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*****I**

REPORT

on the proposal for a European Parliament and Council regulation on
Establishing the European Network and Information Security Agency
(COM(2003) 63 – C5-0058/2003 – 2003/0032(COD))

Committee on Industry, External Trade, Research and Energy

Rapporteur: Reino Paasilinna

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 11 February 2003 the Commission submitted to Parliament, pursuant to Article 251(2) Article 95 and Article 156 of the EC Treaty, the proposal for a European Parliament and Council regulation on Establishing the European Network and Information Security Agency (COM(2003) 63 – 2003/0032 (COD)).

At the sitting of 13 March 2003 the President of Parliament announced that he had referred this proposal to the Committee on Industry, External Trade, Research and Energy as the committee responsible and the Committee on Budgets, the Committee on Legal Affairs and the Internal Market and Committee on Citizens' Freedoms and Rights, Justice and Home Affairs for their opinions (C5-0058/2003).

The Committee on Industry, External Trade, Research and Energy had appointed Reino Paasilinna rapporteur at its meeting of 20 March 2003.

It considered the Commission proposal and draft report at its meetings of 26 August, 2 October and 7 October 2003.

At the latter meeting it adopted the draft legislative resolution by 40 votes to 4 with no abstentions.

The following were present for the vote: Luis Berenguer Fuster, chairman; Peter Michael Mombaur and Yves Piétrasanta, vice-chairmen; Reino Paasilinna, rapporteur; Gordon J. Adam (for Massimo Carraro), Nuala Ahern, Marco Cappato, Gérard Caudron, Nicholas Clegg, Willy C.E.H. De Clercq, Marie-Hélène Descamps (for Sir Robert Atkins), Den Dover (for Giles Bryan Chichester, pursuant to Rule 153(2)), Francesco Fiori (for Guido Bodrato), Christos Folias (for Concepció Ferrer), Neena Gill (for Harlem Désir), Norbert Glante, Michel Hansenne, Hans Karlsson, Dimitrios Koulourianos (for Konstantinos Alyssandrakis), Werner Langen, Peter Liese (for Bashir Khanbhai), Caroline Lucas, Erika Mann, Marjo Matikainen-Kallström, Eryl Margaret McNally, Ana Clara Maria Miranda de Lage, Elizabeth Montfort, Bill Newton Dunn (for Colette Flesch), Angelika Niebler, Giuseppe Nisticò (for John Purvis), Seán Ó Neachtain, Paolo Pastorelli, Godelieve Quisthoudt-Rowohl, Imelda Mary Read, Mechtild Rothe, Paul Rübig, Konrad K. Schwaiger, Esko Olavi Seppänen, Claude Turmes, W.G. van Velzen, Alejo Vidal-Quadras Roca, Dominique Vlasto, Myrsini Zorba and Olga Zrihen Zaari.

The opinions of the Committee on Budgets, the Committee on Legal Affairs and the Internal Market and the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs are attached.

The report was tabled on 9 October 2003.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a European Parliament and Council regulation on Establishing the European Network and Information Security Agency (COM(2003) 63 – C5-0058/2003 – 2003/0032(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2003) 63¹),
 - having regard to Article 251(2) of the EC Treaty and Articles 95 and 156 of the Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0058/2003),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, External Trade, Research and Energy and the opinions of the Committee on Budgets, the Committee on Legal Affairs and the Internal Market and the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0353/2003),
1. Approves the Commission proposal as amended;
 2. Asks for the matter to be referred to it again, should the Commission intend to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1 Recital 2

(2) Network and information security is about ensuring the availability of services and data, preventing *the* disruption and unauthorised interception of communications, confirmation that data which have been sent, received or stored are complete and unchanged, securing the confidentiality of data, protecting information systems against unauthorised access and against attacks involving

(2) Network and information security is about ensuring the availability of services and data, preventing disruption, *attacks* and unauthorised interception of communications, confirmation that data which have been sent, received or stored are complete and unchanged, securing the confidentiality of data, protecting information systems against unauthorised access and against attacks involving

¹ not yet published in the OJ

malicious software and securing dependable authentication.

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Justification

No justification.

Amendment 2
Recital 11

(11) This calls for the creation of a centre of expertise at European level providing guidance, assistance and opinions on technical and organisational implementation of such requirements, which may be relied upon by the Commission **and the national regulatory authorities** and competent bodies of the Member States. Competent bodies in the field of network and information security include law enforcement and judicial authorities in the Member States.

(11) This calls for the creation of a centre of expertise at European level providing guidance, assistance and opinions on technical and organisational implementation of such requirements, which may be relied upon by the Commission, the **National Regulatory Authorities**, competent bodies of the Member States **and the private sector**. Competent bodies in the field of network and information security include law enforcement and judicial authorities in the Member States.

Justification

The private sector, including consumer and industry associations, should be able to rely on the Agency's expertise, for the purpose of seeking advice in critical circumstances.

Amendment 3
Recital 12

(12) The agency should perform its tasks in full co-operation with the Member States **and be open to contacts with** industry and other interested bodies.

(12) The agency should perform its tasks in full co-operation with the Member States, industry and other credible interested bodies.

Justification

Most of the infrastructure of information systems and networks is designed, built, owned, and operated by the private sector. On the other hand, governments have specific responsibilities such as policy development, protection of national interests, law enforcement, etc... This interdependence means that only a model that is based on mutual trust and equal participation amongst participants will deliver effective security.

Amendment 4
Recital 14

(14) Ensuring confidence in networks and information systems requires that individuals, businesses and public administrations are sufficiently informed and knowledgeable in the field of security. Public authorities have taken steps to increase awareness by informing the public. However these measures need to be further developed, in particular, with regard to new vulnerabilities and their risks. An increased information exchange between Member States will facilitate such awareness raising actions.

