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REPORT

on the implementation of financial services legislation
(2001/2247(INI))

Committee on Constitutional Affairs

Rapporteur: Karl von Wogau

Draftsman (*):

Pervenche Berès, Committee on Economic and Monetary Affairs

(*): Hughes Procedure

CONTENTS

	Page
PROCEDURAL PAGE	4
MOTION FOR A RESOLUTION	5
OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS	10
OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET	14

PROCEDURAL PAGE

At the sitting of 28 November 2001 the President of Parliament announced that the Committee on Constitutional Affairs had been authorised to draw up an own-initiative report, pursuant to Rule 163 of the Rules of Procedure, on the implementation of financial services legislation and that the Committee on Economic and Monetary Affairs and the Committee on Legal Affairs and the Internal Market had been asked to deliver opinions.

The Committee on Constitutional Affairs had appointed Karl von Wogau rapporteur at its meeting of 13 November 2001.

At the sitting of 13 December 2001 the President announced that the Committee on Economic and Monetary Affairs, which had been asked for its opinion, would be involved in drawing up the report, under the Hughes procedure.

The Committee on Constitutional Affairs considered the draft report at its meetings of 19 December 2001 and 22 January 2002.

At the latter meeting it adopted the motion for a resolution by 27 votes to 2, with 1 abstention.

The following were present for the vote: Giorgio Napolitano, chairman; Jo Leinen and Ursula Schleicher, vice-chairmen; Karl von Wogau, rapporteur; Teresa Almeida Garrett, Pervenche Berès (for Enrique Barón Crespo), Georges Berthu, Guido Bodrato (for François Bayrou), Jens-Peter Bonde, Jean-Louis Bourlanges (for Luigi Ciriaco De Mita), Carlos Carnero González, Richard Corbett, Giorgos Dimitrakopoulos, Olivier Duhamel, Lone Dybkjær, José María Gil-Robles Gil-Delgado, Gerhard Hager, The Lord Inglewood, Sylvia-Yvonne Kaufmann, Neil MacCormick (for Monica Frassoni), Hanja Maij-Weggen, Cecilia Malmström (for Andrew Nicholas Duff), Luís Marinho, Hans-Peter Martin, Iñigo Méndez de Vigo, Camilo Nogueira Román (for Johannes Voggenhuber), Gérard Onesta, Jacques F. Poos (for Jean-Maurice Dehousse), Antonio Tajani, Helle Thorning-Schmidt (for Dimitris Tsatsos) and Paavo Väyrynen (for Paolo Costa) .

The opinions of the Committee on Economic and Monetary Affairs and the Committee on Legal Affairs and the Internal Market are attached.

The report was tabled on 23 January 2002.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

MOTION FOR A RESOLUTION

European Parliament resolution on the implementation of financial services legislation (2001/2247(INI))

The European Parliament,

- having regard to Article 202 of the EC Treaty,
- having regard to the final report of the Committee of Wise Men on the regulation of European securities markets,
- having regard to the resolution of the Stockholm European Council of 23 March 2001 on more effective securities market regulation in the European Union,
- having regard to Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹ and the declarations thereon²,
- having regard to the agreement with the Commission on procedures for implementing Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission³,
- having regard to the framework agreement of 5 July 2000 on relations between Parliament and the Commission (C5-0349/2000)⁴,
- having regard to its resolutions of 13 April 2000 containing its proposals for the Intergovernmental Conference⁵, 15 March 2001 on the final report of the Committee of Wise Men on the regulation of European securities markets⁶ and 5 April 2001 on the Stockholm European Council of 23 and 24 March 2001⁷,
- having regard to its resolution of 29 November 2001 on the Commission White paper on European governance⁸
- having regard to Rule 163 of its Rules of Procedure,
- having regard to the report of the Committee on Constitutional Affairs and the opinions of the Committee on Economic and Monetary Affairs and the Committee on Legal Affairs and the Internal Market (A5-0011/2002),

¹ OJ L 184, 17.7.1999, p. 23.

² OJ C 203, 17.7.1999, p. 1.

³ OJ L 256, 10.10.2000, p. 19.

⁴ OJ C 121, 24.4.2001, p. 122.

⁵ OJ C 40, 7.2.2001, p. 409.

⁶ Texts Adopted, Item 6.

⁷ Texts Adopted, Item 13.

