

**AMERICAN BAR ASSOCIATION PROJECT
ON**

**THE ADMINISTRATIVE
LAW OF THE EUROPEAN UNION**

by

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FINAL REPORT ON THE DESIGN

of an

AMERICAN BAR ASSOCIATION (ABA) PROJECT ON “THE ADMINISTRATIVE LAW OF THE EUROPEAN UNION”

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(Revised on December 17, 2004)

I. Introduction

This document represents a Final Report on the design of an ABA Project on the Administrative Law of the European Union.

This Report builds upon two prior documents: (1) an initial “Design Project” document, dated September 10, 2003, and (2) a first revised “Design Project” document, dated November 29, 2003. The latter document reflected substantial changes and new detail stemming chiefly from (a) discussions at the ABA Administrative Law and Regulatory Practice Section's Fall 2003 Meeting (Nov. 7-8, 2003) in Washington DC and (b) an intensive week (Nov. 10-14, 2003) of discussions by the author in Brussels with officials of the European Commission and other European institutions, as well as with members of the Brussels bar.

Subsequent discussions in December 2003 and January 2004 with members of the project's Oversight Committee have led to still further adaptations and, above all, inclusion of a proposed budget.

The basic enterprise, however, remains the same: a large-scale study of the major aspects of the EU administrative process, culminating in a series of publications and a series of conferences. It is envisaged that the publications to emerge will parallel, albeit only very broadly, the ABA Administrative Law Section's recent set of publications on the US federal administrative process. (These consisted of a “Blackletter Statement of Federal Administrative Law,” published in 2002 in 54 Adm. L. Rev., and a series of background reports on specific administrative functions within the US system, only one of which, on Adjudication, has as yet actually been published.)

This Final Report was initially prepared to enable the Council of the Section to make a decision at the ABA winter meeting in San Antonio, Texas, in February 2004, as to whether or

not to embark on the proposed study. The Council approved the study and this document was updated in October 2004, and later revised in December 2004.

While the idea for this project, and by far the bulk of the effort thus far, has come out of the Section on Administrative Law and Regulatory Practice, it has been proposed that other Sections be invited to participate. Some sections – International Law, Environmental Law, Antitrust Law – are doing so to varying degrees and would presumably receive recognition commensurate with their contribution.

The component parts of the project design are dealt with in the sections that follow.

II. A Statement of European Union Administrative Law, with Background Reports

The most significant product of the proposed project is the above-mentioned “Statement of European Union Administrative Law” (“Statement”) and series of in-depth “Background Reports” corresponding to the Statement’s own various parts.

In this section, I deal first with the structure of both the Statement and the Background Reports, and then with their distinctive methodologies.

Structure

The Statement

The Statement would attempt to set forth the general principles and practices that govern the conduct of the EU's principal administrative functions. In order, however, to ensure that differences in the performance of those functions are duly acknowledged, reference will be made in the Statement, as appropriate, to the corresponding portions of the Background Reports. Because the Statement would represent a distillation of learning from the Background Reports, the latter will need to be produced (if not actually published) first.

The Statement will mirror, to the fullest extent feasible, the structure underlying the 2002 Blackletter Statement on US Federal Administrative Law, referred to above. Like the 2002 US Blackletter, each part of the Statement will correspond to a more or less specific administrative function or set of functions within the EU administrative law system, each part being supported by its own substantial Background Report.

The term “Blackletter” should not be used in the production of the EU law document, however, not only because the term is far from well understood in Europe, but also because European law and practice in many respects is not sufficiently settled or sufficiently uniformly applicable to justify the use of that term.

The Statement would consist of the following five parts (plus Introduction)^a:

Introduction

Part I: Adjudication

Part II: Rulemaking

Part III: The Availability and Scope of Judicial Review

Part IV: Transparency and Data Protection

Part V: Oversight of the Administrative Process

There follow a few remarks on each of these Parts.

As might be expected, the **Introduction** will offer a kind of primer on the institutions at the EU (and to the extent necessary also at the Member State) level which participate in the various EU administrative processes to be treated in these volumes. This feature was not of course necessary in the Blackletter on US administrative law. Preparation of this feature will be complicated somewhat by the current debate about the new constitution. However, the difficulties should not be insuperable.