(14) Ensuring confidence in networks and information systems requires that individuals, businesses and public administrations are sufficiently informed, ***educated and trained*** in the field of ***ICT*** security. Public authorities have ***a public policy role to provide training and*** increase awareness by informing the ***general public, SMEs, corporate companies, public administrations, schools and universities***. ***These*** measures need to be further developed, in particular, with regard to new vulnerabilities and their risks. An increased information exchange between Member States will facilitate such awareness raising actions ***and will help to coordinate the strategies of the national authorities responsible for safeguarding network security. The Agency should provide advice on best practices in awareness-raising, training and courses.***

Amendment 5
Recital 14 a (new)

(14a) The European Network and Information Security Agency has the task of ensuring a high level of network and information security within the Community and of developing a culture of network and information security for the benefit of citizens, consumers, businesses and public sector organisations in the European Union, thus contributing to the proper functioning of the internal market.

Amendment 6
Recital 15

(15) Despite the need for reliable processes, it is often difficult to assess the trustworthiness of products and services. There are publicly and privately organised

(15) Despite the need for reliable processes, it is often difficult to assess the trustworthiness of products and services. There are publicly and privately organised

evaluation and certification schemes. However, evaluation and certification processes tend to be cumbersome, expensive, and slow. All actors, including public authorities would benefit from better technical guidance in their efforts to promote efficient certification systems. A technically competent European body for objective advice on the quality of different standards would therefore improve the ***possibilities to promote reliable*** security standards, including where appropriate standards for privacy enhancing technologies, in Europe.

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In principle, standards are being developed by the business community and specialised institutions. They can be discussed in the advisory board. The agency should facilitate the development, in collaboration with the ICT industry, of a recognised and accepted European ICT security quality assessment ranking system and label.

Amendment 7
Recital 16 a (new)

(16 a) Where appropriate and useful for fulfilling its scope, objectives and tasks the Agency could share experience and general information with national and EU bodies and agencies created under EU law and dealing with network and information security, including what regards exchange on work methods and risk evaluation.

Amendment 8
Recital 18

(18) Network and information security

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problems are global issues which are confined neither to individual Member States nor to the Community. A security problem can originate in a third country. Products and services are often developed and evaluated in third countries. Once entered into the Community, security products circulate virtually without restrictions and services can be freely offered. There is a need for closer co-operation at global level to improve security standards, improve information, and develop common response mechanisms. Several international partners of the Community have begun to set up security bodies to allow for better responses and policy development. Efficient co-operation with these countries and the global community has become a task also at European level.

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Amendment 9
Recital 21

(21) The good functioning of the Agency requires that its Executive Director is appointed on the grounds of merit and documented administrative and managerial skills, as well as competence and experience relevant for network and information security and that he/she performs his/her duties with complete independence and flexibility as to the organisation of the internal functioning of the Agency. To this end, the Executive Director should prepare and take all necessary steps to ensure the proper accomplishment of the working programme of the Agency, should prepare each year a draft general report to be submitted to the Management Board,

(21) The good functioning of the Agency requires that its Executive Director is appointed on the grounds of merit and documented administrative and managerial skills, as well as competence and experience relevant for network and information security and that he/she performs his/her duties with complete independence and flexibility as to the organisation of the internal functioning of the Agency. To this end, the Executive Director should prepare and take all necessary steps to ensure the proper accomplishment of the working programme of the Agency, should prepare each year a draft general report to be submitted to the Management Board,

should draw up estimates of the revenues and expenditure of the Agency and should implement the budget.

should similarly prepare each year a report on the security problems encountered in the European Union during the previous year, should draw up estimates of the revenues and expenditure of the Agency and should implement the budget.

Justification

No justification.

Amendment 10
Recital 22 a (new)

(22 a) The Agency should ensure that its operations are secure, in particular against any insider threat, and obtain security clearance of an appropriate level for all its personnel.

Amendment 11
Article -1 (new)
Scope

Article -1

1. For the purpose of ensuring a high and effective level of network and information security within the Community and in order to develop a culture of network and information security for the benefit of the citizens, consumers, enterprises and public sector organisations of the European Union, thus contributing to the proper functioning of the internal market, a European Network and Information Security Agency is hereby established, hereinafter referred to as “the Agency”.

2. The Agency shall assist the Commission, the Member States and the business community in order to help them to meet the requirements of network and information security, thereby ensuring the smooth functioning of the Internal market, including those set out in present and

future Community legislation, such as in the Directive 2002/21 EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services ("Framework Directive").¹

3. The objectives and the tasks of the Agency shall be without prejudice to the competencies of the Member States regarding network and information security which fall outside the scope of the Treaty establishing the European Community, such as those covered by Titles V and VI of the Treaty on European Union, and in any case to activities concerning public security, defence, State security (including the economic well-being of the State when the issues relate to State security matters) and the activities of the State in areas of criminal law.

Amendment 12
Article 1

1. A European Network and Information Security Agency is hereby established, hereinafter referred to as "the Agency".

2. The Agency shall facilitate the application of Community measures relating to network and information security and help ensure interoperability of security functions in networks and information systems, thereby contributing to the functioning of the Internal Market. It shall enhance the capability of the Community and the Member States to respond to network and information security problems.

1. The Agency shall enhance the capability of the Community, the Member States and the business community to prevent, address, react and respond to network and information security problems.

2. The Agency shall provide assistance and deliver advice to the Commission, the Member States and the business community on issues related to network and information security falling within its competencies as set out in this Regulation.

3. Building on national and Community efforts the Agency shall develop a high level of expertise. The Agency shall use this expertise to stimulate broad co-operation

¹ OJ L 108, 24.4.2002, p. 33.

between actors from the public and private sectors.

4. The Agency shall assist the Commission, where called upon, in the technical preparatory work for updating and developing Community legislation in the field of network and information security.