⁸ Texts Adopted, Item 20.

1. Endorses the objective of establishing a single European securities market as quickly as possible; with that aim in view, considers that the requisite measures must be taken to improve the effectiveness of the decision-making process and to speed up legislative procedures, in a manner entirely consistent with the provisions of the Treaty and the interinstitutional balance;
2. Endorses the approach outlined in the report of the Committee of Wise Men and in the resolution of the Stockholm European Council to the effect that the establishment of an integrated securities market calls for action at four levels: legislation, implementing measures, transposition of provisions into national law and enforcement of the law;
3. Considers that, according to Article 202 of the EC Treaty, the comitology procedure as set out in the Council Decision of 28 June 1999 is aimed at the adoption of implementation and application measures by the Commission in accordance with the relevant provisions of the basic instrument (directive or regulation), and cannot be regarded as a 'simplified' or 'delegated' system for the adoption of 'secondary' legislation by that institution;

The legislative procedure

4. Endorses the aim of speeding up legislative procedures in the sphere of financial services; undertakes to cooperate constructively with the other institutions with a view to reaching the broadest possible consensus, so that, as far as possible, legislative acts can be adopted at first reading, and urges the Council to do the same, possibly employing informal mechanisms drawing on the example of the trialogue; calls on the Council to do everything in its power to shorten the periods which elapse prior to the adoption of common positions;
5. Urges, with a view to speeding up the establishment of an integrated securities market, that the deadlines for the transposition of Community acts into national law should be reduced to a maximum of one year;
6. Points out that it is incumbent on the Community legislator, Parliament and the Council acting together, to lay down on a case-by-case basis, in each legislative text, the scope of and the limits on the implementing powers conferred on the Commission;

Transparency

7. Points out, as regards the imperatives of transparency, that the Council Decision of 28 June 1999 on comitology and the agreement with the Commission of 17 February 2000 require the Commission to forward to Parliament, at the same time as to the members of the committees and in accordance with the same conditions, draft meeting agendas, the draft implementing measures which must be submitted to these committees, pursuant to the basic acts adopted under the codecision procedure, details of the outcome of votes, the summary records of meetings and the lists of the authorities to which the persons designated by the Member States to represent them belong; points out, further, that, in accordance with the relevant case law, Parliament may seek access to the minutes of the

committees;

8. Regards information and transparency as essential if all the market participants are to be involved as effectively as possible in the establishment of a single European securities market; calls for as much information as possible about all legislative proposals and the work of the committees, in particular the market regulators committee, to be made available to the public, for example via the Internet; draws attention, in that connection, to the provisions of the Regulation on public access to Parliament, Council and Commission documents¹;
9. Wishes a European Parliament representative to be able to attend meetings of the Securities Committee as an observer.
10. Considers that the interinstitutional committee foreseen in Article 15 of Regulation 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, should discuss future developments on public access to documents in the framework of the comitology procedure in order to develop good administrative practices in the institutions;

Market participants

11. Considers it essential to guarantee market operators and consumers wide-ranging consultation by setting up a market participants advisory committee under the supervision of the Regulators Committee;

Right of supervision

12. Takes the view that some leeway may be granted as regards the scope of the implementing powers if the exercise of those powers is subject to supervision by the legislator; notes that, at the Stockholm European Council, the Commission 'committed itself, in order to find a balanced solution for those cases of implementing measures in the field of securities markets acknowledged in the light of discussions to be particularly sensitive, to avoid going against predominant views which might emerge within the Council as to the appropriateness of such measures'; calls on the Commission to grant Parliament equivalent treatment;
13. Takes the view that the Commission's undertaking vis-à-vis Parliament might consist of a formal declaration to plenary which would be included in the minutes of the sitting which precedes the adoption at first reading of the first legislative text on securities;
14. Calls for a citation referring to this declaration to be included in all directives concerning the implementation of financial services legislation;

¹ European Parliament and Council Regulation (EC) No 1049/2001 – OJ L 145, 31.5.2001, p. 43.

