

Urgency Petitions and the Informational Problem in the Brazilian Chamber of Deputies

Acir Almeida

acir.almeida@uol.com.br

Fabiano Santos

Instituto Universitário de Pesquisas
do Rio de Janeiro – IUPERJ
fsantos@iuperj.br

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Abstract

In the Brazilian Chamber of Deputies, an absolute majority may bring a bill out of committee and to the floor for consideration without the committee's report by approving an urgency petition (UP). We challenge the dominant interpretation that UPs have been used by the Executive, through its legislative majority, to get round committees where the opposition has influence. First, we show that, except during the Cardoso presidency, UPs for Executive bills only rarely were approved without consensus. Second, we argue that such pattern is consistent with the collective nature of the informational gains from the committee's work. By applying an informational model, we identify necessary conditions for such UPs to be approved without consensus. Then, we claim that only under Cardoso those conditions were met. Moreover, we find additional support for our informational interpretation in the timing of use of UPs under Cardoso.

1 Introduction

The processes of redemocratization undergone by Latin American countries have brought a large number of questions related to the possibility of institutionalization of democracy, the stabilization of the governing process and the choice of institutions that would structure the policy-making process in the new regime. In general, what occurred was the choice of institutions that concentrate extensive agenda powers in the hands of the president and of the leaders of the major legislative parties. The advantage given to the Executive by the new constitutions or by the recycling of the old ones has rested on the ability of manipulating one of the central factors in any decision-making process – the time factor. In this paper, we discuss the logic of the utilization of the urgency procedure, which is an institutional mechanism of intervention in the timing of legislative bills. The Brazilian Chamber of Deputies is the context of our analysis.¹

In the 1988 Constitution and in the internal rules of the Chamber of Deputies, the urgency procedure has a prominent role. Especially if we consider the analyses of the performance of the Brazilian Congress, the urgency procedure is generally considered as one of the mechanisms available to the Executive to make its agenda “predominate” in the Congress. In fact, this thesis originates from a general perception about the pattern of Executive-Legislative relation under the so-called “coalition presidentialism,” which is that the predominance of the Executive in the decision-making process, as well as the ability legislative parties have to coordinate the behavior of their members, are consequence of a vast number of institutional mechanisms deposited in the hands of the president and the party leaders, which are called “agenda powers.” The urgency procedure is, alongside the possibility of issuing decrees, one of the most important of those mechanisms.

Why is it so important? Essentially because it allows the leaders of both the parties and the agents that control the flow of legislative decisions to bring to the floor bills that are “stuck” in committees which, supposedly, are comprised by legislators who are interested in vetoing those bills or in obtaining disproportional gains from their approval. As such, the urgency procedure would not only be an important mechanism used by the majority against minority-controlled committees, but it would also have an impact over one of the fundamental factors of any legislative process, which is floor time.

In this work, we challenge the dominant interpretation that the urgency procedure has been used as a mechanism of imposition of the Executive’s agenda, via its legislative majority, on the Congress. First, we show that this interpretation is inconsistent with the fact that urgency petitions for Executive bills are rarely approved without consensus. Alternatively, we propose that the use of the urgency procedure follows an informational logic which, by its turn, is capable of explaining the pattern of consensual approval of urgency petitions.

Using the same informational logic, we also identify necessary conditions for the systematic non-consensual approval of urgency petitions for Executive bills. We argue that such conditions were observed only during the Cardoso administration, when there was a legislative cartel (Amorim Neto et al. 2003). As a matter of fact, the non-consensual use of the urgency procedure for Executive bills was significant only under that president, albeit still not frequent. More specifically, we sustain, in accordance with the cartel thesis, that the urgency procedure was used by the cartel leadership in order to protect its bills from committees where the opposition had more influence, sending them prematurely to the floor, where the risks of approval of unwanted amendments and of obstruction were smaller.

¹ For a survey of agenda-setting rules in Latin American legislatures, see Alemán (2006).

Moreover, we argue that our informational approach adds explanatory power to the cartel thesis in what relates to the urgency procedure since, without informational elements, that thesis cannot specify the stage of the legislative process at which the urgency procedure was most frequently used by the cartel. As we will show later on (section 6), the cartel relied more frequently on the urgency procedure after the committee had started its information collection process but before it had voted its report. From our informational interpretation, this pattern reflects, on one hand, the importance of the committee for the reduction of the floor's uncertainty, given the divergence between the floor median and the cartel leadership on several important issues. On the other hand, that pattern also reflects the impatience of the government parties, which feared that the cartel policies would not generate electoral returns in time for the election. Thus, it became crucial for the cartel leader to carefully choose the right moment to use the urgency procedure, such that it allowed the bills to be negotiated through their rapporteurs in the committees, in order for them to be better absorbed by the floor.

This article is organized as follows. In section 2, we briefly review the related literature. Then, in section 3, we describe the rules that govern the use of the urgency procedure and identify the patterns of its use for Executive bills, pointing to some empirical questions which are relevant and have yet to be answered properly by the literature. In section 4, we present our application of the informational model to the legislative process, emphasizing the role of the committee in the reduction of uncertainty about the consequences of Executive bills. In sections 5 and 6, we use the results of the informational model proposed in section 4 to answer the empirical questions raised in section 3 and to elucidate the manner in which the cartel used the urgency procedure. Finally, in section 7, we conclude summarizing our main contributions.

2 Related literature

The works that analyze the urgency procedure in Brazil are few and almost invariably share the same general interpretation, that being that it is one of the agenda powers responsible for the centralization of the decision-making process in the legislature, thus favoring the predominance of the Executive and of party leaders, to the disadvantage of legislative committees (Figueiredo and Limongi 1995 and 1999; Pereira and Mueller 2000; Amorim Neto et al. 2003). Through mechanisms like the urgency procedure the governing process in Brazil would acquire stability and predictability, functioning in a manner similar to the multiparty coalition governments that are so common in Europe.

