

White Paper on Governance
Work area 3
Improving the exercise of executive responsibilities

**REPORT BY THE WORKING GROUP
“ESTABLISHING A FRAMEWORK FOR
DECISION-MAKING REGULATORY AGENCIES”
(Group 3a)**

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WHITE PAPER ON GOVERNANCE
Report by Working Group 3a:

“Establishing a framework for decision-making regulatory agencies”

SUMMARY

This report relates mainly to agencies whose mission corresponds to Community regulatory tasks which we will therefore call “regulatory agencies”, with particular reference to regulatory agencies with decision-making powers responsible for implementing rules and regulations.

The central thesis is on the one hand to recognise that it is pertinent to have recourse to autonomous European agencies as an additional means for the Community system to take action, and on the other hand to stress that it is appropriate under certain conditions to vest them with decision-making powers commensurate with their responsibilities. Recourse to agencies under the conditions envisaged by this report would clearly signify a reinforcing of the capacity of the European executive as a whole (Commission - Member States - agencies) to fulfil its missions.

Recourse to independent government agencies is nothing new. Experience at the national level highlights three main reasons for entrusting the performance of certain tasks to autonomous agencies: the need in some fields to mobilise special expertise, the need to ensure the credibility of public action, and the desire for a visibility that allows a particular issue to be associated with a precise public agent.

At the European level, the Community regulatory model, based in most cases on supranational harmonisation for drafting and decentralisation to national level for implementing the regulations, is affected by changes stemming from the degree of integration achieved by the single market. The result of the various crises that have arisen within the Community system (“mad cow” disease, dioxin, the Erika shipwreck, etc.) is both that the public in Europe mistrust the action of traditional national or European institutions, and at the same time, they have become aware of the need for Europe to play a greater part and for better identification of Community action to guarantee the objectives of European integration.

Extension of the range of instruments available to the Community system, in particular recourse to agencies, can be a way towards better management of the European regulatory area. The choice of such an option will be based on an analysis in three stages: 1) confirming that the pre-existing Community regulatory system embodies certain inadequacies; 2) verifying the added value of recourse to an agency, in terms of technical expertise, credibility and visibility, compared with other alternatives; 3) where necessary, ensuring that decision-making power can be delegated to or conferred upon the agency.

Under these conditions the networking or “Europeanisation” of the national regulators within an autonomous European agency becomes a serious option when administrative decentralisation of the implementation of European regulations brings inadequacies that

weaken the legitimacy of the system. As regards the conferral of decision-making powers, regulatory agencies that aim to “Europeanise” cooperation between national regulators could within the existing institutional framework exercise the power to adopt one-off acts for the application of secondary legislation rules to particular cases provided this does not involve a wide appraisal margin with political implications. In other words, the individual decisions must be in a field where they are encompassed by a clearly defined objective.

The present report also explores the shape of a common constitutive framework organising both the autonomy and the control of the European agencies. This framework would call into play a number of basic principles which must govern the creation and conception of any European regulatory agency: specialisation of the agency’s mandate, judicial and administrative autonomy, transparency and fairness in its operation and adoption of acts, limited size of the supervisory body, parity for the executives (Commission, Member States) and representation of stakeholders on the supervisory body but without voting rights.

As regards the agency’s organisation, it would include the following offices or bodies: the agency would be managed by a Director with responsibility for the regulatory decisions that stem from the agency’s mandate; the Director would be appointed on a proposal from the Commission, and dismissed by a restricted supervisory board consisting of representatives of the European and national executives (Commission and Member States), and stakeholders without voting rights. The supervisory board would approve the programmes and the annual activity reports. The agency’s regulatory acts would be scrutinised by one or more advisory committee(s). The members of the advisory committee(s) would be appointed by the supervisory board by open invitation. The Director could be assisted by a restricted executive board in adopting certain sensitive decisions. Agencies with decision-making powers would also have a board of appeal consisting of members external to the agency, whose role would be to investigate the complaints of third parties concerned and to rule, in the first instance, on revision of the agency’s decisions before legal action.

Finally, a corollary of the proposal for greater Commission participation on the supervisory board of agencies is the need to develop within the Commission the capacity to play that role in full. There is accordingly a real need for the agencies to be steered and monitored. To do this there must be the appropriate infrastructure, which must necessarily include a decentralised level (for supervisory and horizontal directorates-general) and a central level responsible for ensuring uniformity of action. This infrastructure could take the form of a permanent interdepartmental network, consisting of the DGs supervising the agencies, the DG for Personnel and Administration, the DG for the Budget and Financial Control, and supported by a central structure based in the Secretariat-General.

Among the report’s recommendations, the proposal to draw up a framework regulation for European regulatory agencies grounded on the basic principles proposed in this report should be stressed.

INTRODUCTION

1. Operating a vast single market that requires cooperation between European institutions and national administrations, responding to increasing demands from the public for a better quality of life and greater protection against increasingly complex risks, or mobilising the expertise available in the Member States to help it serve the European interest in general: these are all examples of challenges facing the European project. Nowadays, the legitimacy of the Community system in the eyes of Europe's citizens is largely governed by whether or not it can provide solutions for these questions.
2. Extension of the range of instruments available to the Community system to respond to these challenges could be a means of achieving better management of the tension between efficacy and legitimacy, a prime factor in European governance, under conditions that are satisfactory from the standpoint of democratic accountability.
3. The Member States and other industrialised countries have long recognised this need to adapt the methods of state intervention to changing problems. In some cases the method used to respond to these needs has been recourse to so-termed "independent" agencies, which are autonomous relative to the central administration. Very often, the circumstances that have led those countries to create agencies are similar to the difficulties encountered by the Community system (lack of expertise, insufficient visibility of public action, etc.).
4. The Community has not held back from the creation of agencies. Although the dominant doctrine so far has been marked by a certain institutional prudence concerning the creation of autonomous European agencies, the Commission has nevertheless set up twelve agencies and proposed the creation of three new ones in this category. Besides, the Commission has just proposed a framework regulation for the establishment of "executive" agencies for the management of Community programmes, placed entirely under its control (cf. § 13-14).
5. The question of whether or not European agencies can be invested with decision-making powers had in the past generally been answered negatively, as for example in the case of the European Agency for the Evaluation of Medicinal Products. The issue of the decision-making capacity of agencies is inescapably part of any reflection on European governance because it determines both the efficacy and the responsibility of those involved. Or, more specifically, decisions must be taken where there is a real capacity to appreciate the various parameters involved, ensuring at the same time that effective democratic control of those decisions is possible.