Amendment 13
Article 2, first paragraph

In order to *achieve the* objectives in Article 1, the tasks *of* the Agency shall *be to*:

In order to *ensure that the scope and* objectives *set out in Articles 1 and 2 are met*, the Agency shall *perform the following* tasks:

Amendment 14
Article 2, point (a)

(a) collect *and* analyse *data, including information on* current and emerging risks and, in particular, those which *would* impact on the resilience of critical communications networks and the information accessed and transmitted through them;

(a) collect *appropriate information to* analyse current and emerging risks and, in particular *at the European level*, those which *could* impact on the resilience *and the availability of electronic* communications networks and *on the authenticity, integrity and confidentiality of* the information accessed and transmitted through them, *as well as data and risks which would likewise have an impact on the physical infrastructure, and provide the results of the analysis to the Member States and the Commission*;

Amendment 15
Article 2, point (b)

(b) provide assistance *and deliver opinions* within its objectives *to* the Commission *and*

(b) provide the Commission, *the Parliament*, competent *national and European* bodies, *as well as – where*

other competent bodies;

necessary – the business community with advice, and when called upon, with assistance within its objectives;

Amendment by Reino Paasilinna

Amendment 16
Article 2, point (c)

(c) enhance co-operation between different actors operating in the field of network and information security, inter alia by establishing *a network* for *national and Community* bodies;

(c) enhance co-operation between different actors operating in the field of network and information security, inter alia by *organising, on a regular basis, consultation with industry, universities, as well as with other sectors concerned and by establishing networks of contacts* for Community bodies, *public sector bodies appointed by the Member States, private sector bodies, business community and consumer* bodies, *within the EU as well as outside;*

Amendment 17
Article 2, point (ca) (new)

(ca) facilitate co-operation between the Commission and the Member States in the development of common methodologies to prevent, address and respond to network and information security issues;

Amendment 18
Article 2, point (d)

(d) contribute to the availability of *rapid*, objective and comprehensive information on network and information security issues for all users by, inter alia, promoting exchanges of best practice on methods of alerting users, *including those related to computer attack alert systems*, and seeking synergy between public and private sector initiatives;

(d) contribute to *awareness raising and* the availability of *timely*, objective and comprehensive information on network and information security issues for all users by, inter alia, promoting exchanges of *current* best practices, *including* on methods of alerting users, and seeking synergy between public and private sector initiatives;

Amendment 19
Article 2, point (e)

(e) assist when called upon, the Commission and national regulatory authorities in analysing the implementation of network and information security requirements for operators and service providers, including requirements on data protection, **that are** contained in Community legislation;

(e) assist the Commission and ***the Member States in their dialogue with industry to address security-related problems in the hardware and software products, as well as*** in analysing ***responsibilities arising amongst*** operators and service providers ***in*** the implementation of network and information security requirements, ***in relation to the need for network and information security and the detection, in this connection, of fraudulent acts, as*** contained in Community legislation;

Amendment 20
Article 2, point (f)

(f) ***contribute to the assessment*** of standards on network and information security;

(f) ***follow the development*** of standards ***for products and services*** on network and information security, ***as well as contribute to the development of common criteria with regard to security functionalities in products and services, in conformance with the guidance set forth in Council Resolution of 28 October 1999 on the role of standardisation in Europe (O.J. C 141, 19.5.2000, p. 1); facilitate the development in collaboration with the ICT industry of the establishment, implementation and publication in Europe of a recognised and accepted European ICT security quality assessment ranking system and label;***

Amendment 21
Article 2, point (fa) (new)

(fa) invite tenders for research in the area of network and information security;

Amendment 22
Article 2, point (g)

(g) promote risk assessment activities and ***encourage*** interoperable risk management solutions within organisations;

(g) promote risk assessment activities and interoperable risk management solutions within ***public and private sector*** organisations;

Amendment 23
Article 2(g)a (new)

(g)a contribute to the development, implementation and effective use of risk prevention technologies;

Justification

No justification.

Amendment 24
Article 2, point (h)

(h) contribute to ***the*** Community ***approach on co-operation*** with third countries ***including facilitating contacts*** with international ***fora***;

(h) contribute to Community ***efforts to co-operate*** with third countries ***and, where appropriate, with international organisations to promote a common global approach to network and information security issues, thereby contributing to the development of a culture of network and information security;***

Amendment 25
Article 2, point (hb) new

(hb) maintain contacts with national cybercrime units and international high-technology assistance points with a view to assisting with the creation of such capabilities to the extent that they do not already exist;

Amendment 26
Article 2, point (hc) (new)

(hc) assist in establishing institutions that exchange threat and vulnerability assessments (such as Computer Emergency Response Teams) and in coordinating their work;

Amendment 27
Article 2, point (i)

(i) undertake any other task assigned to it by the Commission within its objectives.

(i) express independently its own conclusions, orientations, advice on matters within its mission.

Amendment 28
Article 2, point (ib) (new)

(ib) in all its activities, make sure that security solutions shall be easily accessible for small and medium sized enterprise;

Amendment 29
Article 5, paragraph 1

1. The Management Board shall be composed of ~~six~~ representatives appointed by the Council, ~~six~~ representatives appointed by the Commission, as well as *two* representatives of industry and *one representative* of consumers proposed by the

1. The Management Board shall be composed of *five* representatives appointed by the Council, *five* representatives appointed by the Commission, *two representatives appointed by the European Parliament*, as well as *four* representatives

Commission and appointed by the Council without the right to vote.

of industry and ***two representatives*** of consumers proposed by the Commission and appointed by the Council without the right to vote.

Amendment 30
Article 5, paragraph 2

2. Representatives may be replaced by alternates, appointed at the same time. Their term of office shall be two and a half years, and may be extended once.

2. Board members shall be appointed on the basis of their degree of relevant experience and expertise in the field of network and information security. Representatives may be replaced by alternates, appointed at the same time.

Amendment 31
Article 5, paragraph 3

3. The Executive Director shall take part in the meetings of the Management Board, without voting rights, and shall provide the Secretariat.

deleted

Justification

To be introduced further on under Article 5. 6

Amendment 32
Article 5, paragraph 6

6. The Management Board shall meet at the Chairperson's invitation or at the request of at least a third of its members.

6. Meetings of the Management Board shall be convened by its Chairperson. The Management Board shall hold an ordinary meeting twice a year. It shall also hold extraordinary meetings at the instance of the Chairperson or at the request of at least a third of its members

with the right to vote. The Executive Director shall take part in the meetings of the Management Board, without voting rights, and shall provide the Secretariat.

Amendment 33
Article 5, paragraph 8

8. The Management Board shall define the general orientations for the operation of the Agency and ensure that the Agency carries out its tasks under conditions which enable it to serve as a point of reference by virtue of its independence, the quality of the opinions it issues and the information it disseminates, the transparency of its procedures and methods of operation and its diligence in performing tasks assigned to it.