According to Figueiredo and Limongi (1999), through the urgency procedure the government and its supporting coalition in Congress can avoid eventual vetoes from minorities in control of committees. Thus, it could be considered an instrument of the majority, generally organized around the major parties, participants in the cabinet, against minorities that are interested in obtaining distributive gains from the legislative process. From the application of a slightly different version of Gilligan and Krehbiel (1987)'s informational model of the legislative process, Pereira and Mueller (2000) come to a similar conclusion: the urgency procedure is likely to be used more frequently by an impatient majority to discharge bills from the committees whose median preferences diverge more from the floor median's. However, as we show later on (section 3), these interpretations are not consistent with the fact that urgency petitions for Executive bills only rarely are approved without consensus.

Amorim Neto et al. (2003) also interpret the use of the urgency procedure as a consequence of the agenda power logic. These authors, however, point to a more specific condition which would

lead to the systematic use of the urgency by a majority against the minority: the existence of a legislative cartel (Cox and McCubbins 1993). Given the relatively low levels of party discipline in the Chamber, the use of the urgency procedure would be a way for the cartel to “impose” its agenda when the committee is not under its control, taking the bill directly to the floor, where the risks of unwanted changes and obstruction are smaller. As we will show later on (section 5), it is a fact that only during the Cardoso administration, when existed a legislative cartel, there was a significant number of urgency petitions for Executive bills approved without consensus.² Nevertheless, the manner with which the cartel most frequently used the urgency procedure, allowing the committee to examine the bill but not allowing it to vote on its final report, cannot be explained based on the cartel thesis alone.

Like Pereira and Mueller (2000), our analysis of the urgency procedure also borrows from the informational models that analyze the strategic interaction between an uninformed decision-maker (the floor median) and one or more advisors. However, our application differs from theirs in several aspects. Perhaps the most important difference is that we consider two advisors (the committee and the Executive) instead of only one (the committee). As we will show later on (section 4.2), under a two senders setting the main result from Pereira and Mueller, which is that the probability the urgency procedure is used increases as the divergence between the floor and the committee becomes stronger, is not generally valid.

Many of our basic assumptions are from Gilligan and Krehbiel (1989)’s legislative game under open rule and with a heterogeneous committee. But we have also incorporated the insights from several other works. Another important source of inspiration was Krishna and Morgan (2001) who analyze the consequences of the existence of two divergent informed advisors for the decision-maker’s degree of uncertainty. They show that the decision-maker always benefits from consulting the second advisor if the preference of the latter is opposite to the preference of the first advisor, provided none of them is an extremist. Besides, if the advisors do not have opposing preferences then it suffices for the decision-maker to consult only the one whose preference is closer to her own.

We assume that only the Executive (first advisor) is perfectly informed. The committee acquires private information with positive probability and at some cost. Beniers and Swank (2004), Dur and Swank (2005), and Eso and Galambos (2008) propose models in which the agent’s private information is endogenous. They find that, in situations in which the amount of the agent’s effort determines the probability of relevant information being discovered, the level of effort depends both on the type of information (whether verifiable or not) and on the relation between the preferences of the decision-maker and the advisor. Brocas and Carrillo (2005) present a different version where all information collected becomes automatically public. In this case, they find that the advisor has an incentive to be selective about the nature of the information she collects.

In addition to non-verifiable (soft) information, we follow Beniers and Swank (2004) and assume that the advisors may also send verifiable (hard) information. By relaxing the assumption that all information is soft, we are not only being more realistic since both the committee and the Executive may gather hard information, like documents and data, to subsidize their recommendations. More important for our purposes is the implication that only if the committee may send hard information, and therefore induce a decision less favorable to the Executive, the latter may prefer that the former

² The significant number of urgency petitions approved without consensus under the cartel has already been noted in Lacerda (2006). However, this author fails to recognize that it happened only during that period, thus interpreting the urgency procedure as a majoritarian mechanism.

does not examine the bill. So, contrary to what Pereira and Mueller (2000, p.52) assume, the purpose of the committee need not be to provide informational gains to the Executive.

3 The urgency procedure

There are two forms of urgency procedure available to the members of the Chamber of Deputies: the “simple urgency” and the “super urgency”, defined in articles 154 and 155 of the Chamber’s internal rules, respectively (Câmara dos Deputados 2004). Under the simple urgency, the bill goes to the first place on the order of the day of the following legislative session in case it is not voted on the floor during the legislative session in which the urgency petition (thereafter called UP) is approved.³ For the Chamber’s floor to use the simple urgency, at least one-third of the legislators (or party leaders that represent that number) need to sign the UP and a simple majority must approve it. But its use is limited to no more than two bills at a time.

Under the “super urgency,” the bill automatically goes to the first place on the order of the day of the same legislative session, allowing it to be voted on the floor even in the same day in which the UP is approved. Article 155 requires that an absolute majority of the legislators sign the UP and approve it. Notwithstanding this stronger requirement, practically all UPs evoke article 155, most likely because the use of article 154 is restricted to only two bills at a time.

When an urgent bill goes to the top of the order of the day, if some of the committees to which it was submitted to have not yet voted its report, a member of the floor is selected by the Chairman of the Chamber to make an oral report on the bill, in substitution to the committee. If the bill is under article 154, the Chairman may, at the committee’s request, grant a deadline extension of at most two sessions for the committee to vote its report.

One important aspect of the urgency procedure is that floor members cannot present individual amendments to an urgent bill. The subscription of at least one fifth of the legislators (or of party leaders that represent that number) is necessary in that case. This imposes a strong restriction to the influence of not only the individual legislators but also of the legislative parties since only very rarely a single party comes to control one fifth of the Chamber.

Besides articles 154 and 155 of the Chamber’s internal rules, another urgency procedure is found in article 64 of the 1988 Constitution. This constitutional urgency procedure is an exclusive prerogative of the President of the Republic, which can be used only for Executive bills and does not need to be approved by the Chamber. It establishes a deadline of forty-five days for the bill to be voted on the floor, at the end of which the bill goes to the first place on the order of the day, blocking the vote on other matters until it is finally voted on. Unlike the others, the constitutional urgency does not restrict the amendment power of floor members. In this paper, we focus our attention exclusively on the urgency procedure defined in article 155, which is the one used by the Chamber’s floor. As we will see below, there are important unanswered questions regarding its use.