It is suggested that **Part I** of the Statement retain, for comparability's sake, the title of "Adjudication" as found in the US Blackletter, even though that term, as such, is not employed in the EU context. (The preferred European term is simply "individual administrative decision.")

Individual decisionmaking at the EU level takes place in a wide variety of settings, with resulting variations in procedure. In order to capture the variations, the Adjudication part of the project will build upon a sample of six decisionmaking areas. In some of these areas, the decisionmaking broadly resembles what is known as quasi-judicial decisionmaking in the US, the best example being competition (antitrust) law. In other cases, the process more closely resembles what we in the US might term "informal adjudication," because conducted on a less than quasi-judicial basis. Moreover, in some instances, individual decisionmaking authority is vested, either *de jure* or *de facto*, in a specialized agency lying outside the EU's main administrative organ, the European Commission. Certain decisionmaking areas (such as trademark and pharmaceutical licensing) have been included in the project so as to ensure that such situations are likewise covered.

The "adjudicatory" matters provisionally selected for study in the project are accordingly:

- (i) competition law rulings
- (ii) state aid (subsidy) determinations
- (iii) imposition of international trade remedies
- (iv) pharmaceutical licensing
- (v) the issuance of trademarks
- (vi) specific food safety determinations

^a The US Blackletter was divided into six parts, due to its separation of availability of judicial review from scope of judicial review. It is proposed that these two subjects be combined into a single part of the Statement and a single Background Report.

A separate, relatively brief “field report” will be produced for each of these six adjudicatory areas.

Part II, captioned "Rulemaking" to reflect US parlance, deals with the adoption of general norms, be they more properly called legislative or administrative. Such norms may take the form of enactments (such as regulations and directives, or, following the usage adopted by the EU Constitution, “laws” and “framework laws,” respectively). They may either be provided for directly by the constitutive treaties of the EU, or they may merely be called for by secondary legislation and, in that sense, be thought of as “delegated” rulemaking. In some cases, norms will take distinctly “softer” form, such as guidelines, statements of best practice or other instruments emerging from what has come to be known in the EU as “open methods of coordination (OMC).”

In order to capture these differences, once again a sample of six regulatory fields has been assembled. These include:

- (i) competition rules
- (ii) telecommunications regulation
- (iii) environmental regulation
- (iv) workplace (i.e. labor and employment) regulation
- (v) financial services regulation
- (vi) food safety regulation

And once again, a separate, relatively brief “field report” will be produced for each of these six rulemaking areas.

Note that competition law and food safety appear in both the Adjudication and Rulemaking parts of the project, thus allowing a more complete understanding of administrative process in these two particular areas.

Part III, on the availability and scope of judicial review, will be more straightforwardly comparable to the US equivalent. However, there is an important qualification. By necessity, the focus will be on the EU's own courts, situated in Luxembourg (viz, the Court of Justice and the Court of First Instance).

It is true that the majority of cases raising questions of the interpretation and validity of EU decisions (whether individual or general) reach those courts, not through direct challenges brought in those fora, but rather through preliminary references arising out of actual cases or controversies in the national courts. Still, it will not be feasible in this study to enter into the particularities of litigation procedure and remedies within the courts of each of the Member States. Only an indication of their general characteristics will be included.

Part IV, on transparency, will necessarily focus on access to documents (rather than, for example, on open meetings), as that is the principal form of transparency in EU law. At the same time, the EU places exceptional emphasis on data privacy protection, to the point that the latter has been considered to be in itself a field of EU governance. It is proposed that this Part of the project deal, therefore, not only with access to official documents, but also with the measures adopted by EU law to safeguard personal privacy in the disclosure of official documents and more generally.

Part V, on oversight of the administrative process, will require perhaps the greatest adaptation of the US study's format to the EU scene. Instead of looking, as in the US, chiefly at the performance of legislative and executive oversight functions by the relevant coordinate branches of government (viz., Congress and the Executive), it will be necessary to look at oversight by a wider range of institutions at the EU level (Parliament, Council, advisory and management committees, other consultative bodies, specialized agencies, etc.). Some reference will also need to be made, however passing, to certain institutions at the Member State level, including national parliamentary oversight committees.