8. The Management Board shall define the general orientations for the operation of the Agency and ensure that the Agency carries out its tasks under conditions which enable it to serve as a point of reference by virtue of its independence, the quality of the opinions it issues and the information it disseminates, the transparency of its procedures and methods of operation and its diligence in performing tasks assigned to it. *It shall also ensure consistency of the Agency's work with activities conducted by Member States as well as at European Community level.*

Amendment 34
Article 5, paragraph 9

9. Before 31 January each year, the Management Board, having received the *Commission's approval*, shall adopt the Agency's work programme for that year. The Management Board shall ensure that the work programme is consistent with the Community's legislative and policy priorities in the area of network and information security.

9. Before 31 January each year, the Management Board, having received the *approval of the Commission and the European Parliament*, shall adopt the Agency's work programme for that year. The Management Board shall ensure that the work programme is consistent with the Community's legislative and policy priorities in the area of network and information security.

Amendment 35
Article 5, paragraph 11

The financial rules applicable to the Agency shall be adopted by the Management Board after the Commission has been consulted. They may not depart from the framework Financial Regulation adopted by the Commission under Article 185 of the Council Regulation (EC, Euratom) No 1605/2002¹ (hereinafter “the general Financial Regulation”) unless specifically required for the Agency’s operation and with the Commission’s prior consent

The financial rules applicable to the Agency shall be adopted by the Management Board after the Commission has been consulted ***and after the Budgetary Authority has been informed.*** They may not depart from the framework Financial Regulation adopted by the Commission under Article 185 of the Council Regulation (EC, Euratom) No 1605/2002² (hereinafter “the general Financial Regulation”) unless specifically required for the Agency’s operation and with the ***Budgetary Authority's*** prior consent.

Justification

The Budgetary Authority should be informed about the agency's financial regulation, considering its competences over the Agencies (establishment plan, discharge....). The Commission cannot have any competences alone in order to allow a derogation of the Financial Regulation which has been adopted by Council following a substantive conciliation procedure (ex 1975 agreement).

Amendment 36
Article 6, paragraph 4, point (g) a (new)

(g) a developing and maintaining contact with the business community and consumers organisations for ensuring a regular dialogue with interested parties;

¹ OJ L 248, 16.9.2002, p.1.

² OJ L 248, 16.9.2002, p.1.

Amendment 37
Article 7, paragraph 1

1. The Advisory Board shall be composed of nine experts proposed by the Management Board and designated by the Executive Director. Representatives may be replaced by alternates, appointed at the same time. Representatives of the Commission shall be entitled to be present in the meetings and participate in the work of the Advisory Board.

1. The Advisory Board shall be composed of nine experts proposed by the Management Board and designated by the Executive Director. ***The experts shall include, inter alia, representatives from industry, consumer associations and the science and research sector in the area of network and information security.*** Representatives may be replaced by alternates, appointed at the same time. Representatives of the Commission shall be entitled to be present in the meetings and participate in the work of the Advisory Board.

Justification

It is appropriate that experts from industry, consumer bodies and the science and research sector should be represented on the Advisory Board.

Amendment 38
Article 7, paragraph 6, point (ba) (new)

(ba) advise the Executive Director on ensuring communication with the business community and consumers organisations on all issues related to the work programme;

Amendment 39
Article 7, paragraph 6, point (bb) (new)

(bb) advise the Executive Director on how to ensure cooperation with the bodies and agencies created under EU law which have an interest in network and information security;

Amendment 40
Article 7, paragraph 7

7. The Executive Director may invite representatives of the European Parliament and other relevant bodies to take part in the meetings of the Advisory Board.

(Does not affect English version.)

Justification

(Does not affect English version.)

Amendment 41
Article 10, paragraph 3 a (new)

3a. In addition, working groups drawn from the industry and service sector shall be established, the task of which shall be to swiftly forward information to the Agency concerning attacks on strategic networks and critical infrastructure.

Amendment 42
Article 10, paragraph 4

4. The procedures for the appointment of the experts and the operation of the working group shall be specified in the Agency's internal rules.

4. The procedures for the appointment of the experts and the operation of the working group shall be specified in the Agency's internal rules. ***These procedures shall ensure, among other things, that Working Groups include representatives from the private sector, and that Working Groups seek input from all interested stakeholders. Where established, the ad hoc Working Groups shall address in particular technical and scientific matters.***

Amendment 43
Article 12, paragraph 3

3. The Management Board, ***acting on a proposal from*** the Executive Director, may authorise interested parties to observe the proceedings of some of the Agency's activities.

3. The Management Board, ***or*** the Executive Director may authorise interested parties to observe the proceedings of some of the Agency's activities.

Amendment 44
Article 13, paragraph 1

1. The Agency shall not divulge to third parties information that it processes or receives for which confidential treatment has been requested and justified, except for information which must be disclosed in accordance with national law, in order to protect public security and for the prevention, investigation, detection and prosecution of criminal offences.

1. The Agency shall not divulge to third parties information that it processes or receives for which confidential treatment has been requested and justified, except for information which must be disclosed in accordance with national ***and Community*** law, in order to protect public security and for the prevention, investigation, detection and prosecution of criminal offences.

Amendment 45
Article 13, paragraph 4

4. For the purpose of the first paragraph "third parties" shall not include the Commission.

4. For the purpose of the first paragraph "third parties" shall not include the Commission, ***provided that the person disclosing the information does not do so on condition that it is not disclosed to the Commission.***

Justification

Parties may be unwilling to provide information in certain circumstances if it will be disclosed to the Commission.

Amendment 46
Article 13a (new)

13 a. Security

1. The Agency shall ensure that its systems are completely secure, in particular against insider threats.

2. The Agency shall ensure that its personnel have security clearance commensurate with their functions and the type of information to which they have access.

3. It shall carry out a security audit once a year.

Amendment 47

Article 15, paragraph 1a (new)

The host Member State should provide a contribution to the setting up of the Agency especially in the form of buildings, building sites and infrastructure.

Justification

Agencies are ruled by the provisions set up by the Treaty and by the Financial Regulation. Co-financing of new agencies should be encouraged in order for the users to contribute to the source offered by the Community. As foreseen by the joint declaration adopted in the context of the revision of the agencies' basic acts following the entry into force of the new Financial regulation, Member States are encouraged to contribute to the settlement of the agencies.