In Table 1, we show the frequency in which each president since Collor submitted bills to the Chamber of Deputies,⁴ as well as the respective rates of Executive bills for which an UP was

³ Each year has two legislative sessions, the first from February through June and the second from August through December.

⁴ By “bill” we mean the most common type of legislative initiative in Brazil, which is the *Projeto de Lei Ordinária*. We decided not to include the Sarney administration because the current format of the Chamber’s urgency procedure was defined in September 1989, only six months before the end of his term.

approved under article 155. In lines (B) and (C) of the table, we see the urgency usage rate, which was separated according to the nature of the voting, whether it was approved consensually or with the opposition of at least one party.

[Table 1 about here]

Before evaluating the evidence from Table 1, it is necessary to state our criteria for the computation of the urgency usage rate. Amongst the bills submitted by each president, we counted those for which an UP was approved during his term and before the bill was sent to the Senate.⁵ The only exception was the bills from Cardoso 1 that were declared urgent under Cardoso 2, which we computed under the latter. The resulting number was then divided by the total number of bills submitted by the president.⁶

As shown in line (B) of Table 1, and according to our criteria, the Chamber's floor used the urgency procedure for one-third (32.9%) of the Executive bills submitted to it from 1990 through 2006. We regard this usage rate as only moderate. The highest rate was observed during the first Cardoso administration (42.1%) and the lowest, during the first Lula administration (20.2%).

It is more important for our purposes to note that the use of the urgency procedure for Executive bills has been consensual. When we consider the total number of bills submitted by the Executive, for only 5.2% of them an UP was approved without consensus. The rate of urgency consensus calculated for the whole period is 0.84 (line (E) of the table). It means that 84% of all UPs approved for Executive bills were not opposed by any party. This evidence contradicts the dominant interpretation that the Chamber's urgency procedure is used by the Executive, through its legislative majority, in order to impose its agenda on the opposition parties.

This pattern of consensual approval is observed in all administrations except Cardoso 1, when UPs were approved without consensus for 13.2% of the Executive bills, representing 31% of all such bills for which UPs were approved during that presidency. Although also in this case the urgency procedure was used in a predominantly consensual manner, the rate of urgency consensus was much lower (0.69) than any of those observed during the other administrations.

In this work, we direct our effort to the elucidation of these two phenomena. Why, contrary to the dominant interpretation, has the use of the urgency procedure for Executive bills been consensual amongst legislators? Why was this pattern different only during the first Cardoso administration? As we will argue later on (section 5), the application of the informational model to the Brazilian legislative process contributes greatly to the elucidation of these questions.

4 An informational model of the standard legislative process

Beyond the obvious implication of the urgency procedure, which is to abbreviate the standard legislative process, there is also an informational implication. By discharging a bill from the committee before it concludes its report, the floor foregoes the opportunity to receive new

⁵ The numbers of urgent bills which were excluded because the UP was approved under another president are: 11 from Collor; 5 from Franco; 3 from Cardoso 1; and 10 from Cardoso 2.

⁶ The usual criterion is to divide by the number of approved bills. However, since urgent bills are much more likely to be approved than non-urgent ones, we think our criterion is more adequate.

information about the consequences of the proposed policy. Given that, everything else constant, it is preferable to make a decision based on more instead of less information, when deciding whether or not to use the urgency procedure the floor needs to take into account not only its impatience but also the expected informational gain from the committee's work. In this section, we propose an informational model of the standard legislative process in order to identify the conditions that lead the committee to produce more or less information.

4.1 Basic assumptions

The Chamber's floor must choose a public policy (p) from along a one-dimensional space. Each policy p is associated to an outcome (x), which is also defined along a one-dimensional space. Floor members do not know the exact consequences of the policies they choose – they only know the distribution of the probable outcomes. To represent this uncertainty, the relationship between policies and their results is defined as $x = p + \omega$, where the parameter ω is a random variable uniformly distributed with support on $[0,1]$. Preferences are defined over x and utilities are of the quadratic loss form.

The equilibrium policy is then $p^* = x_m - \bar{\omega}$, where x_m is the ideal preference of the median legislator, and $\bar{\omega}$ is the expected value of ω . Each individual affected by the decision has expected utility $EU^i = -\sigma_\omega^2 - x_i^2$, where $-\sigma_\omega^2$ is the informational loss resulting from the median's uncertainty about ω , and $-x_i^2$ is the distributive loss incurred by individual i due to her bias, which is defined as $x_i = |x_i - x_m|$.⁷

Brazilian legislators face a severe informational problem in the sense that the legislature's institutional structure does not generate incentives for the endogenous and systematic production of specialized information (Santos and Almeida 2005). One way to deal with this problem in the short-run is to rely on external experts, the traditional one being the Executive. However, since the preferences of the Executive and the floor median often diverge, the latter has an incentive to at least "check" the recommendations of the former. This can be done through the committee system. So, we assume that the floor may acquire information and thus reduce its uncertainty by "consulting" the Executive and a legislative committee. We assume that only the Executive knows the true value of ω and that the committee has some private information, but it is also in a strong informational disadvantage relative to the Executive. On the other and, the committee may acquire information at some positive cost.

We structure our standard legislative game as follows. First, the Executive sends a policy proposal (bill) to the committee.⁸ Both the committee and the floor observe the Executive's proposal and then update their beliefs about ω . Second, the committee decides how much effort to put on the collection of information. After collecting the information, the committee sends a recommendation to the floor (also in the form of a bill). The floor updates its beliefs and then chooses a policy. The incentive the Executive has to share its private information and the incentive the committee has to collect and share information are determined by the opportunity to influence the floor's decision.

⁷ The value of the expected utility is obtained through the formula $EU^i = \int_0^1 -(x - x_i)^2 f(\omega) d\omega$, where $x = -\bar{\omega} + \omega$. For a detailed explanation of these technical assumptions, see Gilligan and Krehbiel (1987).

⁸ Our focus on Executive bills may be justified both empirically and theoretically. It is a fact that the Congressional agenda is dominated by Executive bills (Figueiredo and Limongi 1999, p.??). One reason for this is that the Executive's expertise makes it in the interest of legislators to prioritize the president's agenda instead of their own (Larocca 2006).