Compliance by Member State authorities with their obligations to implement and execute EU law is obviously an important subject and one closely related to this project. However, study of compliance at the Member State level requires examining practices as well as laws in all 25 Member States. It is simply too vast and difficult a subject to be incorporated into the present study of administrative procedure at the EU level.

The Background Reports

As mentioned, each part of the Statement will in effect have its own Background Report, to be published separately.

The Background Reports will enter into the kind of detail inappropriate for a general statement of administrative law. Like the Background Reports accompanying the US Blackletter, the Background Reports upon which the Statement will be based will provide “examples, citations, elaboration of uncertainties, predictions as to future directions, and normative judgments about how uncertainties ought to be resolved” (54 Adm. L. Rev. 11(2002))

The Background Reports for **Parts I and II** will be especially extensive, due to the fact that each will have been produced on the basis of six “field reports” in the fields that have been identified. As noted, these relatively brief field reports will detail the exercise of adjudicatory or rulemaking authority, as the case may be, in the relevant field. Depending on bulk, the field reports may either be appended to the main Background Reports on Adjudication or Rulemaking, or published separately as further background material.

In the interest of consistency, it is proposed that each of the six adjudication field studies and the six rulemaking field studies be conducted in accordance with a common set of guidelines

as to organization, coverage and presentation. This will foster coherence within the general Background Reports on Adjudication and Rulemaking.

Organization and Methods

It is recommended that the ABA name a Chief Reporter and two Assistant Chief Reporters to provide leadership to, and overall authorial responsibility for, this project. These persons will eventually themselves author the Statement (giving due recognition to the authors of and contributors to the various Background Reports as well as the field reports for adjudication and rulemaking). Presumptively, these three Reporters will be US legal academics having some combination of background and/or interest in both US administrative law and European Union law. The possibility should not be excluded, however, of naming a similarly qualified legal practitioner as one of the assistant chief reporters. It is assumed that these three individuals, calling on the aid of others, would themselves be capable of authoring a suitable **Introduction** to the Statement.

An Oversight Committee, composed of members of the participating ABA Sections, as well as a representative of the Delegation of the EU in Washington, has been giving overall guidance and advice in the design of the project, and it is proposed that it continue to perform that role.

Table 1
STEERING COMMITTEE
George Bermann CHIEF REPORTER

Charles Koch & James O'Reilly ASSISTANT CHIEF REPORTERS

Table 2

OVERSIGHT BOARD MEMBERS

1. Neil Eisner (Chair)
2. George A. Bermann (Project Leader)
3. Randy May (Section Chair)
4. Peter Berz
5. Daniel Cohen
6. Edwin L. Felter, Jr.
7. Bill Funk
8. C. Boyden Gray
9. Theodore W. Kassinger
10. Eleanor D. Kinney
11. Charles H. Koch, Jr.
12. Kathleen Kunzer
13. Abbott B. (Tad) Lipsky, Jr.
14. Lisa J. Savitt

Table 3

**FUNDRAISING COMMITTEE
MEMBERS**

1. Eleanor D. Kinney (Chair)
2. Neil Eisner
3. Bill Funk
4. Ernest Gellhorn
5. C. Boyden Gray
6. John Harwood
7. Charles H. Koch (Jr.)
8. Kathleen Kunzer
9. Renee Landers
10. Abbott B. (Tad) Lipsky (Jr.)
11. Randy May
12. James O'Reilly
13. Lisa J. Savitt
14. Richard G. Stoll
15. Ed Warren

While the Chief and Assistant Chief Reporters will in principle author the Statement, they will obviously do so in heavy reliance on each of the five Background Reports. Authorship responsibility for each of those Background Reports will lie with a team of two US Co-Reporters. Thus, the Co-Reporters for each Part of the project, while of course assisting the Chief and Assistant Reporters in producing the respective portions of the Statement, will themselves actually author the corresponding Background Report.

In order to maximize the quality and utility of the Background Reports, I recommend that, for each Part of the Statement (and therefore also for each Background Report), a team of two Co-Reporters be selected consisting of (a) a US law professor and (b) a practitioner of administrative law and regulatory practice. The US law professor should ideally (like the chief and assistant chief reporters) have some combination of background and/or interest in both administrative law and European Union law. The practitioner Co-Reporter may be either Washington- or Brussels-based, but should likewise have some combination of background and/or interest in both US and EU administrative law and practice.