The central thesis of this report is on the one hand to recognise that it is pertinent to have recourse in certain cases to autonomous European agencies as an additional means for the Community system to take action, and on the other hand to stress that under certain

conditions it is appropriate to invest them with decision-making powers commensurate with their responsibilities.

Recourse to agencies under the conditions envisaged by this report would clearly signify a reinforcement of the capacity of the European executive as a whole (Commission/Member States/agencies) to fulfil its mission.

Box No 1

[**Translator's Note:** The original contains no paragraph numbered 6.]

7. This report therefore focuses on determining when the creation of an autonomous agency with or without decision-making powers would be judicious and establishing the functional and control conditions required to ensure its efficacy while preserving the prerogatives of the Community institutions. Its proposals would lead to an extension of the options for action by agencies within the current institutional framework.

PART I: THE EUROPEAN REGULATORY AGENCIES: WHEN, AND TO DO WHAT?

I.1 DELIMITATION OF THE TYPE OF AGENCIES STUDIED

8. One of the characteristics of existing or planned agencies is the absence of a reference framework to which each agency would adjust according to its own needs: mandate, method of operation and means of control. For each of them, the decision to create them is motivated by the need to respond to the particular circumstances of the moment. In certain cases the occurrence of a crisis that has aroused public sensitivity is the basis of the decision to create the agency. This piecemeal approach makes it extremely difficult to define a clear typology for the classification of each agency in a homogeneous category. The vocabulary used to describe the agencies does not conform to common and accepted criteria, and can lead to confusion, for example when the term "office" is used. The result is a variable geometry typology depending on the criterion used to classify the agencies.
9. As regards the actual definition of the term agency, the Community legal system does not include a legislative definition of the concept "Community agency". A conceptualisation proposal was recently tabled by the Commission's Legal Service,¹ according to which the concept of Community agency relates to decentralised bodies having the following characteristics: creation by regulation, legal personality, autonomous management bodies, financial independence, staff covered by the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities, defined missions and tasks.
10. In the context of the White Paper on European governance the initial question addressed to the group was to examine recourse to agencies as a way, among others,

¹ SEC(01)340.

to allow the Community system to “improve the exercise of its responsibilities”. The criterion to be applied for classifying agencies was therefore that of the type of responsibilities entrusted to the agency, the word “responsibility” covering two dimensions: the type of task(s) assigned and the nature of the powers conferred to enable its/their accomplishment. In other words, the typology of the agencies which is relevant from the standpoint of the group’s mandate is a double-entry matrix typology, “type of task/nature of powers”.

Agency	Location	Date created/ proposed	Type of task	Decision- making power ?
European Centre for the Development of Vocational Training (CEDEFOP)	Thessaloniki	1975	Information	No
European Foundation for the Improvement of Living and Working Conditions	Dublin	1975	Information	No
European Environment Agency	Copenhagen	1990	Information	No
European Training Foundation	Turin	1990	Information, management	No
European Monitoring Centre for Drugs and Drug Addiction	Lisbon	1993	Information	No
European Agency for the Evaluation of Medicinal Products	London	1993	Regulation	No
Office for Harmonisation in the Internal Market	Alicante	1993	Regulation	Yes
European Agency for Safety and Health at Work	Bilbao	1994	Information	No
Community Plant Variety Office	Angers	1994	Regulation	Yes
Translation Centre for the Bodies of the European Union	Luxembourg	1994	Administrative support	No
European Monitoring Centre on Racism and Xenophobia	Vienna	1997	Information	No
European Agency for the Reconstruction of Kosovo	Thessaloniki	1999	Management	Yes
European Aviation Safety Agency (<i>proposal</i>)	--	27.9.2000	Regulation	Yes
European Food Authority (<i>proposal</i>)	--	8.11.2000	Regulation	No
European Maritime Safety Agency (<i>proposal</i>)	--	6.12.2000	Regulation	No
Executive agencies for the management of Community programmes (<i>proposal for a framework regulation</i>)	--	13.12.2000	Management	Yes

Table No 1

11. The agencies for which the governance problem occurs in a more acute form are clearly the *regulatory agencies*, in particular the issue of their decision-making power. The term “regulatory” refers here to all the tasks that contribute towards regulation of the economic and social area: preparation and adoption of the regulatory framework, preparation and adoption of legislative acts for implementing the regulatory framework; monitoring implementation of the regulatory and legislative framework.
12. The other agencies, however, serve to provide examples concerning *modus operandi*, management bodies, forms of control, etc. In that context some of them were analysed by the group.

*This report relates mainly to agencies whose mission corresponds to Community regulatory tasks which we will therefore call “regulatory agencies”, with particular reference to **regulatory agencies with decision-making powers** responsible for implementing rules and regulations.*

Box No 2

13. It should be remembered that when this working group was set up in November 2000, another working group created in the context of Commission administrative reform and chaired by Mr Mingasson, Director-General for the Budget, was presenting its conclusions on the delegation to autonomous administrative agencies known in fact as *executive agencies* of budgetary implementation tasks related to the implementation of Community programmes. A proposal for a framework regulation establishing the powers of these agencies and their operation methods and relations with the Commission accompanied the report and was forwarded to the Council at the beginning of 2001 for decision.²
14. These proposed *executive agencies* are administrative entities in public law with a legal personality in their own right. They enjoy wider autonomy than *offices*, which have no legal personality of their own and are allied to services of the Commission (for example, the Humanitarian Aid Office, the Cooperation Office or the Publications Office). That said, they are still bodies closely linked with the Commission, which pursuant to the framework regulation appoints the director of the agency and the five members of its steering committee.

I.2 NEED FOR NEW GOVERNANCE OF THE REGULATORY PROCESS

15. Nowadays regulation of the economic and social area presents a series of difficulties inherent in the complexity of socio-economic phenomena, the acceleration of scientific and technological development and the growth of international interdependence. The high collective stakes attaching to these challenges demand

² COM (2000) 788.

continuity of public action which is not always achieved because of short-term electoral constraints, thereby deepening the distrust of governments and the insecurity of the business world.