A biased agent always prefers a policy different from the decision-maker's optimal choice: agents that are biased to the left (right) prefer any policy to the left (right) of the equilibrium policy. This creates an incentive for biased agents to use their private information strategically. We assume that, in addition to unverifiable (soft) information, the agent's recommendation may also contain costly verifiable (hard) information. Soft information may be manipulated by the agent, whereas hard information may only be concealed. If the agent only sends soft information, she cannot induce the decision-maker to choose a policy closer to her ideal preference because the latter compensates for the agent's bias. So, the disclosure of soft information may only reduce the informational loss $-\sigma_\omega^2$, but only as long as the agent's bias is not very large (Crawford and Sobel 1982). Nevertheless, the agent may induce a decision closer to her most preferred one through the disclosure of hard information favorable to her bias. In this case, although the decision-maker knows the agent's incentive to disclose only "favorable" information, she does not know whether there exists or not hard information that is "unfavorable" to the agent, much less whether the agent is withholding it or not. So, the decision-maker takes the information at face value (Milgrom 1981, sec.5). Finally, we assume that all the previous assumptions are common knowledge.

4.2 Information collection by the committee

The committee's procedure for the collection and disclosure of information obeys the following rules.⁹ For each bill, a majority in the committee decides how much time and resources should go into the collection of information. This includes activities like, for example, the holding of public hearings, the analysis of documents, diligences, etc. A committee majority also has the power to end the collection of information at any moment. Also, for each bill, the committee chair selects one of its members to serve as rapporteur. The rapporteur's role consists of coordinating the collection of information, analyzing the collected information, and, finally, recommending a decision to the committee which, if approved, becomes the committee's recommendation to the floor. Despite the committee's recommendation, any one of its members can pass on information directly to the floor, in the form of a separate opinion (*voto em separado*).

The collection of information is an uncertain and costly sequential process. For each activity, there is a certain probability of learning the true consequences of the policy, such probability being increasing on the amount of accumulated "effort" (i.e., the number of previous activities). Although the committee's effort is not completely observable, it can be inferred from the preferences of its members. More biased committee members are more willing to incur the cost of information collection since they have more to gain from the discovery of information that approximates the floor's decision to their ideal preferences. On the other hand, because of their biases, the information they convey has less credibility. So, more biased committee members are more likely to collect hard information, whereas less biased members are more likely to collect soft information (Beniers and Swank 2004; Dur and Swank 2005; Eso and Galambos 2008).

All information collected by the committee is public amongst its members. Since all of them have the power to disclose any collected information, only by unanimous decision can the committee omit information from the floor. This is only possible if all members have the same bias towards the policy, which seems very unlikely since the Chamber's rules allocate committee seats proportionally to the legislative parties. So, the committee's power lies less on the strategic use of information and more on the strategic production of information. Control over the production of information is

⁹ See articles 24, 29, 52-5, and 57 of the Chambers' internal rules (Câmara dos Deputados 2004).

exercised by the committee median. Unless she is not biased, she has an incentive to veto activities that may allow a committee member with an opposite bias to discover information contrary to her (the committee median's) interest (Brocas and Carrillo 2005).

Due to the veto power held by the committee median and to the incentive its most biased members have to collect hard information, the rapporteur's effort is neither sufficient nor necessary to produce this type of information. For this reason, the rapporteur is likely to be selected amongst the most moderate committee members, in order to act as a mediator between the committee and the floor.

We are interested in understanding the incentives for the committee to collect information about the consequences of Executive bills. If the Executive and the floor have the same ideal preference, the former credibly shares all its private information with the latter. Otherwise, the Executive's ability to credibly share information decreases with its bias. So, if we only consider the Executive's message, the floor's uncertainty is an increasing function of the Executive's bias. Hence, assuming a positive cost of information collection, there is a sufficiently low degree of uncertainty (after observing the Executive's message) for which the committee has no incentive to perform its informational role. So, we expect the committee's recommendation to be less valuable to the floor either when policies are less complex or when the Executive's bias is lower.

Suppose that the floor's degree of uncertainty is such that the committee has an incentive to collect information. In order to simplify the assessment of that incentive, we have classified the committees into three types, according to their biases and in relation to the Executive's. The types are: "opposing," "pro-government extremist" and "pro-government moderate." A committee is "opposing" if and only if a majority¹⁰ of its members have biases opposite to that of the Executive; otherwise it is considered "pro-government." A pro-government committee is an "extremist" if and only if its least biased pro-government member is more biased than the Executive; otherwise the committee is "moderate."

The "pro-government extremist" committee has no informational value to the floor. The reason is twofold. First, it is not likely that the committee would discover any information that the Executive itself had not already shared. Second, the committee cannot add credibility to the Executive's message since its least biased pro-government member is more biased than the Executive. The "pro-government moderate" committee has only limited informational value to the floor. Although the floor does not expect this committee to discover any additional information either, its pro-government members who are less biased than the Executive can add credibility to the latter's message by subscribing to the Executive's policy. Finally, the "opposing" committee is the one with the highest informational value to the floor since it is the only type that has an incentive to collect information that contradicts the Executive's message.¹¹

In sum, the committee's incentive to collect information about the consequences of Executive bills is conditioned by the size of the Executive's bias and by the type of the committee. Specifically, that incentive exists only if the Executive is sufficiently biased and the committee is

¹⁰ Given the veto power of the committee median, the committee members whose biases are opposite to hers do not have any relevant informational role.

¹¹ These results imply an important qualification to Pereira and Mueller (2000)'s main result that the informational value of the committee to the floor decreases with the bias of the former. In the case of Executive bills, it is true only if the committee and the Executive have likely biases or if the latter is an "extremist." If they have opposing biases, the expected relationship is the opposite of what those authors conclude.

not “pro-government extremist.” Only if these two conditions hold, the committee’s incentive increases with the Executive’s bias, being higher when the committee is “opposing.”

However, the collection of information by the committee takes time. In as much as time is valuable to the floor, the standard legislative process implies a positive waiting cost which increases both with the floor’s impatience and with the time required for the committee to collect information and to make its recommendation. Therefore, if an urgency procedure is available, the floor uses it to discharge the bill from the committee and immediately vote on it when the expected informational benefit from the committee’s recommendation is less than the waiting cost.

