60-00 |
| 2. | Legal Department | 694-60-03 |
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Special Publications:

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