16. At the national level, the problem of the need for specialised technical *expertise* in certain fields is encountered more and more frequently. It does not arise only in terms of whether or not specific competences are available within the administration. The difficulty of mobilising existing expertise is accentuated by the fact that the professional and statutory framework of the central administrations is ill-suited to the methods of cooperation involved in the sharing of knowledge between experts. The fruitful mobilisation of all the knowledge relevant to public decision-making requires a relational context between peers that can minimise bureaucratic or political bias during the deliberations. Such a framework is hard to find within a central public administration. This is why the task of preparing and where appropriate adopting decisions in these fields is entrusted more and more often to autonomous agencies which offer on the one hand a professional framework adapted to the career development of scientific or technical experts, and on the other hand scope for exchange between peers that favours the fluid circulation of information. This relative advantage enjoyed by agencies has been clearly perceived, for example, in the case of the Agency for the Evaluation of Medicinal Products in London.
17. The need to guarantee the independence of public action and continuity in the pursuit of long-term objectives has also been felt at the national level. The best example of the delegation of responsibility to an agent independent of the government for reasons of continuity is that of the central banks. The exercise of monetary power has led most countries to make their central banks independent so as to protect a public asset such as currency from the partisan and electoral interests of governments. Credibility at international level is also a major factor. This applies, for example, in the creation of national regulators independent of the government offering foreign operators better guarantees of impartiality and non-favouritism in relation to national operators.
18. The desire for *visibility* of public action, which is a reason frequently put forward for the creation of agencies, is entirely understandable at a time when public demand for more direct and identifiable *accountability* of public decision-makers is becoming more and more insistent. It is also an element of transparency enabling business operators or the public to identify more easily who within the machinery of state is fulfilling a given responsibility.

*Experience at the national level highlights three main reasons for entrusting the performance of certain tasks to autonomous agencies: the need in some fields to mobilise special **expertise**, the need to ensure the **credibility** of public action, and the wish for **visibility** that enables a particular issue to be associated with a precise public agent.*

**I.3 MORE EUROPE, LESS CENTRALISATION:
THE EUROPEANISATION OF THE NATIONAL REGULATORS**

19. The Community system encounters the same difficulties described earlier in connection with national experiences, indeed sometimes more acutely. Its regulatory system suffers additional operational difficulties due to the ways in which responsibilities are executed. In effect, when the implementation of regulations is based on administrative decentralisation at the level of the Member States, as is often the case, certain recurrent phenomena become apparent: unequal transposition of directives, variable monitoring of their implementation, different regulatory cultures, failure to respect the principle of mutual recognition due to lack of trust between partners, variable certification procedures, different inspection procedures, difficulties in the coordination of crisis management, etc.
20. These phenomena can result in poor functioning of the system, as has been seen in recent years because of a succession of crises resulting in a loss of confidence on the part of consumers in Europe or threats to the environment. In these cases the agents of the Community system, in particular the Commission and the Member States responsible for directly implementing the regulations and guaranteeing a high level of health and environment protection, proved incapable of realising these objectives as and when required.

The result of the various crises that have occurred within the Community system is both mistrust by Europeans of action by the traditional national or European institutions and, at the same time, increased awareness of the need for more Europe and for clearer identification of Community action to guarantee the objectives of European integration.

Box No 4

21. The functional difficulties described above resulting from the fact that administrative decentralisation is the *modus operandi* for European regulation are at the roots of the demand for more Europe. At the same time, public perception of Community bureaucracy makes it politically difficult to exercise the option of increasing Community resources to enable it to carry out directly tasks that are at present decentralised to the national level.
22. In addition, the European regulatory model, based as it is on the one hand on harmonisation of the national regulatory frameworks at the Community level, and on the other hand on administrative decentralisation to Member State level when it comes to specific implementation, also has its *raison d'être*. One of its main advantages is that of ensuring that the extension of the Community's competences in step with the deepening of European integration is not a zero-sum game, with losers and winners, since every extension of the Community framework brings with it an improvement of the tasks of the national administrations.

23. On the other hand, the harmonisation role reserved for the supranational level conforms with the administrative model that gave rise to the Commission, which was conceived as a “task-oriented administration” whose prime task “is not to do, but rather, to cause to be done” in the words of Jean Monnet. Consequently, to envisage “more Europe” in terms of a reinforcement of the European executive, even assuming that this were accepted by the budgetary authority, would amount to abandoning one of the founding principles of the Community interinstitutional system and transforming the Commission's conceptual, initiatory role into that of administrative and technical manager.
24. The experience of European agencies such as the Medicinal Products Agency or the Trade Mark Office, among others, has proved entirely positive from the standpoint of eliminating the barriers created by administrative decentralisation. Of course, not everything is perfect, but the negative aspects are generally associated with functional difficulties that result from an inadequate definition of their mandate and/or inappropriate conditions of autonomy and control.
25. The reasons for success tie in with the advantages expected from the networking of national regulators within a specialised agency: more trusting relations between the national and European levels; credibility of the agency, on the one hand because of its specialisation as compared with a generalist institution like the Commission, and on the other hand because its interventions are more consistent thanks to more effective protection against political interference; visibility of the agency compared with intergovernmental committees.

*The networking or “**Europeanisation**” of the national regulators within an autonomous European agency is the route to be preferred when administrative decentralisation of the implementation of European regulations causes failings that weaken the legitimacy of the system.*

Box No 5

I.4 THE EUROPEAN REGULATORY AGENCIES AND THE COMMUNITY'S INSTITUTIONAL SYSTEM

26. The judicial and institutional prudence with which the creation of European agencies has been approached until now, and in particular the attribution or delegation to those agencies of discretionary regulatory powers, results from the institutional system as interpreted by the Court of Justice (*Meroni* 13 June 1958, *Romano* 14 May 1981), according to which: 1) the legislator cannot empower third bodies to adopt legislative acts; 2) the Commission cannot delegate to third entities the decision-making power conferred upon it by the Treaty or by the legislator unless such delegation is limited to implementing powers which are precisely defined and can be rigorously monitored.