5 Information and the use of the urgency procedure

In this section, we use the results from the informational model of the previous section in order to elucidate the two questions mentioned at the end of section 3, that is, the consensual approval of UPs for Executive bills and the exceptionality of the first Cardoso administration, when there was a significant number of UPs approved without consensus.

Under what conditions an UP for an Executive bill is approved against the votes of a minority? Assume that some legislator votes against an UP submitted by a majority if and only if her expected benefit from the committee’s report is higher than her waiting cost, otherwise she votes in favor. Suppose an UP is submitted to the floor by some majority and at least one legislator prefers to vote against it. So, it must be true that for at least one legislator the expected benefit from the committee’s work is higher than her waiting cost. From the results of the previous section, it must also be true that neither the committee is “pro-government extremist” nor the preference of the Executive is aligned with that of the floor median. Hence, for the UP to be approved against the votes of some minority, it is necessary that none of these conditions be true.

Note that, by definition, and given the distribution of preferences within the committee, the likelihood of it being “pro-government extremist” increases as the preferences of the Executive and the floor median converge. So, when we consider all Executive bills and, therefore, all types of committees, the Executive’s bias is more relevant than whether or not the committee is “pro-government extremist.” In this context, we can conclude that only if the Executive is biased UPs for its bills may be approved without consensus, and also that the probability of such UPs being approved without consensus increases as the Executive’s bias increases. The first of these results is consistent with the almost null incidence of urgencies approved without consensus for the bills submitted by Presidents Franco and Lula (see line (C) of Table 1) whose agendas were mainly made up of centrist policies.

Suppose now that the Executive is sufficiently biased and that the committee is not “pro-government extremist.” Suppose that an UP is submitted by some majority and that only for some minority the waiting cost is lower than the expected gain from the committee’s work. From the previous section, we know that, if the committee is not “pro-government extremist” then the expected informational gain is positive for all floor members. Note that it is also equally distributed amongst them. The reason is that, since floor members are all equally uninformed, their respective distributive losses do not change (in expectation) even when hard information is disclosed. So, if some of them vote against the UP it must be that their waiting costs are lower than the waiting costs of the majority that submitted the UP.

Amongst the possible factors that affect the level of the legislators’ waiting cost is certainly the electoral calendar. Legislators care not only about *how* but also about *when* the policies they choose

impact the electorate. They prefer popular policies to be implemented in time for their effects to be felt in their constituencies such that it maximizes their respective reelection probability. In the case of Executive bills, we think it is reasonable to expect that for some majority to have a systematically higher waiting cost than the minority it is necessary that the former not only support the Executive's policy agenda but also that it has the same agenda. So, given that the Executive is biased, we expect that only under a majority government there will be a significant incidence of UPs for Executive bills approved without consensus. This is consistent with the fact that there was a significant incidence of nonconsensual UPs for Executive bills only under Cardoso, the only biased president (the other was Collor) whose support base in Congress behaved as a legislative cartel.

But what is a legislative cartel? According to Amorim Neto et al. (2003), a legislative cartel exists when the president, through the distribution of cabinet posts to legislative parties comprising a majority, receives enough support for the approval of her agenda in the legislature. Typically, in this case, each party is a pivotal actor, in the sense that if it withdraws from the coalition, the cartel loses its majority status. Aside from that, and as a consequence of the pivotal role each party plays in the cartel, the agreement includes the concession of veto power to the cartel parties regarding the content of the bills and the moment in which they will be sent to be voted on the floor.

We argue that the existence of a legislative cartel is a necessary condition for UPs for Executive bills to be approved without consensus in a systematic manner. The reason is that only a legislative cartel is formed by a majority (not all) of legislators with a common agenda of governmental policies. By assumption, such agenda aims at maximizing the reelection probability of cartel members. In order for the cartel to reap the expected electoral benefits of its policies in time for the election, the timing of their approval is crucial for its members, and only for them.

Amorim Neto et al. (2003) provide strong evidence that, amongst the government coalitions formed between 1990 and 1998, only the one of the Cardoso administration (1995-1998) was a legislative cartel. Only during that administration the parties represented in the cabinet, aside from controlling a nominal majority in Congress, were rarely "rolled" in floor votes, unlike the opposition parties.¹² Lyne (2008, ch.6) calculated the "roll rates" for the second Cardoso administration (1999-2002) and found evidence of the persistence of the cartel. However, it seems to us that the cartel broke apart in the beginning of 2001, when the president lost the *de facto* support of the Liberal Front Party (*Partido da Frente Liberal* – PFL) after he supported the victorious candidate of his own party to the Chairmanship of the Chamber, against the interests of the PFL.

In order to test the hypothesis that only during the existence of the cartel there was a significant number of UPs for Executive bills approved without consensus, we submitted the yearly series of non-consensual urgencies to the test of non-gradual structural change proposed in Clemente, Montañés and Reyes (1998). This test evaluates the existence of two points of abrupt change on the time series mean and identifies them. For our specific case, the two points should correspond to years belonging to the period in which the cartel existed. The first year should have a positive impact on the series mean, and the second one a negative impact.

In Table 2, we present the yearly counts of Executive bills for which the urgency procedure was approved, with and without consensus. We can clearly see that, in 1995, first year of the Cardoso administration, there was a sudden increase in the number of UPs approved without consensus, when it reached the count of 8, whereas the 1990-94 average was 1.8. That count remained high until 1999, except for 1998, when only one UP was approved without consensus.

¹² A party is rolled when the majority of its members votes against a bill that is approved. The authors consider that a party is rolled "rarely" when this does not occur in more than 5% of the floor votes.

[Tables 2 and 3 about here]

The results from the Clemente-Montañés-Reyes test, reported on Table 3, indicate the years 1994 and 1999 as points of abrupt and significant structural changes on the series mean (both at the 1% significance level), the changes being in the expected directions. Specifically, from 1995 onwards, when the cartel was created, the yearly average of non-consensual urgencies increased by 4.6, this new level having lasted until 1999, after when the average diminished by 5.4. This result is favorable to the hypothesis that during the period of the cartel there was a significantly higher number of UPs for Executive bills approved without consensus.