15. Considers it vital that it be given a three-month period to enable it to examine and, if appropriate, to deliver its opinion in full knowledge of the facts, on any implementing measure forwarded by the Commission;
16. Calls, in the event of differences of opinion between the institutions on an implementing measure, for an informal dialogue between representatives of Parliament, the Commission and the Council to be convened in order to reach a balanced and mutually acceptable agreement;

Sunset clause

17. Takes the view that, with a view to consolidating democratic scrutiny of implementing powers and bringing them into line with a changing economic and technical environment, the legislator must be able to revise the scope of the powers conferred on the Commission by specifying the period during which they may be exercised, and thus proposes that the following clause be incorporated into the basic legislative acts:

'Without prejudice to the implementing measures already adopted, on the expiry of a four-year period following its entry into force the application of the provisions of this directive stipulating the adoption of technical rules and decisions in accordance with the procedure referred to in Article ... by ... (the provision in each legislative act referring to the comitology decision of 1999) shall be suspended. On a proposal from the Commission, the European Parliament and the Council may renew the provisions concerned in accordance with the procedure laid down in Article 251 of the EC Treaty and, to that end, they shall review them prior to the expiry of the period referred to above';

18. Emphasises that this sunset clause will on no account apply to the substance of the legislation being implemented;

Revision of the Treaties

19. Takes the view that Article 202 of the EC Treaty, which is the legal basis for legislation on the delegation of implementing powers to the Commission, and Council Decision 1999/468/EC of 28 June 1999 on 'comitology' fail to take account of the legislative powers allocated to Parliament by the same Treaty; draws attention to its calls for the establishment of a genuine hierarchy of legal acts; will submit corresponding proposals to the Convention responsible for preparing the IGC scheduled for 2004;
20. Welcomes the statement made by the Commission in its White Paper on European Governance to the effect that it takes the view that Article 202 of the Treaty has been rendered obsolete by the codecision procedure and that 'the Council and the European Parliament should have an equal role in supervising the way in which the Commission exercises its executive role', the Commission's intention being 'to launch a reflection on this topic in view of the next Intergovernmental Conference';

21. Points out that the proposals in this resolution are provisional, pending an amendment of Article 202 of the Treaty that meets the European Parliament's requirements, at the next Intergovernmental Conference; these proposals should enable legislation on the financial services action plan to be adopted and implemented rapidly;
22. Instructs its President to forward this resolution to the Council and Commission.

17 January 2002

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS (*)

for the Committee on Constitutional Affairs

on the implementation of legislation relating to financial services
((2001/2247(INI))

Draftsman: Pervenche Berès (*) Hughes Procedure

PROCEDURE

The Committee on Economic and Monetary Affairs appointed Pervenche Berès draftsman at its meeting of 18 December 2001.

It considered the draft opinion at its meetings of 19 December 2001 and 8 January 2002.

At the last meeting it adopted the following conclusions by 29 votes, with one abstention.

The following were present for the vote: Christa Randzio-Plath, chairman, José Manuel García-Margallo y Marfil, vice-chairman, Pervenche Berès, draftsman, Generoso Andria, Luis Berenguer Fuster, Hans Blokland, Hans Udo Bullmann, Richard Corbett (for Richard A. Balfe), Jonathan Evans, Carles-Alfred Gasòliba i Böhm, Robert Goebbels, Lisbeth Grönfeldt Bergman, Brice Hortefeux, Christopher Huhne, Pii-Noora Kauppi, Christoph Werner Konrad, Wilfried Kuckelkorn (for Simon Francis Murphy), Werner Langen (for Othmar Karas), Astrid Lulling, Jules Maaten (for Karin Riis-Jørgensen), Miquel Mayol i Raynal, Karla M.H. Peijs (for Marianne L.P. Thyssen), Fernando Pérez Royo, John Purvis (for Theresa Villiers), Bernhard Rapkay, Olle Schmidt, Peter William Skinner, Charles Tannock, Bruno Trentin and Karl von Wogau.

SHORT JUSTIFICATION

The report by the Committee of Wise Men chaired by Mr Alexandre Lamfalussy was welcomed by most members of the Committee on Economic and Monetary Affairs, who were convinced of the need to establish an integrated financial services market that will help sustain growth and thus boost employment in the European Union.

The committee therefore also supports the objective of speeding up the legislative process, although the delays that have occurred have often been the fault of the Council or even the Commission.

Nevertheless, the committee has reservations about the methods envisaged for achieving these objectives. The Commission's suggestion of a 'secondary' level of legislation on the basis of proposals by a regulatory committee consisting of representatives of the Member States, rather than 'basic' legislative acts approved under the codecision procedure by the European Parliament and the Council, seems to run completely counter to the spirit and letter of the current Community legislative procedure. This view was largely endorsed by the opinion drawn up by Parliament's Jurisconsult.