27. There are precedents for the power to implement Community regulations being conferred upon agencies. The powers in question are ones for which the decision is based on specific verification of the fact that the request received satisfies the precise provisions of the regulations (power to accord protection to Community trade marks granted to the Office for Harmonisation in the Internal Market, power to accord protection to new varieties of plants granted to the Community Plant Variety Office). The proposal to create an agency for aviation safety also involves the delegation of decision-making power (the power to issue standard certificates concerning products and equipment).
28. Furthermore, the proposal for a framework regulation on executive agencies provides for the delegation to such agencies of the power to adopt acts implementing the Community budget. They would carry out that function under specific supervision conditions ensuring effective monitoring by the Commission, which is responsible for budget implementation pursuant to Article 274 of the Treaty.
29. On the other hand, in compliance with the above rulings, this decision-making power has not been conferred for example on the European Agency for the Evaluation of Medicinal Products (EMEA), which prepares opinions concerning product marketing authorisations; the decision itself is taken by the Commission on the basis of the Agency's opinion. It should be noted that so far the Commission, assisted by a committee of representatives from the Member States, has systematically endorsed the numerous scientific opinions of that Agency, issued within strict time limits (less than 8 months). This has led industrialists and patients to call into question the formal time limits of the "comitology" phase in the post-evaluation decision-making process (around 3 months), when the EMEA opinion has already been published and accepted *de facto*.
30. In brief, and having regard to recent developments, it is necessary to clarify which powers can be conferred upon or delegated to European agencies, and under what conditions.
31. First of all, in specific cases when a Community policy has fundamental importance for the integrity of the Union, the Treaties confer the relevant decision-making competences directly on the Commission. The main example of this is monitoring the application of the rules of competition. It is obvious that in such cases, within the spirit of the Treaties, the decision-making power cannot be delegated to an agency.
32. Besides, the conferment of competences for implementing legislation concerning the various Community policies is generally decided by the legislator, pursuant to Article 202 of the Treaty, in the basic acts implementing these policies. In effect, in the Community legal order there are two levels of legislative activity: measures stemming direct from the Treaty (first-level secondary legislation) and measures intended to implement first-level secondary legislation (second-level secondary

- legislation). In such cases, what is the extent of the power that can be delegated to regulatory agencies?
33. Before answering that question, it should be pointed out that second-level secondary legislation may include the formulation of rules for implementing legislation as well as the adoption of one-off acts applying rules to specific cases. It is clear that the current institutional system does not allow delegation either of the power to adopt first-level acts or of the power to formulate rules for implementing legislation. At most, the experience gained by agencies qualifies them to offer guidance to the Community legislator or to codify recommended practices for implementing this legislation (guidelines for the attention of business operators). However, as regards the power to adopt one-off acts applying the rules of secondary legislation to specific cases, this could be conferred on or delegated to agencies provided it involves a margin of technical appraisal related to precise objectives and not a broad margin of appraisal in a complex economic field or a decision with political implications.
 34. That said, how is one to distinguish a decision involving a margin of technical appraisal and a decision with broad margin of appraisal in a complex economic field or with political implications? First of all, if the *party to whom the individual decision is addressed* is a Member State (including regional or local administrative bodies in their capacity as public authorities), the decision is a politically sensitive one which it is difficult to delegate to an agency. Then, a *specialised technical field* must be involved, in other words the individual decision must fall within a field in which it is covered by a clearly-defined objective (for example, trade mark law, protection of the environment against specific risks, or the proper functioning and development of aviation safety); in other cases the weighing-up of decisions covered by several higher objectives implies a large margin of appraisal, with political implications or involving complex economic assessment, and this precludes the granting of pertinent decision-making powers to an agency.
 35. It may be noted that in the case of agencies designed to *Europeanise* national regulators, the situation will generally involve a margin of technical appraisal. In fact, where national regulators are concerned, the chances are that the parties to whom the decisions are addressed are operators acting in a private capacity within the sector regulated. On the other hand, if the regulators themselves are vested with the power to adopt individual decisions, their field of application will very probably be specialised with limited external relevance.

As a general rule, regulatory agencies designed to “Europeanise” cooperation between existing national regulators could, within the existing institutional framework, exercise the power to adopt one-off acts applying the rules of secondary legislation to particular cases provided this does not involve a broad margin of appraisal in a complex economic field or a decision with political implications.

I.5 CRITERIA FOR RECOURSE TO EUROPEAN REGULATORY AGENCIES

36. The preceding sections allow us to establish and systematise the conditions under which recourse to European regulatory agencies turns out to be an appropriate solution.

*The analytical process to be followed involves **three stages**: 1) confirming that the pre-existing Community regulatory system embodies certain deficiencies; 2) verifying the added value of recourse to an agency, in terms of technical expertise, credibility and visibility, compared with other alternatives; 3) where necessary, ensuring that decision-making power can be delegated to or conferred upon the agency.*

Box No 7

37. The deficiencies of the Community regulatory system may be, *inter alia*:
- heterogeneity in the implementation of European rules and regulations;
 - lack of technical expertise for the implementation and/or preparation of Community rules and regulations;
 - insufficient capacity for the control and monitoring of the application of Community regulations;
 - the absence of mutual trust between national partners;
 - insufficient risk prevention and management capacity.
38. In the face of one of the above problems, various approaches may provide solutions: reinforcing the Commission's operational resources, increasing the precision and binding effect of Community rules and regulations, reorganising the distribution of competences between the supranational and national, or even infra-national levels, or creating a European agency. This latter solution is preferable to the other alternatives if it offers clear added value in terms of:
- credibility in terms of the independence and long-term coherence of decision-making;
 - capacity to mobilise special expertise available at national level, and in particular to combine sufficiently attractive conditions;
 - visibility of Community action, especially at the national and international level.

Clearly, the cost-effectiveness of the solution consisting in the creation of an agency must be reasonable and convincingly argued.

39. Bearing in mind the restrictive institutional conditions regarding the delegation of decision-making powers to an agency, checks must be carried out to ensure that they are satisfied, namely:
 - the party to whom the individual decision is addressed is not a Member State or a regional or local body in its capacity as a public authority;
 - the sector of application is a specialised field and the agency's mandate is targeted on the implementation of a clearly defined and structured objective.
40. Besides the above criteria, the definitive choice will inevitably be determined by the dominant vision of the aims of the Union in general and the Commission's role in particular. If the Commission's role continues to be perceived as that of a "task-oriented administration", the driving force for European integration and guardian of the Treaty, the agency route will be favoured in a manner that refocuses the Commission on that function and does not dilute its competences or take up its energy with technical regulatory tasks.
41. Once the option to create a European regulatory agency has been decided on, care must be taken to create operating and monitoring conditions that minimise certain potential risks. That issue is addressed in the next section.

PART II: CONDITIONS FOR EFFECTIVE AUTONOMY AND CONTROL

II.1 PRESENT SITUATION

42. To realise the objectives of credibility and visibility, agencies must enjoy broad and real autonomy of action. At the same time, as agents in the public domain they must be subject to effective democratic control. The balance between autonomy and control is therefore the Gordian knot of good agency governance.
43. Experience in countries that have had recourse to agencies for decades, or even for a century as in the United States, shows that it is far from easy to achieve this delicate balance between autonomy and control. It is not enough to design appropriate bodies, instruments and mechanisms; it is also necessary for the institutional players and civil society to develop a common vision and understanding of the role of agencies in the executive system. A prolonged collective learning process is needed to arrive at this situation (see excellent description by Professor Giandomenico Majone³): the agency is under control precisely when it is not under the control of a particular entity, but is at the centre of a constellation of multiple and conflicting interests that lead it to pursue the objectives laid down in its mandate efficiently and exclusively.