But our hypothesis also requires the number of UPs approved without consensus to be null when there was no cartel. However, in statistical terms, that is not what is observed: the estimated coefficient of the constant equals 1.8 and is significant at the 10% level (the *t* statistic equals 1.83).¹³ However, it is our understanding that, in substantive terms, a yearly average of 1.8 Executive bills can hardly be considered relevant. Thus, we think it is correct to conclude that the evidence favors our hypothesis that only under the cartel there was a significant number of UPs for Executive bills that were approved without consensus.

In sum, the fact that the legislators approve UPs for Executive bills almost always by consensus is perfectly consistent with the informational model of the legislative process when it is taken into account both the degree of uncertainty about the policies proposed by the Executive and the low frequency in which stable government majorities are formed in the Brazilian Chamber of Deputies. To date, only during part of the Cardoso administration there were favorable conditions to the nonconsensual approval of UPs for Executive PLs.

6 Information and the use of the urgency procedure by the cartel

In order to reinforce our thesis that the use of the urgency procedure follows an informational logic, we asked ourselves how the cartel would use the urgency procedure, given that the degree of uncertainty about its main policies was significant. To answer this question, it is important to note that a cartel functions in two stages. In the first one, that can be called the negative stage, the cartel parties negotiate the agenda items amongst themselves, with each making clear the limits for what can or cannot be accommodated. In the second stage, the positive, the cartel “imposes” the resulting agenda on the legislature, either through legal mechanisms that confer procedural advantages to the former or through the extraction of party discipline (Amorim Neto et al. 2003, pp. 550-51).

Given that party indiscipline was a practically constant problem for the cartel leadership, the use of legal mechanisms must have been the dominant strategy. Amongst those mechanisms, the urgency procedure would have been the one for the cartel to “impose” its agenda when the committee was “opposing”, which would happen when there were disloyal cartel members in sufficient number to give bargaining power to the opposition parties. The “imposition” would take the shape of direct dispatch of the bill to the floor, where the risks of unwanted alterations and obstruction were smaller.

But only when informational elements are taken into account it is possible to specify the manner the cartel used the urgency procedure. Due to the fact that the cartel leadership had a considerable

¹³ Although the Clemente-Montañés-Reyes test does not report the significance of this estimate, it can be obtained through the estimation of an OLS model containing a dummy for the period 1995-06 and another for the period 2000-06.

bias on several issues, which harmed the credibility of its recommendations to the floor median, it was in the interest of the latter that many governmental policies were first examined by the committee. The committee's work could be beneficial to the Executive also, as long as it reduced the uncertainty of the floor median without increasing the Executive's distributive loss. As we argued at the end of section 4, this occurs if the committee is "pro-government moderate." That can also occur if the committee is "opponentist," provided that the committee does not collect hard information unfavorable to the Executive. On the other hand, it can be argued that, as much for the Executive as for its legislative allies, and only for them, the waiting cost for the implementation of such policies was significant because it would take some time before they had any positive impact on the electorate.¹⁴

Therefore, instead of simply using the urgency procedure to send its bills directly to the floor without being examined by the committee, the cartel used it in a later moment, that was however previous to the voting of the report by the committee. Specifically, once the leaders of the cartel and the rapporteur reached an agreement over the most controversial points, the urgency procedure was used to avoid that the opposition minority, through the mobilization of disloyal cartel members in the committee, succeeded either in approving a report that was less favorable to the cartel or in obstructing the voting in the committee.

From these informational considerations we can form two hypotheses regarding the timing of the use of the urgency procedure by the cartel. The first hypothesis is that under the cartel the approval of UPs for Executive bills occurred more frequently during the examination of the bill by the committee, as compared to before the committee had started the information collection process and after it had finished. The second hypothesis is that the frequency of approval of UPs for Executive bills during the examination stage was higher during the cartel as compared to the other periods.

In Table 4, we compare the timing the urgency was used for Executive bills during the cartel (1995-00) with that of the other years. We classify a bill as "not submitted to the committee" when the UP is approved immediately upon the submission of the bill, giving no opportunity for the committee to examine it. Arbitrarily, we consider that this happens if and only if the UP is approved either until seven days after the bill arrives at the first committee or before its rapporteur is designated, whichever is longer. We consider that a bill is "submitted to but not reported by the committee" when it is submitted to examination but voted on the floor without the report of at least one committee. Finally, a bill is "reported by the committee" when, at the moment of its floor vote, all committees' reports have been approved.

[Table 4 about here]

The evidence presented in Table 4 is consistent with our first hypothesis. During the existence of the cartel, 63% of the Executive bills for which an UP was approved were being examined by a

¹⁴ Velasco (2005, p.211)'s interpretation of the motivation behind the approval of the UP for one of the bills regulating the telecommunications sector (PL 1287/95, aka *Lei Mínima das Telecomunicações*) is consistent with our assumption that cartel members were impatient. He quotes the following statement of the government leader in the Chamber, Dep. Inocência Oliveira, made in favor of the UP: "Mr. Chairman, almost one year ago, when we approved [by means of a constitutional amendment] the flexibilization of the telecommunications sector, we did so trusting that, by opening the country to foreign investments in the telecommunications sector, we would solve serious problems in different parts of the country. (...) one year have passed and there are many criticisms that the regulatory laws for the economy still have not been approved, preventing the country from enjoying these benefits."

committee, whereas 23% never had the opportunity of being examined and 14% had their committee's report voted on. The differences between that first percentage and each of the other two are significant at the 1% confidence level.¹⁵ It is true that the examination stage comprehends a period much longer than the other two stages, which may be inducing that result. Although we cannot eliminate this alternative hypothesis, it should be noted that the absence of control for the time span was not sufficient to induce the same result during the period in which the cartel did not exist.

Our second hypothesis also finds strong support in the evidence. While under the cartel 63% of the Executive bills for which an UP was approved were being examined by the committee, during the period without the cartel this happened to 42% of those Executive bills, this difference being significant at the 1% level. As it may also be observed in the Table, that higher incidence of UPs during the examination stage was accompanied by a smaller incidence of petitions at the pre-examination stage (23% under the cartel and 48% in the other periods), whereas there is no significant difference in the incidence of petitions at the post-committee stage (14% under the cartel and 10% in the other periods). This is consistent with our argument that the cartel had to calibrate the moment of approving the UP in a way to allow the bill to be examined by the committee, thus diminishing the uncertainty of the floor median, but only until the limit of its waiting cost.