Even if the approach advocated by the Lamfalussy report is confined to a more conventional distinction between legislation and the implementing powers entrusted to the Commission by Article 202 of the Treaty, this would not allay Parliament's concerns since, whether by design or not, this article has not been amended since the introduction of the codecision procedure.

This situation was exacerbated by the resolution adopted by the Stockholm European Council on 23 March 2001, under which the Commission undertook not to oppose a majority position within the Council with regard to implementing measures in the field of securities.

Against this background the European Parliament adopted two resolutions (13 March and 5 April 2001) calling for greater transparency in the process and for a procedure under which Parliament would have supervisory powers whereby *'the Commission should commit itself, in a code of conduct or a similar binding mechanism, not to go against a resolution of the European Parliament that the draft implementing measures submitted to the Securities Committee exceed the implementing measures provided for in the framework legislation, or have not been prepared in accordance with the requirements of transparency and consultation'*.

In response to these resolutions, the Committee on Economic and Monetary Affairs has embarked on negotiations with Commissioner Bolkestein to develop a mechanism that will meet Parliament's requirements.

Meanwhile, in its White Paper on governance, the Commission reaffirmed its implementing powers and, as part of an approach designed to 'produce better legislation', proposes widespread use of the distinction between so-called 'framework' directives and implementing measures, which are a form of secondary legislation. In addition, amendments were adopted by the European Parliament on the basis of the report by Angelika Niebler on telecommunications, which also introduced a supervisory mechanism in the comitology sphere.

Given the urgent nature of the question and the impossibility of reaching an agreement, our committee has asked for the opinion of the Conference of Presidents, which has referred the matter to the Committee on Constitutional Affairs as the committee responsible.

It is essential that the Commission give a series of formal undertakings in plenary aimed at restoring the European Parliament's role as co-legislator. It is on this basis, and in line with the resolutions adopted by the European Parliament, that your draftsman has drawn up the conclusions set out below.

CONCLUSIONS

The Committee on Economic and Monetary Affairs calls on the Committee on Constitutional Affairs, as the committee responsible, to include the following points in its motion for a resolution:

1. Recognises the essential role played by the financial markets in the Union's economy and the need to introduce without delay a Community legislative framework that is sufficiently flexible and progressive; considers that this goal must remain compatible with strict respect for the European Parliament's powers as a co-legislator with the Council and that, in particular, the Commission must provide adequate guarantees concerning provisions relating to planned implementing measures, taking into account the powers assigned to it in this field, and also points out that Parliament has advocated more frequent use of regulations, as did the European Council in its Stockholm resolution;
2. Considers that, in particular, the Commission must agree to the following commitments vis-à-vis the European Parliament:
 - ensure equivalent treatment for the European Parliament and the Council under the comitology decision of 28 June 1999, by granting Parliament supervisory powers, whereby the Commission would undertake systematically to re-examine any proposed implementing measures in respect of which the European Parliament had adopted a resolution stating that the measures in question are not in conformity with the principles laid down in the legislative act and to convene as a matter of urgency a committee bringing together the three institutions in order to reach a balanced solution taking account of the different positions;
 - formally restate its intention of proposing the amendment of Article 202 of the TEU in order to place the European Parliament and the Council on an equal footing with regard to supervision of the exercise of the implementing powers assigned to the Commission;
 - set time limits on the implementing powers accorded under the comitology decision of 28 June 1999, by introducing a suspensory clause, which, without prejudice to implementing measures already taken, would make it compulsory at the end of a four-year period to renew provisions governing procedures for the adoption of implementing measures;
 - ensure transparency, in particular by providing access to all documents throughout the process of drafting and implementing legislation, thereby ensuring that the

European Parliament is fully informed from the time when legislative proposals are drawn up, including all the work carried out by the Securities Committee and the Regulators Committee and decision-making on implementing measures by the Commission;