*The Community is far from sharing a common vision of the place of agencies in the Community system. The approach pursued so far regards European agencies as a **tolerated anomaly** instead of recognising their role in the consolidation and management of a complex internal market.*

*In the **absence of a common constitutive framework** integrating the European agencies into the Community machinery, governance of the agencies themselves is not ensured in optimum fashion, as has been shown by experience over the past few years.*

Box No 8

44. For example, the administrative boards of agencies have been designed on the principle of over-proportional representation of the Member States, which will be accentuated after enlargement. Experience shows that boards of 48 members, as is the case with Cedefop, the European Foundation for the Improvement of Living and Working Conditions and the European Agency for Safety and Health at Work, or some thirty members as will be the case for most agencies after enlargement, cannot materially satisfy their function as a supervisory body in a way that is effective.
45. The fact that all the Member States are represented on the management boards motivates their representatives to act generally as defenders of their national interests. On the other hand, the minority role reserved for the Commission, sometimes even without voting rights as in the case of the Office for Harmonisation in the Internal Market or the Community Plant Variety Office, does not allow the agencies to make the most of their potential as instruments intended to contribute to the better operation of the European regulatory area.

³ *Regulating Europe*, Routledge, London 1994.

46. Furthermore, insufficient thought about the place of European agencies in the Community executive has prevented the emergence of a clear approach regarding the means of democratic control to be provided. For example, in the case of most so-called second-generation agencies or those recently proposed by the Commission, this has led to a confusion of types between the executive and the legislature, with the presence of representatives from Parliament on management boards. Budgetary control by Parliament as discharging authority was proposed without prior thought and without real consultation of the agencies concerned. This control now operates in a way that is unsatisfactory for both sides and using limited instruments such as a code of good conduct.
47. Examination of the experience of the European agencies has thrown up other dysfunctions which should be taken into account when pondering a common constitutive framework. This applies in particular to the relationship between the agency and the Commission. The image of agencies as a tolerated anomaly of the executive system can influence the perception by both sides of the nature of their relationship. When this is expressed in the form of a hierarchical relationship rather than one of partnership, relations may become confrontational. Another recognised dysfunction is that of the constraints imposed in certain cases by the location of the agency: access-related difficulties, and/or recruitment-related difficulties (whether direct recruitment, or because of work opportunities for the spouse).
48. On the other hand, the risk that an agency might be hijacked or taken over by special interests contrary to the general interest, often mentioned as one of the disadvantages of agencies, has never so far materialised in the case of the Community agencies. That said, it is as well to guard against that risk. One way to do this, as will be seen later, is to strengthen the representation of the Commission and stakeholders on the governing bodies of the agency.

The need for a common constitutive framework organising both the autonomy and the control of European agencies is now recognised. It is not the purpose of this report to draw up an exhaustive framework covering all aspects of the agencies' operation; it focuses on the fundamental factors that determine the quality of the agency's output (decisions, opinions, recommendations, etc.) and its relations with the institutional and socio-economic players in the field of regulation.

Box No 9

II.2 BASIC PRINCIPLES FOR A COMMON CONSTITUTIVE FRAMEWORK FOR EUROPEAN REGULATORY AGENCIES

49. The essential elements of the common constitutive framework for regulatory agencies proposed in this report stem from a member of basic principles indicated below, which should govern the creation and conception of any European regulatory agency.

50. **Specialisation:** the mandate of the agency and the range of its powers must be clearly delimited and identified with a defined socio-economic objective, broken down where necessary into a series of closely linked and complementary individual objectives.
51. Respect for this principle governs certain elements that determine the justification for creating an agency. First, the need to entrust an agency only with a given mission, so that it is called upon to pronounce on questions or to apply the framework regulation to individual cases strictly from the standpoint of the objective assigned to it. This is essential in particular if the agency is to be vested with decision-making power, as established earlier.
52. **Autonomy:** the agency has legal personality and is managed by an executive director who neither solicits nor accepts any instructions from any government or other body, except in cases provided for by the regulation setting up the agency. The agency has financial and administrative means that allow it to fulfil its duties.
53. **Transparency and fairness:** the procedures whereby the agency adopts acts and operates must guarantee transparency and equal access to the deliberation and decision-making processes for all the parties concerned. Giving an objective advantage to operators better organised to advocate their point of view or more able to meet the costs involved in the agency's procedures (multinationals compared with small and medium-sized enterprises) must be avoided.
54. The regulation setting up the agency must therefore include provisions that guarantee the proper grounding of its decisions and the opportunity for interested parties to be heard in good time and to obtain detailed responses to reasoned requests. It would be appropriate, for example, to announce the working agenda of the agency and its committees, to allow access to the studies and expertise upon which the agency's acts are based, to provide in certain cases for the possibility of calling in experts representing opposing schools of thought, etc.⁴. To ensure that these guarantees are not merely theoretical, it will also be necessary to lay down time limits during the process of the deliberations and between these and the agency's decisions, compatible with the effective exercise of those rights. Confidentiality clauses could be envisaged in exceptional circumstances to respect commercial secrecy or personal rights. In any event, the regulation setting up the agency and its internal rules of procedure will specify the conditions for access to documents, appropriately transposing the principles laid down by the relevant Community regulations.
55. **Limited size of the supervisory body:** the agency's supervisory body (currently known as the management board, but it is proposed later in the report to call it the supervisory board) must consist of a limited number of members to ensure its

⁴ On this point, see the proposals by group 1b for recourse to experts (§ 5.2, p. 20) and group 4b on networks (§ 4.2, p. 21).