In sum, the evidence lends strong support to our claim that there were informational constraints for the use of the urgency procedure by the cartel. Facing not only indiscipline but also uncertainty amongst its members, the cartel leadership had to carefully choose the moment to bring its bills out of committee and to the floor. On one hand, it had to give the opportunity for the bill to be examined and its most controversial articles to be negotiated with its support base – if not, the floor might have chosen a policy that was less preferred by the cartel leadership. On the other, however, the cartel leadership knew that its members shared with their party leaders the same high waiting costs, what allowed the former to shorten the committee examination stage. The implication was a comparatively larger incidence of UPs during that stage.

7 Concluding remarks

In the Brazilian Chamber of Deputies, and contrary to the existing dominant interpretation, UPs for Executive bills have only rarely been used in a majoritarian fashion. Instead, they have been used in a consensual manner which, we argued, is consistent with the positive-sum component of informational theories of legislative behavior. Such component is the collective gain from a more informed decision, in this case provided by the committee's work.

Based upon an informational model of the legislative process, we argued that legislators' decision whether or not to bring an Executive bill to the floor prematurely, before the committee has concluded its examination, is conditioned both by their impatience (i.e., their waiting costs) and by their expected informational gains from the committee's work. Such gains depend both on the size of the Executive's bias and on the type of the committee. As we have shown, only if the committee is not "pro-government extremist" and the Executive is biased then a positive gain can be expected from the committee's examination of the bill. In this case, the expected informational gain increases as the Executive's bias increases. So, we should expect that when the Executive's agenda is made of close-to-the-median (centrist) policies, the demand for the committee producing additional

¹⁵ The significance test results were obtained through a multinomial logit model using as dependent variable the stage of the committee's work the urgency was used.

information is low and, therefore, the legislators' incentive to vote in favor of an UP is high. Given that some majority wants to approve an UP for some bill implementing a centrist policy, then it is more likely that the UP will be approved by consensus. This is consistent with the almost-null incidence of nonconsensual UPs for the bills submitted by Presidents Franco and Lula who, as it is generally regarded, had close-to-the-median agendas.

Assuming the uncertainty about the Executive bill is significant, an UP for such bill is approved only if there is some majority with a sufficiently high waiting cost. But for the UP to be approved without consensus it is necessary that there is also a minority of legislators for whom the waiting cost is much lower. This is likely to happen systematically only when the legislative majority and the Executive share the same policy agenda, such that the former expects a higher reelection probability by approving those policies in time for them to generate a positive impact before the election. Hence, UPs for Executive bills are more likely to be approved without consensus only if the Executive is biased and it has the support of a majority coalition in the Chamber. This result is consistent with the evidence too. Only two presidents had policy agendas distant from the center of the political spectrum: Collor and Cardoso. But only Cardoso governed with the support of a legislative cartel. And only during his administration there was a significant incidence of UPs approved without consensus.

Finally, we also found support for our informational interpretation in the way UPs for Executive bills were used during the most partisan (in the sense of conflictive) period, which was the one under the cartel (1995-2000). Even though the cartel leadership had a strong incentive to bring its bills out of opposing committees and to the floor, it did not do so immediately because the floor's uncertainty would have produced a less informed decision. Instead, the cartel leadership used the UP at a later moment, after the bill's most controversial points had been negotiated with its support base through the committee, but before the latter had voted its report. In fact, we found strong evidence that the frequency of UPs for Executive bills during the committee examination stage was significantly higher under the cartel.

What did we learn from our discussion on urgency petitions about the legislative performance in the Brazilian system of "coalition presidentialism"? We understand that two points deserve to be mentioned. The first one refers to the legislature's informational problem, that is, the absence of institutional incentives for its members to specialize, implying that committees are in a handicapped position vis-à-vis the Executive. The most negative consequences of this informational asymmetry for the content of legislative decisions are likely to obtain when the preferences of the median legislator and the Executive strongly diverge and the former waiting costs are significant.

The second point refers to our qualification of the legislative cartel theory, as applied to the Brazilian Chamber of Deputies. According to our findings, not every formal power may be viewed as pertaining to the set of agenda powers in the hands of a legislative cartel, that is, as an instrument at disposal of the majority to impose a certain agenda on the minority. From an informational perspective, the use of urgency petitions, considered by the literature an essentially majoritarian device, is in fact constrained by the common interest of legislators on well informed decisions, meaning a strong consensual nature.