Amendment 48

Article 15, paragraph 2

2. The expenditure of the Agency shall include the staff, administrative and technical support, infrastructure and operational expenses, and expenses resulting from contracts entered into with third parties.

2. The expenditure of the Agency shall include the staff, administrative and technical support, infrastructure and operational expenses, and expenses resulting from contracts entered into with third parties, ***including research.***

Amendment 49
Article 20, paragraph 2a (new)

2a. Recruitment to the staff of the Agency shall be conditional upon staff members' being given security clearance within the meaning of Article 13a, paragraph 2.

Amendment 50
Article 23, paragraph 2

2. The evaluation shall be made public.

2. The evaluation shall be forwarded to the European Parliament, which shall give its opinion thereon. The evaluation shall be made public.

Amendment 51
Article 23, paragraph 3

3. ***The*** Commission shall ***undertake the evaluation notably with the aim to determine*** whether the duration of the Agency should be extended beyond the date specified in Article 26.

3. On the basis of the evaluation carried out, the Commission shall ***decide, in agreement with the European Parliament and the Council,*** whether the duration of the Agency should be extended beyond the date specified in Article 26.

Amendment 52
Article 23, paragraph 3

The Commission shall undertake the evaluation notably with the aim to determine whether the duration of the Agency should be extended beyond the date specified in Article 26.

The Commission ***and the budgetary authority*** shall undertake the evaluation notably with the aim to determine whether the duration of the Agency should be extended beyond the date specified in Article 26.

Justification

Evaluating the cost effectiveness of EU policies is a principle of sound management. After 2006, the extension of all activities will depend on the decision of the budgetary authority on the new financial perspective.

EXPLANATORY STATEMENT

The Commission proposal

The development of the Internet has been growing extremely fast in the last years. More and more enterprises and consumers can benefit from the eBusiness. European Member States are making progress in the developing of eGovernment.

The Commission proposes to create a European Network and Security Agency in order to improve security of networks at the European level. At present Member States approach in the field of information security are different various and the level of safety also varies from country to country.

The proposal foresees that *"the Agency shall facilitate the application of Community measures relating to network and information security and help ensure interoperability of security functions in networks and information systems, thereby contributing to the functioning of the Internal Market. It shall enhance the capability of the Community and the Member States to respond to network and information security problems"*.

In order to reach this objective the Commission proposal foresees that the Agency will have the following tasks:

- collect and analyse data, including information on current and emerging risks and, in particular, those which would impact on the resilience of critical communications networks and the information accessed and transmitted through them;
- provide assistance and deliver opinions within its objectives to the Commission and other competent bodies;
- enhance co-operation between different actors operating in the field of network and information security, inter alia by establishing a network for national and Community bodies;
- contribute to the availability of rapid, objective and comprehensive information on network and information security issues for all users by, inter alia, promoting exchanges of best practice on methods of alerting users, including those related to computer attack alert systems, and seeking synergy between public and private sector initiatives;
- assist when called upon, the Commission and national regulatory authorities in analysing the implementation of network and information security requirements for operators and service providers, including requirements on data protection, that are contained in Community legislation;
- contribute to the assessment of standards on network and information security;
- promote risk assessment activities and encourage interoperable risk management solutions within organisations;
- contribute to the Community approach on co-operation with third countries including facilitating contacts with international fora;
- undertake any other task assigned to it by the Commission within its objectives.

Rapporteur's position

The rapporteur welcomes the Commission proposal as he agrees on the need to have a common approach to information security in Europe.

He thinks that some clarifications should be made concerning the role of the National Agencies and of interest groups in their relation with the European agency and that the responsibility and co-operation should be clearly defined.

These relations represent a very strategic issue, as network and information security is a common European objective. The rapporteur notices that Member States' situations are very different in this field, as security levels can vary from country to country. It is a common European interest to have the highest possible level of security all over the EU.

In the perspective of the enlargement he believes that adjustments will be needed in the future Member States, whose network and information security measures are not at the same level as the present member States' ones. In his opinion, candidate countries should be asked to adopt the best security practices, as all the present member States will do.

Scope, Objectives and Tasks of the Agency

The rapporteur believes that the Agency will play a major role in the good functioning of the internal market.

He agrees on the objectives foreseen in the Commission proposal

As for the tasks of the Agency, in principle the Rapporteur agrees on them, but suggests some slight modifications and additions.

The rapporteur believes it is necessary to refer clearly to the need to encourage the co-operation between public and private sectors, specifying that businesses and consumers will be involved in the future co-operation networks as well as Community and national bodies.

Moreover, the ways to make solutions to cybercrime accessible for SMEs should be taken into account.

Finally he considers that the Agency could promote public awareness on cybercrime by advising member States on actions to be undertaken in this field, (i.e. awareness campaigns, education programmes, training).

Agency bodies and Organisation

In the rapporteur's view, the management board, as the main political decision making body, should include a representative of each Member State. It should also include representatives of the Commission, of business and consumers' organisations who would seat in it as observers. The role of the management board should consist in the definition of the main

political guidelines and management decisions.

As for the voting rules in the management committee, considering the very large number of members, the rapporteur believes that efficiency can only be ensured through the simple majority, unless otherwise specified in internal rules of procedure.

In order to guarantee the maximum flexibility to the Agency in its daily work, the Rapporteur believes that any executive decision should be in the hands of the Executive Director and the Advisory board.

The Executive director should be entitled to prepare and implement the work programme, the budget and the establishment of working groups of the Agency.

The rapporteur agrees with the Commission proposal concerning an advisory board chaired by the Executive Director. The members of the advisory board should be proposed by the Management board and appointed by the Executive director. Members should be experts coming, amongst others, from the industrial sector and whose knowledge and experience in the field of fighting cybercrime will contribute to support the activity of the Agency. This board would give advice to the Executive Director in the definition of the Agency programme as well as in actions to be taken in order to enhance co-operation with national bodies and institutions.

One of the rapporteur's main concerns is to make the Agency functioning as flexible as possible. Having political guidance coming from the Management board and operational decision taken at the Executive Director level will ensure a smooth functioning of the Agency and avoid obstacles in a prompt response to day to day needs. Decision process must be as light as possible in order not to undermine the whole prospect of an operational Agency with strong delays for major decisions.