- efficiency. This report proposes that the number of members should be fixed at fifteen; in no case should it exceed twenty.
56. The purpose of limiting the size of the supervisory board is not solely to improve efficiency, but also to make representation more Community-minded. In fact, the principle of at least one seat per Member State is not sustainable and this will lead the limited number of Member State representatives to adopt positions from a Community perspective instead of acting as simple defenders of their national interests. This principle is confirmed by the experience of the European Central Bank.
 57. **Parity of the executives:** the Commission and the Member States should be equally represented on the agency's supervisory body.
 58. This principle was introduced for the first time in the proposal for a Food Authority and reappeared in the proposal for a European Maritime Safety Agency. Representation on parity basis ensures a proper balance between reflection of national realities and pursuit of supranational objectives in the regulation of Europe. Besides, parity would enable the Commission to contribute more effectively to better integration of the agency's activity into the Community framework and to take developments in related policies into account.
 59. It should be stressed that this principle applies to the European regulatory agencies studied in the present report, which correspond to a "Europeanisation" of the national regulators, i.e. to a joint effort by the Member States and the Commission to optimise task performance within the European area. In the rather different cases when the Commission delegates some of its tasks to external agencies (such as the agencies implementing Community programmes), it is a question of delegating down to a "sub-organisation" an activity over which the parent organisation must maintain control in order to ensure its executive responsibilities, which is why the Commission proposed in the framework regulation on executive agencies putting in place a supervisory body, known as the steering committee, composed exclusively of Commission representatives.
 60. In the same way, in the case of agencies with a social remit but no decision-making power (Cedefop, European Foundation for the Improvement of Living and Working Conditions, European Agency for Safety and Health at Work), the principle of representation will be adapted to their particular needs, notably with greater representation of the social partners (see Table 2). However, if any decision-making power is entrusted to the European Agency for Safety and Health at Work, as is being considered, it would be appropriate to reconsider the format of its present Administrative Board.
 61. **Representation of stakeholders:** the so-termed *stakeholders* in the field concerned must be represented on the agency's supervisory board so that better account can be taken of their point of view in determining the agency's orientation, transparency

guaranteed and public confidence reinforced. To this end the representatives of the stakeholders would participate in the board's deliberations and be present at votes, but have no voting rights, since these are reserved for the representatives of the public authority who alone are accountable to the authorities responsible for democratic control for the compatibility of the agency's activities with its mandate and with the general interest. It is proposed that this representation without voting rights should correspond to half the number of seats allocated to the Commission or the Member States. Their appointment must take the heterogeneity of the parties concerned into account.

62. Membership of the supervisory body would be limited to three categories of player: the Commission, the Member States, and stakeholders. Representation of the European Parliament on the management board of a number of existing agencies and some currently being proposed, conflicts with Parliament's constitutional role. The agency is part of the executive and as such must be subject to the legislature, but participation of the legislature in the executive, which is at the same time the authority for democratic control, amounts to setting Parliament up as both judge and judged in terms of the agency's supervision. In effect, the supervisory board is responsible for approving the agency's budget and annual accounts, while Parliament would have direct budget control powers as proposed in the next paragraph. Participation of Parliament in the supervisory board would therefore reduce its capacity for objective control.

The optimum composition of the supervisory board according to the present report would be fifteen members including six Commission representatives, six representatives of the Member States appointed by the Commission, and three stakeholder representatives appointed by the Commission possibly after consulting the European Parliament.

Box No 10

63. Other arithmetical configurations could be envisaged. In any event the proposal would be not to exceed a maximum of twenty members and to respect a distribution between the Commission, the Member States and the stakeholders, in proportions of 40/40/20 respectively.
64. **Direct democratic accountability:** the agency must be subject to direct democratic control reinforced by the European Parliament.
65. In practice, this direct democratic control should involve: 1) the option for Parliament to hear the agency's representative, i.e. its Executive Director, at any time and in particular on publication of the annual report on the agency's activity; 2) recognition of Parliament as the authority responsible for granting discharge in respect of the agency's budget following a proposal from the supervisory body. The hearings of the agency's director would serve to verify that the agency is respecting its mandate and that its action is in tune with the Community's general political guidelines.

66. This organisation of democratic control recognises full executive capacity for the agencies, whereas until now they have been perceived as an emanation of the Commission accountable only indirectly via the control to which the main European executive is subject. The present structure is all the more flawed in that, on the one hand, only the Commission is directly answerable to Parliament and, on the other, the role reserved for the Commission in supervising the agency is a minority role (see Table 2).
67. In the case of agencies that enjoy total or partial financial independence (Office for Harmonisation in the Internal Market, Community Plant Variety Office, European Agency for the Evaluation of Medicinal Products), this democratic control continues to apply because the staffing level has a long-term impact on the Community's finances by virtue of the pension rights created and, moreover, because agency action is inevitably associated with Community action.

III.3 ORGANISATION OF THE AGENCY

Agency	Appointment of the Director	Composition of the Management Board
European Centre for the Development of Vocational Training (CEDEFOP)	Commission, list of candidates prepared by the Management Board	48 members : 1 per Member State, 30 from employers' and trade union organisations, 3 Commission
European Foundation for the Improvement of Living and Working Conditions	Commission, list of candidates prepared by the Management Board	48 members : 1 per Member State, 30 from employers' and trade union organisations, 3 Commission
European Environment Agency	Management Board, following a proposal by the Commission	19 members : 1 per Member State, 2 European Parliament, 2 Commission
European Training Foundation	Management Board, following a proposal by the Commission	17 members : 1 per Member State, 2 Commission
European Monitoring Centre for Drugs and Drug Addiction	Management Board, following a proposal by the Commission	19 members : 1 per Member State, 2 European Parliament, 2 Commission
European Agency for the Evaluation of Medicinal Products	Management Board, following a proposal by the Commission	34 members : 2 per Member State, 2 European Parliament, 2 Commission
Office for Harmonisation in the Internal Market	Council of Ministers, following a proposal by the Management Board	16 members : 1 per Member State, 1 Commission without voting rights
European Agency for Safety and Health at Work	Management Board, following a proposal by the Commission	48 members : 1 per Member State, 30 from professional and union bodies, 3 Commission
Community Plant Variety Office	Council of Ministers, following a proposal by the Commission	16 members : 1 per Member State, 1 Commission without voting rights
Translation Centre for the Bodies of the European Union	Management Board, following a proposal by the Commission	33 members: 1 per Member State, 2 Commission, 1 for every entity that has concluded an agreement with the Centre
European Monitoring Centre on Racism and Xenophobia	Management Board, following a proposal by the Commission	[«Independent members » nominated by the institutions and the Member States, but not representing them]

European Agency for the Reconstruction of Kosovo	Management Board, following a proposal by the Commission	[1 per Member State, COM,]
European Aviation Safety Agency (<i>proposal</i>)	Management Board, following a proposal by the Commission	17 members : 1 per Member State, 1 Commission, 1 European Parliament
European Food Authority (<i>proposal</i>)	Management Board, following a proposal by the Commission	16 members : 4 Council, 4 European Parliament, 4 Commission, 4 consumers and industry (appointed by the Commission)
European Maritime Safety Agency (<i>proposal</i>)	Management Board, following a proposal by the Commission	16 members : 4 Council, 4 European Parliament, 4 Commission, 4 from the professional sectors most concerned (appointed by the Commission)
Executive agencies for the management of Community programmes (<i>proposal for a framework regulation</i>)	Commission	Steering Committee: 5 members appointed by the Commission