References

- ALEMÁN, Eduardo. (2006). "Policy Gatekeepers in Latin American Legislatures." *Latin American Politics & Society*, vol. 48, no. 3, pp. 125-155.
- AMORIM NETO, Octavio, COX, Gary W. and MCCUBBINS, Mathew D. (2003). "Agenda power in Brazil's Câmara dos Deputados, 1989-98." *World Politics*, vol. 55, pp. 550-78.
- BENIERS, Klaas J. and SWANK, Otto H. (2004). "On the composition of committees." *Journal of Law, Economics and Organization*, vol. 20, no. 2, pp. 353-378.
- BROCAS, Isabelle and CARRILLO, Juan D. (2005). "A theory of influence: the strategic value of public ignorance." IEPR Working Paper 05.9, University of Southern California.
- CÂMARA DOS DEPUTADOS. (2004). *Regimento interno da Câmara dos Deputados*. Available at <<http://www2.camara.gov.br/legislacao/regimentointerno.html>>
- CLEMENTE, Jesus, MONTAÑÉS, Antonio and REYES, Marcelo. (1998). "Testing for a unit root in variables with a double change in the mean." *Economics Letters*, vol. 59, no.2, pp. 175-182.
- COX, Gary W. and MCCUBBINS, Mathew D. (1993). *Legislative Leviathan: party government in the House*. Los Angeles, University of California Press.
- CRAWFORD, Vincent P. and SOBEL, Joel. (1982). "Strategic information transmission." *Econometrica*, vol. 50, no. 6, pp. 1431-51.
- DUR, Robert and SWANK, Otto H. (2005). "Producing and manipulating information." *The Economic Journal*, 115, pp. 185-99.
- ESO, Péter and GALAMBOS, Ádám. (2008). "Disagreement and evidence production in pure communication games." Unpublished manuscript.
- FIGUEIREDO, Argelina C. and LIMONGI, Fernando. (1995). "Mudança Constitucional, Desempenho do Legislativo e Consolidação Institucional." *Revista Brasileira de Ciências Sociais*, ano 10, no. 29, pp.175-200.
- _____.(1999). *Executivo e Legislativo na nova ordem constitucional*. Rio de Janeiro, Fundação Getulio Vargas Editora.
- GILLIGAN, Thomas W. and KREHBIEL, Keith. (1987). "Collective decision-making and standing committees: an informational rationale for restrictive amendment procedures." *Journal of Law, Economics, and Organization*, vol. 3, pp. 145-93.
- _____. (1989). "Asymmetric information and legislative rules with a heterogeneous committee." *American Journal of Political Science*, vol. 33, no. 2, pp. 459-90.
- KRISHNA, Vijay and MORGAN, John. (2001). "A model of expertise." *Quarterly Journal of Economics*, vol. 116, no. 2, pp. 747-75.
- LACERDA, Alan. (2006). *A Câmara dos Deputados de 1990 a 1998: entre o Leviatã e o consenso*. Natal, Editora da UFRN.
- LAROCCA, Roger T. (2006). *The presidential agenda: sources of Executive influence in Congress*. Columbus, The Ohio State University Press.
- LYNE, Mona. (2008). *The voter's dilemma and democratic accountability*. Pennsylvania, Penn State Press.
- MILGROM, Paul R. (1981). "Good news and bad news: representation theorems and applications." *The Bell Journal of Economics*, vol.12, no. 2, pp.380-91.
- PEREIRA, Carlos and MUELLER, Bernardo. (2000). "Uma teoria da preponderância do Poder Executivo. O sistema de comissões no Legislativo brasileiro." *Revista Brasileira de Ciências Sociais*, vol. 15, no. 43, pp. 45-67.

SANTOS, Fabiano and ALMEIDA, Acir. (2006). "Informational theory and the selection of "rapporteurs" in the Brazilian Chamber of Deputies." [Translated by Plinio Dentzien]. *Dados*, vol.2, no.se.

VELASCO Jr., Licínio. (2005). "A política pública de privatização no presidencialismo de coalizão brasileiro." Unpublished doctoral dissertation, Instituto Universitário de Pesquisas - IUPERJ.

Table 1. Yearly averages of bills submitted and bills with UP approved, by presidency, 1990-2006

	Collor 3/90-9/92	Franco 10/92-12/94	Cardoso 1 1/95-12/98	Cardoso 2 1/99-12/02	Lula 1 1/03-12/06	Total
A. Submitted bills	69.1	65.8	49.3	59.0	43.3	55.4
B. Bills with UP approved with consensus	20.0 (29.0%)	22.2 (33.8%)	14.3 (28.9%)	17.0 (28.8%)	8.0 (18.5%)	15.4 (27.7%)
C. Bills with UP approved without consensus	3.1 (4.5%)	0.4 (0.7%)	6.5 (13.2%)	2.5 (4.2%)	0.8 (1.7%)	2.9 (5.2%)
D. Bills with UP approved (B+C)	23.1 (33.5%)	22.6 (34.5%)	20.8 (42.1%)	19.5 (33.0%)	8.8 (20.2%)	18.3 (32.9%)
E. Urgency consensus rate (B/D)	0.86	0.98	0.69	0.87	0.91	0.84

Source: Authors' own elaboration using data collected from the Chamber of Deputies' website at www.camara.gov.br.

Notes: Only UPs approved for bills presented by the incumbent president, during his term and before the bills were sent to the Senate. Percentages are relative to the number of bills submitted. The figures from Cardoso 2 and Lula 1 are preliminary.

Table 2. Yearly number of the incumbent's bills with UP approved, by nature of the voting, 1990-2006

Year	Consensual UPs (A)	Nonconsensual UPs (B)	Consensus rate A/(A+B)
1990	10	0	1.00
1991	28	5	0.85
1992	20	3	0.87
1993	29	1	0.97
1994	14	0	1.00
1995	15	8	0.65
1996	6	10	0.38
1997	21	7	0.75
1998	15	1	0.94
1999	15	6	0.71
2000	22	2	0.92
2001	15	2	0.88
2002	16	0	1.00
2003	8	1	0.89
2004	8	1	0.89
2005	7	0	1.00
2006	9	1	0.90

Source: Authors' own elaboration using data collected from the Chamber of Deputies' website at www.camara.gov.br.

Notes: Only UPs approved before the bills were sent to the Senate. The figures from 2001 through 2006 are preliminary.

Table 3. Clemente-Montañés-Reyes test with two structural breaks of the yearly number of nonconsensual urgencies, additive outliers model

Variable: yearly nr. of nonconsensual UPs
 T = 15
 Optimal breakpoints: 1994, 1999

AR(1)	du1	du2	(rho - 1)	const
-----	-----	-----	-----	-----
Coefficients:	4.60	-5.40	-1.46	1.80
t-statistics:	3.30	-4.19	-5.91	
P-values:	0.007	0.002		
Critical value (5%):			-5.49	

Table 4. Distribution of the yearly average of the incumbent's bills with UP approved, by cartel status and stage of the legislative process, 1990-2006

	Not cartel 1990-94; 2001-06	Cartel 1995-2000	Total
Not submitted to the committee	7.9 (48%)	5.2 (23%)	6.9 (37%)
Submitted to but not reported by the committee	6.9 (42%)	14.0 (63%)	9.4 (51%)
Reported by the committee	1.7 (10%)	3.2 (14%)	2.2 (12%)
Total	16.5 (100%)	22.3 (100%)	18.6 (100%)

Source: Authors' own elaboration using data collected from the Chamber of Deputies' website at www.camara.gov.br

Notes: Only UPs approved during the incumbent's term and before the bills were sent to the Senate.