The Table below shows the names of those persons who have confirmed their participation as Co-Reporters.

Table 4				
CO-REPORTERS				
PART I: ADJUDICATION	PART II: RULEMAKING	PART III: JUDICIAL REVIEW	PART IV: TRANSPARENCY AND DATA PROTECTION	PART V: OVERSIGHT
Michael Asimow	Don Elliott	Christoph Feddersen	Cynthia Farina	Fred Aman
Lisl Dunlop	Peter Strauss	Ron Levin	Sidney Shapiro	Sally Katzen
		Beth Nolan	Tom Susman	Alan Raul

A special word needs to be said about the work of the Co-Reporters for **Parts I and II**. These Co-Reporters, as noted, will be heavily dependent in their work on the contribution of the persons who will have been assembled to produce the “field reports” on the six adjudicatory and six rulemaking fields identified above. Indeed, while the Co-Reporters for **Parts I and II** will necessarily provide a framework and guidance for the conduct of these field studies, they cannot effectively author their own Background Reports on Adjudication or Rulemaking until they have received, at least in draft, the field reports for the six fields upon which they will be drawing. To

that extent, the process in **Parts I and II** of the project will operate in an essentially “bottom-up” fashion.

To this end, I recommend that for each field within **Parts I and II**, a “subteam” be assembled to prepare a relatively brief field-specific field report for eventual use by the **Part I** and **Part II** Co-Reporters. Each field sub-team will be headed by a Brussels-based practitioner practicing within that particular field. That person will assume responsibility for authoring the field report. In doing so, he or she will draw upon a small team of persons from the Commission or other European institutions, as the case may be, as “resources.” These other field team members will be counted on to furnish relevant information, advice, and materials, to review drafts of the field report (and eventually also of the overarching Adjudication or Rulemaking Background Report which will in turn have drawn upon the field report), and otherwise be of assistance to the practitioner-author of the field report in question. If so inclined, and at the invitation of the practitioner-author, they may also directly assist in drafting portions of the field report.

In some cases, the sub-team member from the Commission will be a lawyer from the Commission Legal Service; in other cases, he or she will be a lawyer or non-lawyer from the relevant unit of the competent Directorate-General of the Commission. In most cases, the team will consist of a combination of these. Where appropriate, the supporting team may also include another Brussels practitioner in the field.

Clearly, the Co-Reporters for **Parts I and II** will have a heavy coordinating and orchestrating burden, and one of the first tasks of the Chief and Assistant Chief Reporters for the project will be to advise those Co-Reporters on ways of carrying out that burden.

The Co-Reporters for **Parts III, IV and V** will have different support needs. For them, I recommend assembling an advisory team of several strategically chosen persons, which will vary from Part to Part.

Tables 5 and 6 show the overall organization (dividing US and European Advisory Groups respectively), but should be read in conjunction with Tables 7 through 11, which indicate the prospective membership of the various EU sub-teams and advisory groups.

Table 5

US ADVISORY GROUPS

PART I: ADJUDICATION	PART II: RULEMAKING	PART III: JUDICIAL REVIEW	PART IV: TRANSPARENCY AND DATA PROTECTION	PART V: OVERSIGHT
Jody Freeman (Chair)	Francesca Bignami (Chair)	David Frederick (Chair)	Dan Rodriguez (Chair)	Peter Shane (CHAIR)
Phillip Blackmon Peter M. Brody John Duffy Eleanor Fox Gregory J. Glover Philip Harter David Hull Nancy Landreville Andreas Reindl Jack Hardin Young	I. Scott Bass Janet Belkin Dominique Custos Robert B. Gordon Richard Kingham Lawrence Kogan M.J. Moltenbrey Douglas Mullen David Ostfeld	Frank Emmert Ernest Gellhorn Mark Goodin Kathleen Kunzer J. L. N. Murthy Anna Shavers James Wood	James W. Conrad Richard Field Christine Franklin Ragnar Lofvstedt Maurits Lugard Lisa Savitt Amy Worlton	Dan Cohen Sharan Lee Levine Peter Lindseth Jeffrey Lubbers Charles Marvin Frances Miller William Penniman