Table No 2

68. **Executive director:** appointed by the supervisory board following a proposal by the Commission, the director is responsible for managing the agency and adopts the decisions that stem from the agency's mandate.
69. **Supervisory board:** appoints the director following a proposal by the Commission and can dismiss him, draws up the agency's internal rules of procedure following a proposal by the director, approves the annual activity programme and the budget. It approves the annual activity report and proposes discharge of the budget to the European Parliament. Its composition has been discussed above.
70. **Advisory committee(s):** committee(s) of independent experts appointed by the supervisory board following a proposal by the executive director after an open invitation to apply. The committee(s) is/are required to issue opinions for consideration by the executive director concerning draft agency acts (opinions, recommendations, decisions, etc.).
71. **Restricted executive board:** no such body exists at present in the European agencies. It is inspired by the need to provide a framework for agency decision-making in return for a more clearcut delegation of decision-making power. It would also allow the director to fulfil his individual responsibility with prudence and the backing of expert opinions on the subject. It would be composed of the chairman and vice-chairman of the advisory committee of experts on agency acts, and representatives of the agency's senior officials. Its task would be to assist the director, at his request or in certain specific situations laid down by the regulation setting up the agency, in taking problematic decisions (unfavourable opinion of a significant minority of the advisory committee, sensitivity of the subject, etc.). The opinion of the restricted executive board is not binding on the director, but must be recorded in the file.

72. **Appeal bodies** (only in the case of decision-making agencies): to avoid whenever possible the referral of technical questions to the Court of Justice, a specialised body of first instance in the form of an appeal board would be set up systematically as is the case with the decision-making agencies. Their role would be to check, at the request of one of the parties directly concerned by an agency decision, that the agency had applied the implementing rules properly without going beyond the field of technical appraisal, which would entail recourse to law. They would be composed of a chairman and several members appointed by the supervisory board from a list of candidates who have no function within the agency, proposed by the Commission. Procedures defined by the agency's statutes would determine the rights of the parties concerned to be heard. The appeal body would either exercise the powers stemming from the agency's competence or refer the matter to the competent agency body.

II.4 AGENCY CONTROL PROVISIONS

73. The agency control provisions are summarised below for purposes of clarification, the principle in most cases having already been discussed.
74. **Procedural control:** by means of procedural guarantees governing the agency's deliberations and its adoption of acts, in accordance with the principle of transparency explained above in the context of the constitutive framework of the agencies. Procedural control (and the operation of the committees and networks run by the agency in accordance with the relevant principles - see groups 1b, 4b -) constitute the main guarantee of the quality of the agency's output, the independence of the criteria applied by it in the adoption of its acts, and its due regard for all pertinent opinions.
75. **Democratic control:** exercised directly by the European Parliament under the conditions set out above. The aim is to ensure on the one hand that the agency fulfils its obligations within the scope set by its mandate and on the other hand that the human and financial resources allocated to the agency by the Community budget are properly used.
76. **Executive control:** resulting from the supervision of the agency's activities and management by the two branches of the executive - the Commission and the Member States - which are represented on the agency's management bodies.
77. **External financial control:** exercised by the Court of Auditors, with regard both to the financial management of the agency and its performance.
78. **Judicial control:** as the agency has legal personality and falls within Community law, third parties may have recourse to the Court of Justice or the Court of First Instance concerning the legality of acts adopted by it, once all possible recourse via the appeal bodies have been exhausted.

II.5 THE POWER OF RETRIEVAL

79. In a relationship of the delegator/delegatee type in which the delegator confers a certain power on the delegatee, the power of retrieval consists in the delegator's ability to exercise the delegated power himself, on his own initiative or at the delegatee's request.
80. The group examined the possibility of providing for a power of retrieval that would be exercised by the Commission (even though the delegator is the legislator, more often than not the Council in the case of the existing agencies) when decision-making regulatory agencies are created. This would have the advantage of not totally depriving the Commission of any margin for intervention in agency decisions. One of the disadvantages would be the contradiction in relation to recognition of the agency's decision-making autonomy on the basis of the hypothesis that it is best placed to appreciate the factors involved in its specialised field of competence.
81. The group did not reach a definitive conclusion on this question and recognises that it should be looked into more deeply. At this stage it can be said that the power of retrieval would be counterproductive in fields such as market regulation since it could lead to legal uncertainty for the business world. On the other hand, it could for example be envisaged in fields where decisions could have an ethical dimension.
82. In any event, if there is provision for such power, it must be exercised openly in conditions that guarantee the transparency of the intervention. And the Commission would also have to vest itself with a follow-up capacity enabling it to apply it judiciously.

PART III: ROLE OF THE COMMISSION AND COORDINATION OF THE AGENCIES

83. A corollary of the proposal that Commission participation in the supervisory board of agencies should be increased, as provided for in the above constitutive framework, is the need to develop within the Commission the capacity to play that role in full. In addition, the fact of being represented in all the agencies puts the Commission in a privileged position to ensure that the European regulatory system operates coherently, to circulate information and to develop synergies, provided that a pro-active approach towards monitoring and coordinating the work of the agencies is adopted.
84. On the other hand, the Commission's responsibility in the preparation and implementation of the Community budget (Articles 272 and 274 of the Treaty), and in particular the entry of agency subsidies in the Commission section of the budget⁵ (in contrast to the other institutions which have a separate section for their operating budget), brings with it responsibility for administrative and budgetary monitoring of

⁵ The possibility of creating a specific budget section for the agencies was considered by the group, but not in depth, mainly because it would fall under heading 5 of the financial perspective (administration), which has a very small margin for accommodating this additional expenditure.

the agencies. This monitoring is currently effected by the DG for Staff and Administration in the case of staff and by the DG for the Budget in the case of budgetary questions; supervision falls to the Secretariat-General.

There is consequently a real need for the agencies to be steered and monitored. To do this, there must be the appropriate infrastructure, which must necessarily include a decentralised element (supervisory and across-the-board directorates-general) and a central element responsible for ensuring homogeneity of action.

This infrastructure could take the form of a permanent interdepartmental network, consisting of the DGs responsible for the agencies, the DG for Staff and Administration, the DG for the Budget and Financial Control, and run by a central structure housed at the Secretariat-General.