Public - private partnership

The rapporteur is in favour of the co-operation between public and private partners to support the Agency activities. He is convinced that thanks to this co-operation the Agency will benefit of groups of interest experience.

This is the reason why he suggests a large consultation of the interest groups by the Agency. Both business community and consumers' bodies views have to be taken into account. He also welcomes the idea of involving them in the management board with the statute of observers.

Role of the European Parliament

The rapporteur stresses the need to involve the European Parliament in the main decisions concerning the Agency, namely the place where it will have its seat, the duration of the Agency activities, as well as the appointment of Executive Director.

Moreover, he believes that the Parliament should be entitled to agree on the tasks that the Commission will assigned to the Agency and to approve, together with the Commission, the Agency working programme set every year by the management board.

Co-operation with other European bodies

In order to favour a better co-ordination at the European level, the rapporteur believes that a co-operation with bodies created under EU law which have an interest in network and information security, including those dealing with computer crime such as OLAF, EUROPOL and EUROJUST should be foreseen in the proposal. These bodies experience in the field of combating cybercrime will represent an added value to the Agency activities.

2 September 2003

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Industry, External Trade, Research and Energy

on the proposal for a European Parliament and Council regulation on establishing the European Network and Information Security Agency
(COM(2003) 63 – C5-0058/2003 – 2003/0032(COD))

Draftsman: Wilfried Kuckelkorn

PROCEDURE

The Committee on Budgets appointed Wilfried Kuckelkorn draftsman at its meeting of 25 March 2003.

It considered the draft opinion at its meeting of 2 September 2003.

At this meeting it adopted the following amendments unanimously.

The following were present for the vote Terence Wynn (chairman), Reimer Böge (vice-chairman), Anne Elisabet Jensen (vice-chairman), Franz Turchi (vice-chairman), Wilfried Kuckelkorn (draftsman), Ioannis Averoff, Den Dover, James E.M. Elles, Anne-Karin Glase (for Markus Ferber), Catherine Guy-Quint, Jutta D. Haug, Jan Mulder, Giovanni Pittella, Paul Rübig (for Salvador Garriga Polledo), Esko Olavi Seppänen (for Chantal Cauquil), Per Stenmarck, Rijk van Dam (for Michel Raymond), Kyösti Tapio Virrankoski and Ralf Walter.

SHORT JUSTIFICATION

The Commission proposes the creation of a new agency in order to enhance network and information security in Europe and Member States' ability, both individually and collectively, to respond to major network and information security problems.

The broad objective of the Agency is to create a common understanding in Europe of issues relating to information security that is necessary to ensure the availability and security of networks and information systems in the Union.

The Agency shall be able to:

- provide **assistance in the application of Community measures** relating to network and information security.
- the assistance it provides shall help ensure **interoperability** of information security functions in networks and information systems, thereby contributing to the **functioning of the Internal Market**.
- enhance the capability of both Community and Member States to **respond to network and information security problems**.

The Commission justifies the need for an agency on the basis of an evaluation which demonstrates that the various alternatives, including the creation of an internal network within the Commission or networks of correspondents of Member States, could not meet the objective qualitative criteria (transparency, cost efficiency and visibility). The first alternative is not achievable as the Commission does not have the necessary expertise and information security in house. The second alternative creates the risk for the Commission of losing its supervisory functions and limits the awareness of trans-national dimension. The third argument on visibility is less convincing: the Commission considers that "a centralised network would not offer a single point of contact for international discussions".

The rapporteur notices that all the new positions of the financial regulation are included in the legislative proposals. In addition, the Commission has even included the exact wording of EP's request for a rapid decision on the seat in the legislative act. Article 25 states the following:

The seat of the Agency shall be decided by the competent authorities, at the latest six months after the adoption of this regulation, on a proposal from the Commission.

The agency will cost 24.3 mio under heading 3.

€ million (to three decimal places)

	2004	2005	2006	2007	2008	Total
Commitments	2,500	5,000	5,600	5,600	5,600	24,300

For the first time, the Commission foresees to create an agency for a limited period (2004-2008) which could be a first step towards multiannuality for agencies.

In addition to the traditional amendments, the rapporteur proposes to include cofinancing and asks the Commission to transfer posts from headquarters in order to staff the agency.

AMENDMENTS

The Committee on Budgets calls on the Committee on Industry, External Trade, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission ¹	Amendments by Parliament
Amendment 1 Recital 24	
In order to guarantee the full autonomy and independence of the Agency, it is considered necessary to grant it an autonomous budget whose revenue comes essentially from a contribution from the Community. The Community budgetary procedure remains applicable as far as any subsidies chargeable to the general budget of the Communities are concerned; moreover, the Court of Auditors should undertake the auditing of accounts.	In order to guarantee the full autonomy and independence of the Agency, it is considered necessary to grant it an autonomous budget whose revenue comes <i>partly</i> from a contribution from the Community <i>and partly from public and private sources</i> . The budgetary <i>authority decides on the amount of the subsidy in the context of the annual budgetary procedure and on the basis of the level of other contributions set up by the legislative authority</i> ; moreover, the Court of Auditors should undertake the auditing of accounts.

Justification

Agencies are ruled by the provisions set up by the Treaty and by the Financial Regulation. Co-financing of new agencies should be encouraged in order for the users to contribute to the source offered by the Community.

Amendment 2

¹ OJ C, p.

Recital 25

The Agency should be initially established for a limited period and its operations evaluated in order to determine whether the duration of its operations should be extended.

The Agency should be initially established for a limited period and its operations **and cost effectiveness** evaluated in order to determine whether the duration of its operations should be extended **in the context of the current Financial perspective**.

Justification

Evaluating the cost effectiveness of EU policies is a principle of sound management. After 2006, the extension of all activities will depend on the decision of the budgetary authority on the new financial perspective.