- guarantee market operators and consumers wide-ranging consultation by setting up an advisory committee under the supervision of the Regulators Committee;
3. Urges the Commission to give a formal undertaking regarding cooperation with the European Parliament in the field of securities policy in the form of a declaration in plenary before the adoption of the first legislative text drawn up in accordance with the procedures laid down in the Lamfalussy report, including all the commitments set out in this resolution; calls for a citation referring to this declaration to be included in all directives concerning the implementation of financial services legislation;
 4. Points out that this undertaking is a temporary one pending an amendment of Article 202 of the Treaty and the comitology decision of 28 June 1999 that meets the European Parliament's requirements, at the next Intergovernmental Conference; it should enable legislation on the financial services action plan to be implemented rapidly; however, it is strictly limited to the sphere of financial services, without prejudice to other subsequent institutional developments and discussions and, as such, cannot be seen as a precedent;
 5. Calls for the relevant committee in the European Parliament to be given observer status on the Securities Committee.

8 January 2002

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET

for the Committee on Constitutional Affairs

on the implementation of financial services legislation
(2001/2247(INI))

Draftsman: Heidi Anneli Hautala

PROCEDURE

The Committee on Legal Affairs and the Internal Market appointed Heidi Anneli Hautala draftsman at its meeting of 27 November 2001.

The committee considered the draft opinion at its 18 December 2001 and 7 January 2002.

At the last meeting it adopted the following conclusions by 16 for and 1 abstention.

The following were present for the vote: Ward Beysen, acting chairman; Rainer Wieland, vice-chairman; Heidi Anneli Hautala, rapporteur; Paolo Bartolozzi, Janelly Fourtou, Marie-Françoise Garaud, Evelyne Gebhardt, Gerhard Hager, Malcolm Harbour, The Lord Inglewood, Kurt Lechner, Neil MacCormick, Manuel Medina Ortega, Felekna Uca, Karl von Wogau (for Klaus-Heiner Lehne, pursuant to Rule 153(2)), Diana Wallis and Stefano Zappalà.

SHORT JUSTIFICATION

During the examination of the Lamfalussy report on the implementation of financial services legislation the question of the powers of execution of the Commission has been raised and, subsequently, the application and interpretation of the Council Decision on Comitology. The Lamfalussy report recommends four levels of regulatory activity. Levels 1 and 2 concern the legislation. The first level would consist in the adoption of regulations or directives by codecision; such texts should be general and confer large powers of execution on the Commission. The report also foresees the creation of two committees with regulatory competences (level 2), an EU Securities Committee and an EU Securities Regulators Committee, to assist the Commission in determining how to implement the details of the Level 1 framework. This situation does not give enough guarantees to the competent Parliamentary committee to ensure that the Commission does not exceed the powers of execution or does not in effect "legislate".

The Legal Affairs committee had already started to study the issue in connection with other amendments submitted in different committees¹, which aimed at reinforcing the scrutiny powers of Parliament through different "mechanisms", especially those referred to as "call back". These would save the European Parliament time to react to the implementing measures. If the EP opposed the measures, the Commission would have to present a new proposal taking account of Parliament's concerns.

Unfortunately, as far as comitology issues are concerned, black-letter Community law is confined to Article 202 of the Treaty and Council Decision 99/468/CE of 28 June 1999. As regards EP rights, there is also the interinstitutional agreement between the EP and the Commission of 17 February 2000 which sets out the means of providing information for the EP. The agreement also establishes a deadline of one month for a Parliament resolution mentioned in Article 8 of the Comitology Decision.

It is difficult from a legal point of view to "expand" the rights and guarantees given to the EP by the Council Decision and the Treaty. To seek to modify the Council Decision on Comitology by amending a basic instrument is very likely to be regarded as being contrary to Article 202, third indent of the Treaty, according to which the Council, on a proposal from the Commission and after obtaining the opinion of the EP, lays down principles and rules on the exercise of the implementing powers conferred by it on the Commission. The Council Decision sets limits as to what kind of execution committee can be created, sets out rules for the functioning and defines the rights of the EP. The creation of committees of a new type (with a "call back" procedure for instance) would require that Decision to be amended.

Bearing this in mind, it can be said that, following the entry into force of the Amsterdam Treaty, the Comitology system does not square with the equality between the Council and the

¹ Could be mentioned the amendment proposed to the Niebler report on the directive concerning the "radio-electric spectrum (A5-0232/2001) or the LAIMC the amendment proposed in the Directive "Prospectus". For the time being no such amendment has been tabled in Plenary.