Box No 11

85. As an example, the Office of Management and Budget (OMB) of the American federal administration carries out a cost-effectiveness analysis of all the regulatory proposals by independent agencies, checks the coherence of their legislative proposals with respect to existing regulations, analyses their performance and management, etc. The OMB, which is also responsible for drawing up the federal budget, has a substantial staff quota for this.
86. The tasks entrusted to the central structure, in collaboration with the permanent network, would include:
- advising the Commission and the Directorates-General concerned on the creating of agencies, the review of their mandates, the proposal of executive directors, and the appointment of Commission representatives on the supervisory boards;⁶
 - working out general *guidelines* for the monitoring of agencies for the Directorates-General responsible and the Commission representatives on the supervisory boards;
 - assisting the DGs responsible to establish *memoranda of understanding* between the agency and the Commission (the *memorandum of understanding* facilitates a fluid relationship between the agency and the Commission, defines their relations and cooperation procedures beyond the general provisions of the

⁶ The common constitutive framework proposed in this report provides for six Commission representatives on the supervisory boards. These could be: one or two representatives from the DG responsible, one or two representatives from DGs concerned, and three representatives from the other horizontal departments (Secretariat-General, DG Budget, DG Admin). The representatives will be officials or other servants in grade A1 or A2. Deputisation would have to be by representatives at unit head level; in all cases, of the six members present at any meeting, at least two should be of grade A1 or A2.

regulation setting up the agency, and provides a framework for the allocation of new tasks to the agency);

- assisting the Commission representatives on the supervisory boards (preparing the ground for meetings, approving agendas and reports, cross-referring to their relationship with the agency, analysing the management of the agency, etc.);
 - coordinating the evaluation of the agencies and preventing duplicated effort by agencies;
 - appraising the operation of the agency system (in the judicial, administrative and financial contexts and in the context of relations with civil society, relations with national administrations, democratic control, across-the-board problems, good practice, transparency, etc.);
 - monitoring of agency relations with other institutions and general provision of information about the agencies to the outside world;
 - alerting the Commission to any problems concerning the management and monitoring of particular agencies;
 - assisting with the administrative and budgetary monitoring of agencies.
87. Finally, in order to stabilise the agency framework, on the basis of this report the Commission could propose a framework regulation establishing the procedures for the operation and monitoring of regulatory agencies with decision-making powers.

PART IV: PROPOSALS FOR ACTION

- A) Confirm the proper basis, in the conditions described in this report, for the creation of European regulatory agencies vested if necessary with the power to adopt individual decisions implementing the regulations.

Action: Commission
Deadline: Simultaneously with the adoption of the White Paper on governance

- B) Establish a permanent interdepartmental network for the coordination of the agencies, run by a central structure to be created within the Secretariat-General and charged with the tasks described in paragraph 86.

Action: Secretariat-General, DG Budget, DG Admin (memorandum to the Commission on the mandate and size of the central structure and on the permanent network in the short and medium term)
Deadline: November 2001

- C) Charge the Members of the Commission responsible for regulatory policies with examining the feasibility of creating regulatory agencies or adapting existing ones, in their respective fields. The proposals would be appraised by a group of Commissioners set up for the purpose, which would make recommendations to the Commission as a whole, if necessary on the basis of a list of priorities. Before this, a working group chaired by a Director-General⁷ will define the methodology to be used on the basis of the criteria proposed in this report.

Action: Commission
Deadline: July 2001 (setting up the working group)
 October 2001 (definition of the methodology)
 November 2001 - July 2002 (viability and feasibility studies by the departments concerned)
 September 2002 (proposals by the Members concerned)
 October 2002 (Commission decision)

- D) Draft a proposal for a framework regulation for European regulatory agencies using as a starting point the constitutive framework proposed in this report. Whether or not to apply the regulation retroactively to existing agencies to be decided later, on the basis of the operational experience of the agencies set up in accordance with the new model.

Action: Action C working group
Deadline: April 2002

⁷ To be determined in the light of the future work of the Group chaired by Mr Mingasson.

ANNEX 1

CASE STUDIES AND HEARINGS

Case studies

- *Agency for Medicinal Products in London*, study visit on 22 November 2000.
- *Proposal for Maritime Safety Agency*, P. Nicolas, DG TREN, 6 December 2000.
- *Experience of the Office for Harmonisation in the Internal Market (Alicante)*, A. Haagsma, DG MARKT, 29 January 2001.
- *Proposal for a an Aviation Safety Agency*, J.-J. Woeldgen, DG TREN, 29 January 2001.
- *Experience of the European Environment Agency*, H. Stielstra, DG ENV and L. Laudati, Eurostat, 12 February 2001.
- *Proposal for a European Food Authority*, P. Wagstaffe, DG SANCO, 12 February 2001.
- *Debate on a European Competition Authority*, E. Paulis, DG COMP, 12 March 2001.
- *Appropriateness of a European Regulator for Telecommunications*, S. Keegan, DG INFSO, 12 March 2001.
- *Experience of CEDEFOP*, Johan van Prens, Director of CEDEFOP, 26 March 2001.
- *Experience of the Community Plant Variety Office (Angers)*, Bart Kiewiet, Director of the CPVO, 26 March 2001.

Hearings of experts

- *Institutional reform: independent agencies, supervision, coordination and procedural control*, Prof. Giandomenico Majone, European Institute of Florence, 27 February 2001.
- *The debate on a European Competition Authority*, C.-D. Ehlermann, former Director-General in the Commission, 27 February 2001.
- *The place of agencies in the Union's institutional structure. Experience of the American model*, X. Yataganas, Legal Department - Harvard University, 12 March 2001.

- *The European agencies as network promoters*, Prof. Renaud Dehousse, IEP - Paris and Our Europe, 12 March 2001.
- *Regulatory agencies in the United States*, Dr. Harold C. Relyea, US Congress Research Office, 27 March 2001.

ANNEX 2

MEMBERS OF THE GROUP

Name	DG
Fernand SAUER (pilot)	Health and Consumers
Antoine QUERO (rapporteur)	Task Force for Administrative Reform
Notis LEBESSIS	Secretariat-General - Governance team
Paolo STANCANELLI	Legal Service
Niels AHRENDT	Secretariat-General
Reinhard PRIEBE	Agriculture
Hans STIELSTRA	Environment
Lauraine LAUDATI	Eurostat
Maurice THOMAS	Enterprise
Werner SCHOLZ	Budget
Peter WAGSTAFFE	Health and Consumers
Auke HAAGSMA	Internal Market
Pascal LEJEUNE	Education and Culture
Pierre NICOLAS	Transport and Energy
John MALLET	Fisheries