Amendment 3 Article 5, paragraph 11

The financial rules applicable to the Agency shall be adopted by the Management Board after the Commission has been consulted. They may not depart from the framework Financial Regulation adopted by the Commission under Article 185 of the Council Regulation (EC, Euratom) No 1605/2002¹ (hereinafter “the general Financial Regulation”) unless specifically required for the Agency’s operation and with the Commission’s prior consent

The financial rules applicable to the Agency shall be adopted by the Management Board after the Commission has been consulted **and after the Budgetary Authority has been informed**. They may not depart from the framework Financial Regulation adopted by the Commission under Article 185 of the Council Regulation (EC, Euratom) No 1605/2002² (hereinafter “the general Financial Regulation”) unless specifically required for the Agency’s operation and with the **Budgetary Authority’s** prior consent.

Justification

The Budgetary Authority should be informed about the agency's financial regulation, considering its competences over the Agencies (establishment plan, discharge....). The Commission cannot have any competences alone in order to allow a derogation of the Financial Regulation which has been adopted by Council following a substantive conciliation procedure (ex 1975 agreement).

¹ OJ L 248, 16.9.2002, p.1.

² OJ L 248, 16.9.2002, p.1.

Amendment 4
Article 15, paragraph 1

The revenues of the Agency shall consist of a contribution from the Community and any contribution from third countries participating in the work of the Agency as provided for by Article 22.

The revenues of the Agency shall consist of a contribution from the Community, ***fees paid by the public and private sectors as users and*** any contribution from third countries participating in the work of the Agency as provided for by Article 22.

Justification

Agencies are ruled by the provisions set up by the Treaty and by the Financial Regulation. Co-financing of new agencies should be encouraged in order for the users to contribute to the source offered by the Community. As foreseen by the joint declaration adopted in the context of the revision of the agencies' basic acts following the entry into force of the new Financial regulation, Member States are encouraged to contribute to the settlement of the agencies.

Amendment 5
Article 15, paragraph 1a (new)

The host Member State should provide a contribution to the setting up of the Agency especially in the form of buildings, building sites and infrastructure.

Justification

Agencies are ruled by the provisions set up by the Treaty and by the Financial Regulation. Co-financing of new agencies should be encouraged in order for the users to contribute to the source offered by the Community. As foreseen by the joint declaration adopted in the context of the revision of the agencies' basic acts following the entry into force of the new Financial regulation, Member States are encouraged to contribute to the settlement of the agencies.

Amendment 6
Article 20, paragraph 1a (new)

The Commission, after having evaluated the duplication of activities at centralised

and decentralised level, will transfer the appropriate human resources from the concerned services at headquarters to the agency.

Justification

In line with the added value of decentralised activities developed under the principle of governance, the policy cost of decentralised Community programmes compared to activities held at headquarters, should be inferior.

Amendment 7
Article 23, paragraph 3

The Commission shall undertake the evaluation notably with the aim to determine whether the duration of the Agency should be extended beyond the date specified in Article 26.

The Commission ***and the budgetary authority*** shall undertake the evaluation notably with the aim to determine whether the duration of the Agency should be extended beyond the date specified in Article 26. ***The amount of the subsidy beyond 2006 should be linked to the decision of the budgetary authority on the new financial perspective.***

Justification

Evaluating the cost effectiveness of EU policies is a principle of sound management. After 2006, the extension of all activities will depend on the decision of the budgetary authority on the new financial perspective.

3 October 2003

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET

for the Committee on Industry, External Trade, Research and Energy

on the proposal for a European Parliament and Council regulation on Establishing the European Network and Information Security Agency
(COM(2003) 63 – C5-0058/2003 – 2003/0032(COD))

Draftsman: Arlene McCarthy

PROCEDURE

The Committee on Legal Affairs and the Internal Market appointed Arlene McCarthy draftsman at its meeting of 18 March 2003.

It considered the draft opinion at its meetings of 10 September 2003 and 1 October 2003.

At the last meeting it adopted the following amendments unanimously.

The following were present for the vote Giuseppe Gargani (chairman), Maria Berger, Ward Beysen, Isabelle Caullery, Brian Crowley, Raina A. Mercedes Echerer (for Ulla Maija Aaltonen), José María Gil-Robles Gil-Delgado, Malcolm Harbour, Klaus-Heiner Lehne, Sir Neil MacCormick, Toine Manders, Manuel Medina Ortega, Astrid Thors (for Diana Wallis) and Stefano Zappalà.

SHORT JUSTIFICATION

The Agency's aim is to create a common understanding of issues relating to information security with a view to ensuring the availability and security of networks and information systems in the EU. The Commission rightly points to the increasing concern to society posed by the security of computing and networking, which are in the course of becoming utilities, much in the same way as water or electricity supply.

It is further noted that security breaches have caused financial damage, undermined user confidence and detracted from the development of e-commerce.

The Commission finds that Member State reactions have been disparate and insufficiently coordinated and that a consistent security response has not yet been developed. The lack of interoperable security products is identified as a particular problem in so far as it may jeopardise network interoperability.

Consequently, it is considered that the lack of a common European response to information security problems in the application of Community measures risks undermining the smooth functioning of the Internal Market.

These arguments are put forward to justify the choice of Articles 95 (functioning of the Internal Market) and 156 (measures to ensure network interoperability) as the legal basis.

Your draftsman is not altogether convinced that the modest tasks conferred on this Agency altogether justify its establishment under those legal bases. As the proposal stands, the Agency is to constitute a "centre of expertise" at European level, collecting and analysing data on security breaches and providing guidance, assistance and opinions on the technical and organisational implementation of the relevant Internal Market legislation to the Commission, national regulatory bodies and competent national bodies (including law enforcement and judicial authorities). Your draftsman notes in passing that it is by no means clear how the Agency is to be consulted by, for instance, national judicial authorities, in the absence of any detailed provisions in this regard in the regulation itself or in national law.

Other tasks envisaged in the regulation seek to enhance cooperation between different actors in the field of network and information security by establishing a network for national and Community bodies; contribute to the rapid availability of information and promote the exchange of best practices, while seeking synergy between public and private sector initiatives; assist the Commission and national regulatory authorities in analysing the implementation of network and information security requirements for operators and service providers; contribute to the assessment of the relevant standards, promote risk assessment activities; encourage interoperable risk management systems, and contribute to the Community approach on cooperation with third countries, including facilitating contacts with international fora. The draftsman has serious doubts whether the Agency as it is proposed will make a significant contribution to the functioning of the Internal Market and network interoperability. She fears that it may be more in the nature of a solution looking for a problem rather than a real contribution to the creation of the "culture of security" called for by the revised OECD *Guidelines for the Security of Information Systems and Networks: Towards a Culture of Security* and UN Resolution 57/239 on the Creation of a global culture of cybersecurity.