Table 6

EUROPEAN ADVISORY GROUPS

PART I: ADJUDICATION	PART II: RULEMAKING	PART III: JUDICIAL REVIEW	PART IV: TRANSPARENCY AND DATA PROTECTION	PART V: OVERSIGHT
SEE TABLE 7 (6 SUB-TEAMS)	SEE TABLE 8 (6 SUB-TEAMS)	SEE TABLE 9	SEE TABLE 10	SEE TABLE 11

Table 7
PART I: ADJUDICATION and the 6 SUB-TEAMS
EUROPEAN ADVISORY GROUP

Competition Law	<p>Practitioner-Authors: Ian Forrester, White & Case (Brussels) Assimakos Komninos, White & Case (Brussels)</p> <p>Advisors: Odile Beynet, Commission Legal Service Thomas Deisenhofer, Commission, DG Competition Richard Wainwright, Commission Legal Service</p>
State Aids	<p>Practitioner-Authors: Till Muller-Ibold, Cleary Gottlieb Steen & Hamilton (Brussels) Antoine Winckler, Cleary Gottlieb Steen & Hamilton (Brussels)</p> <p>Advisors: Vittorio di Bucci, Commission Legal Service</p>
Trade Remedies	<p>Practitioner-Authors: Jacques Bourgeois, Akin Gump Strauss Hauer & Feld (Brussels) Natalie McNelis, Wilmer Cutler & Pickering (Brussels)</p> <p>Advisors: Bernd Martenczuk, Commission Legal Service Tibor Scharf, Commission Legal Service</p>
Pharmaceutical Licensing	<p>Practitioner-Author: Peter Bogaert, Covington & Burling (Brussels)</p> <p>Advisors: Irene Sacristan Sanchez, Commission, DG Enterprise Bruno Stromsky, Commission Legal Service</p>
Trademarks	<p>Practitioner-Authors: Rosane Stas de Richelle, Bird & Bird (Brussels) Bruno Vandermulen, Bird & Bird (Brussels)</p> <p>Advisors: Giuseppe Bertoli, Office for Harmonization in the Internal Market (Trade Marks and Designs) Niels Bertil Rasmussen, Commission Legal Service Susana Perez Ferreras, Commission, DG Internal Market</p>
Food Safety	<p>Practitioner-Author: Ursula Schliessner, McKenna Long & Aldridge (Brussels)</p> <p>Advisors: Patrick Deboyser, Commission, DG Health/Consumer Protection Marie-José Jonczy, Commission Legal Service Michael Shotter, Commission Legal Service</p>

Table 8

**PART II: RULEMAKING and the 6 SUB-TEAMS
EUROPEAN ADVISORY GROUP**

Competition Law	Practitioner-Author: Annette Schild, Shearman & Sterling (Brussels) Advisors: Odile Beynet, Commission Legal Service Lars Kjolbye, Commission, DG Competition Richard Wainwright, Commission Legal Service
Telecommunications Regulation	Practitioner-Author: Bernard Amory, Jones Day (Brussels) Advisors: Bernd Langeheine, Commission, DG Information Society Peter Scott, Commission, DG Information Society Michael Shotter, Commission Legal Service
Environmental Regulation	Practitioner-Author: Lucas Bergkamp, Hunton & Williams (Brussels) Advisors: Stephanos Ampatzis, Commission, DG Environment George Kremlis, Commission, DG Environment Ulrich Wolker, Commission Legal Service
Workplace (labor and employment) Regulation	Practitioner-Author: Pierre Kirch, Paul Hastings Janofsky & Walker LLP (Brussels) Advisors: Bernhard Jansen, Commission, DG Employment/Social Affairs Marie-José Jonczy, Commission Legal Service
Financial Services Regulation	Practitioner-Author: Christopher Bates, Clifford Chance (London) Advisors: Patrick Pearson, Commission, DG Internal Market Georges Zavvos, Commission Legal Service
Food Safety	Practitioner-Author: Ursula Schliessner, McKenna Long & Aldridge (Brussels) Advisors: Patrick Deboyser, Commission, DG Health/Consumer Protection Marie-José Jonczy, Commission Legal Service Michael Shotter, Commission Legal Service