EP which underlies the codecision procedure since, as far as implementation is concerned, it reinforces the one legislative pole (the Council) to the detriment of the other (the European Parliament).¹

This unbalanced situation has been recognised by the Commission indirectly in its White Paper on Governance in so far as it announces that it intends to launch a reflection on the revision of Article 202 of the Treaty in view of the next IGC. This revision is highly desirable and should bring the Council Decision into line with the actual legislative role now played by Parliament.

Nevertheless, and until such time as this reform is implemented, the EP is being increasingly confronted with situations where it feels that its powers are likely to be eroded by the comitology procedure as laid down in the Council Decision. This is true in particular of the framework of directives following the Lamfalussy report, where too much room is left to the Commission.

In this situation Parliament is confronted with various choices. It can simply reject the proposed Directive or the part of it that refers to comitology. It could also try better to define or clarify the limits of the delegation of powers of execution by imposing criteria, conditions, etc. Where this task proves difficult or impossible without changing the nature of the basic instrument, it could envisage negotiating enhanced scrutiny mechanisms with the Commission.

Following the judgment of the Court of First Instance of 10 October 2001 in case T-111/00 *British American Tobacco International Ltd v. Commission*, the administrative practice of the Commission on public access to documents in the framework of the comitology procedure should be brought in line with Regulation 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

CONCLUSIONS

The Committee on Legal Affairs and the Internal Market calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following points in its motion for a resolution:

Recital A

A. Whereas during the examination of the "Lamfalussy report" and as a result of the legislation on the implementation of the financial services package, the question of the implementation of legislation has raised doubts about the correct application of the Council

¹ See "Towards a Legal Framework for Executive Rule-Making in the EU? The Contribution of the New Comitology Decision" by Koen Lenaerts and Amaryllis Verhoeven, *CMLR* 37 (3): 645-686, June 2000.

Decision of 28 June 1999 on Comitology and the powers of Parliament with respect to its scrutiny of measures of execution which the Commission is empowered to adopt in new and very important areas,

Paragraph 1

1. Considers that according to Article 202 EC Treaty, the comitology procedure as set out in the Council Decision of 28 June 1999 is aimed at the adoption of implementing measures by the Commission in accordance with the relevant provisions of the basic instrument (Directive or Regulation), and cannot be regarded as a "simplified" or "delegated" system for the adoption of "secondary" legislation by that institution; to that end the principle of a hierarchy of acts and a clear distinction between legislative and executive acts must apply, clearly specifying which institution is responsible for which type of act;

Paragraph 2

2. Considers that amendments proposed to the basic instrument with a view to completing, improving or modifying the provisions of the Council Decision on comitology could be regarded as being contrary to Article 202 EC Treaty, which enables in an outdated way the Council alone to impose certain principles and rules on the way the Commission exercises its executive role, and should therefore at present not be regarded as an appropriate means of modifying the guarantees and rights conferred on the EP by Articles 5, 7 and 8 of the Decision,

Paragraph 3

3. Considers that where a proposed basic instrument is to be adopted by codecision and the EP considers or suspects that the implementation powers to be conferred on the Commission go beyond strict powers of execution, it should reject the delegation of implementing powers, define more precisely the scope of the delegated powers or find that the Comitology Decision is not applicable; in that case an *ad hoc* scrutiny mechanism could be negotiated in order to ensure that Parliament's legislative role is not undermined,

Paragraph 4

4. Considers, nevertheless, having regard to particular proposals for legislation such as those following the Lamfalussy report, that the involvement of the European Parliament provided for in the Comitology Decision where the basic instrument is adopted by co-decision, is not appropriate or sufficient and consequently the Decision and the Interinstitutional Agreement should be changed in order to improve the mechanisms for parliamentary scrutiny, so as in particular to give the institution via a right of supervision the possibility to react to the execution measures where necessary,

Paragraph 5

5. Considers that, in order to restore the institutional balance, the Convention and the IGC should propose to amend Article 202 EC Treaty by giving the Council and the European Parliament an equal role in supervising the way in which the Commission exercises its executive role given the co-decision procedure which puts the Council and the European Parliament on an equal footing with regard to the adoption of legislation in many areas.

Paragraph 6

6. Considers that the interinstitutional committee foreseen in Article 15 of Regulation 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, should discuss future developments on public access to documents in the framework of the comitology procedure in order to develop good administrative practices in the institutions.