Table 9

**PART III: AVAILABILITY AND SCOPE OF
JUDICIAL REVIEW
EUROPEAN ADVISORY GROUP**

1. Xavier Lewis, Commission Legal Service
2. Kurt Riechenberg, European Court of Justice
3. John Temple Lang, Cleary Gottlieb Steen & Hamilton (Brussels)
4. Jacques Ziller, European University Institute (Florence)

Table 10

**PART IV: TRANSPARENCY AND DATA
PRIVACY PROTECTION
EUROPEAN ADVISORY GROUP**

1. Pekka Aalto, Commission Legal Service
2. Martin Bauer, Council Legal Service
3. Paul Craig, Oxford University
4. Christopher Docksey, Commission Legal Service
5. Frederic Louis, Wilmer Cutler & Pickering (Brussels)
6. Kurt Riechenberg, European Court of Justice

Table 11

**PART V: OVERSIGHT OF THE ADMINISTRATIVE
PROCESS
EUROPEAN ADVISORY GROUP**

1. Kieran Bradley, Parliament Legal Service
2. Paul Craig, Oxford University (UK)
3. Ranier Lau, Commission Secretariat
4. Giorgio Maganza, Council Legal Service
5. Jean-Francis Pasquier, Commission Legal Service
6. Lars Mitek Pedersen, Commission Secretariat
7. Jean-Claude Piris, Council Legal Service
8. Yves van Gerven, Wilmer Cutler & Pickering (Brussels)

Role of the Commission

Special consideration has been given to the role that the Commission (and to a much lesser extent other EU institutions) would properly play in the conduct of this project. On the one hand, the Commission is perhaps the single greatest source of information and insight as to the procedural issues that are the subject of this study. And yet, the perception of objectivity that is desirable in such a study might be compromised if Commission officials were to play a leading authorial role. (Even if that were not the case, it would be inappropriate, from the Commission's perspective, for its limited resources to be deployed in this way.) Moreover, to the extent that the prospective audience consists predominantly of US practitioners and academics, authorship by persons schooled in the terminology and practice of US administrative law is probably desirable.

For all these reasons, it is envisaged that Commission officials, whether situated in the Legal Service or in units of the Directorates-General, will perform largely supportive rather than authorial roles. This does not, however, render their assistance any the less crucial and invaluable.

Even as “resources” rather than authors, Commission and other EU officials will likely need permission of their superiors before furnishing certain documents or information. There should also be no objection whatsoever to higher Commission officers reviewing drafts of field reports or Background Reports to which Commission and other EU officials may have contributed in one way or another. This is a small price to pay for the cooperation that Commission and other EU personnel are showing, and it will enhance the completeness and accuracy of what is reported, without however impairing the project's independence and objectivity.

Publication

Both the Statement and the five Background Reports should be published, in principle separately, but to the extent feasible also in a cross-referencing fashion. The Statement will in all likelihood be a relatively short product, but the Background Reports will be lengthy and should form separate book-length volumes. (In addition, the field reports for Adjudication and Rulemaking warrant publication, but I leave for now over the question whether that is best done via appendices to the relevant Background Report or as separately published documents.) Given its subject, I do not recommend that the Statement be published exclusively, as was the US Blackletter Statement, in the Administrative Law Review.

Duration and Timeline

Completion of the project, including production of the Statement and Background Reports, will require, from the very beginning to the very end, a minimum of two years. I anticipate milestones along the following lines:

Table 12

TIMELINE

DATE	ACTION
February 2004	Approval of project by ABA.
February-March 2004	Recruitment by ABA of Chief Reporter and Assistant Chief Reporters.
April-May 2004	Chief and Assistant Chief Reporters recruit Co-Reporters for project parts, as well as members of the field “sub-teams” for adjudication and rulemaking and members of the EU and US advisory groups.
June 2004	Chief Reporter and Assistant Chief Reporters prepare bibliography and research guidelines for Co-Reporters.
July-August 2004	Co-Reporters draft research agenda for respective sub-teams and advisory groups; Co-Reporters for Parts I and II specifically prepare joint model for Adjudication and Rulemaking “field reports.”
September 2004	Co-Reporters visit Brussels. Co-Reporters for Parts I and II meet with the Brussels practitioners responsible for field reports (as well as, to the extent possible, with other sub-team members); Co-Reporters for Parts III, IV and V meet with members of respective advisory groups.
September – December 2004	Co-Reporters for Parts III, IV and V conduct research and consultation in preparation of draft Background Reports.
September – December 2004	Brussels practitioners responsible for adjudicatory and rulemaking “field reports” conduct research and consultation, drawing upon other field sub-team members.
January 2005	Co-Reporters for Parts III, IV and V submit first draft of Background Reports to Chief and Assistant Chief Reporters, as well as to the respective US advisory group.
January 2005	Brussels practitioners submit first draft of field reports to Co-Reporters for Parts I and II .
February-March 2005	Chief and Assistant Chief Reporters review and comment on first draft of Background Reports for Parts III, IV and V , taking into account comments of the respective US advisory group.
February-March 2005	Co-Reporters for Parts I and II review and comment on first draft of field reports by Brussels practitioners
April-May 2005	Co-Reporters for Parts III, IV and V revise Background Reports (in light of comments by Chief and Assistant Chief Reporters and by the respective US advisory group) and resubmit them to Chief and Assistant Chief Reporters.
April-May 2005	Brussels practitioners revise field reports, and in consultation

	with other sub-team members, resubmit field reports to Co-Reporters for Parts I and II .
June-July 2005	Chief and Assistant Chief Reporters produce first drafts of Parts III, IV and V of Statement of EU Administrative Law.
June-July 2005	Co-Reporters for Parts I and II prepare first draft of Adjudication and Rulemaking Background Reports and submit them to Chief and Assistant Chief Reporters, as well as to the respective US advisory group.
August 2005	Chief and Assistant Chief Reporters review and comment on first draft of Background Reports for Parts I and II , taking into account comments of the respective US advisory groups; Chief and Assistant Chief Reporters also revise drafts of Parts III, IV and V of Statement of EU Administrative Law, as needed.
September 2005	Co-Reporters for Parts I and II revise Background Reports (in light of comments by Chief and Assistant Chief Reporters and by the respective US advisory group) and resubmit them to Chief and Assistant Chief Reporters.
October 2005	Chief and Assistant Chief Reporters produce first drafts of Parts I and II of Statement of EU Administrative Law.
November 2005	First conference/symposium for exchange of views and discussion of preliminary conclusions (<i>see below</i>); Chief and Assistant Chief Reporters revise drafts of all Parts of Statement of EU Administrative Law, as needed.
December 2005	Opportunity for all participants to review and comment on all Parts of Statement of EU Administrative Law.
January 2006	Chief and Assistant Chief Reporters prepare manuscript of Statement of EU Administrative Law for publication.
December 2005 - January 2006	Co-Reporters for Parts III, IV and V prepare Background Reports for final publication.
December 2005 - January 2006	Co-Reporters for Parts I and II prepare Background Reports for final publication.
March 2006	Second conference/symposium on administrative procedure reform based upon the US and EU studies (<i>see below</i>).
March-June 2006	Publication of Statement of EU Administrative Law and of all five Background Reports (including field reports on Adjudication and Rulemaking)
June 2006	Third conference/symposium on implications of the studies for transatlantic regulatory cooperation and conflict. (<i>see below</i>).

II. Conferences/Symposia

As noted, I recommend holding, in conjunction with the project, several transatlantic conferences or symposia. These include:

- a conference scheduled toward the end of the period of the project (Nov. 2005) for an exchange of views and for discussion of preliminary conclusions
- a subsequent conference (Mar. 2006) on administrative procedure reform, based upon the US and EU studies
- a still later conference (June 2006) on implications of the studies for transatlantic regulatory cooperation and conflict

The latter two conferences/symposia are consistent with the idea underlying the US Blackletter study that the essentially *descriptive* undertakings (i.e. the Blackletter and Statement) and *analytic* undertakings (i.e. Background Reports) should be followed by a *third prescriptive* project phase.