However, given that the fact that the Agency is to be established for a limited period only and its further existence subject to review, your draftsman considers that it is a worthwhile experiment.

Alarming, technology has proliferated faster than the capacity to train people to deal with the security aspect. It would therefore be useful if the Agency could play a part in establishing training programmes encompassing the different national approaches to the security issue in respect of such matters as privacy, security, reliability and public access to documents.

It essential to make sure that the private sector is thoroughly involved, if only to allow the Agency to draw on and disseminate best practices. This will necessitate strict application of the provisions on confidentiality and the establishment of protocols on information sharing and maintaining confidentiality with regard to business secrets. Your draftsman considers, however, that there could be a conflict in this respect with the application of the Community transparency rules.

Appropriate security clearance for Agency personnel is essential. Governments - and parts of the private sector - will otherwise be reluctant to disclose information to it or even precluded by law from doing so. It is absolutely essential that the Agency should be a secure operation and that it should take specific action to protect against insider threats. It will need to draw up detailed rules on who determines what is confidential, the treatment of confidential information and need to know. The problem of keeping the Agency itself secure will also have to be addressed. Your draftsman's amendments endeavour to take account of these issues.

Another question is how the Agency will aggregate the disparate data from the various Member States and whether this will be a useful operation, given that to counter terrorism it is sometimes better to have information in a disaggregated form.

One useful project which the new Agency could take under its wing is to develop a trustworthy computer initiative at EU level in collaboration with the private and public sectors.

Lastly, the Agency should examine the question of the trade-off between security and governments' ability to obtain information.

AMENDMENTS

The Committee on Legal Affairs and the Internal Market calls on the Committee on Industry, External Trade, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

¹ Not yet published in the OJ.

Amendment 1
Recital 11

This calls for the creation of a centre of expertise at European level providing guidance, assistance and opinions on technical and organisational implementation of such requirements, which may be relied upon by the Commission **and the national regulatory authorities** and competent bodies of the Member States. Competent bodies in the field of network and information security include law enforcement and judicial authorities in the Member States.

This calls for the creation of a centre of expertise at European level providing guidance, assistance and opinions on technical and organisational implementation of such requirements, which may be relied upon by the Commission, the **National Regulatory Authorities**, competent bodies of the Member States **and the private sector**. Competent bodies in the field of network and information security include law enforcement and judicial authorities in the Member States.

Justification

The private sector, including consumer and industry associations, should be able to rely on the Agency's expertise, for the purpose of seeking advice in critical circumstances.

Amendment 2
Recital 12

The agency should perform its tasks in full co-operation with the Member States **and be open to contacts with** industry and other interested bodies.

The agency should perform its tasks in full co-operation with the Member States, industry and other credible interested bodies.

Justification

Most of the infrastructure of information systems and networks is designed, built, owned, and operated by the private sector. On the other hand, governments have specific responsibilities such as policy development, protection of national interests, law enforcement, etc... This interdependence means that only a model that is based on mutual trust and equal participation amongst participants will deliver effective security.

Amendment 3
Recital 14

Ensuring confidence in networks and information systems requires that individuals, businesses and public administrations are sufficiently informed **and knowledgeable** in the field of security.

Ensuring confidence in networks and information systems requires that individuals, businesses and public administrations are sufficiently informed, **educated and trained** in the field of **ICT**

Public authorities have *taken steps to* increase awareness by informing the public. *However these* measures need to be further developed, in particular, with regard to new vulnerabilities and their risks. An increased information exchange between Member States will facilitate such awareness raising actions.

security. Public authorities have *a public policy role to provide training and* increase awareness by informing the *general* public, *SMEs, corporate companies, public administrations, schools and universities.* *These* measures need to be further developed, in particular, with regard to new vulnerabilities and their risks. An increased information exchange between Member States will facilitate such awareness raising actions. *The Agency should provide advice on best practices in awareness-raising, training and courses.*

Justification

The Agency should promote and co-ordinate awareness-raising campaigns and provide best practice examples in awareness-raising, training and courses. Several positive examples of possible actions and messages are proposed in the OECD's Working Party on Information Security and Privacy, Implementation plan for the OECD Guidelines for the security of information systems and networks.

Amendment 4 Recital 15

Despite the need for reliable processes, it is often difficult to assess the trustworthiness of products and services. There are publicly and privately organised evaluation and certification schemes. However, evaluation and certification processes tend to be cumbersome, expensive, and slow. All actors, including public authorities would benefit from better technical guidance in their efforts to promote efficient certification systems. A technically competent European body for objective advice on the quality of different standards would therefore improve the possibilities to promote reliable security standards, including where appropriate standards for privacy enhancing technologies, in Europe.

Despite the need for reliable processes, it is often difficult to assess the trustworthiness of products and services. There are publicly and privately organised evaluation and certification schemes. However, evaluation and certification processes tend to be cumbersome, expensive, and slow. All actors, including public authorities would benefit from better technical guidance in their efforts to promote efficient certification systems. A technically competent European body for objective advice on the quality of different standards, *products and services* would therefore improve the possibilities to promote *the adoption of* reliable security standards, *products and services*, including where appropriate standards for privacy enhancing technologies, in Europe. *The agency should facilitate the development, in collaboration with the ICT industry, of a recognised and accepted European ICT security quality assessment ranking system*

and label.

Justification

The scope of delivering objective advice should be extended to include products and services. The establishment of a European label that assesses products and services' security performance would encourage secure products and would influence end-users' purchase decisions.

Amendment 5
Recital 22 a (new)

(22 a) The Agency should ensure that its operations are secure, in particular against any insider threat, and obtain security clearance of an appropriate level for all its personnel.

Amendment 6
Article 1, paragraph 3 (new)

The Agency shall work with Member States to promote a culture of network and information security engaging citizens, consumers, enterprises and public sector organisations.

Justification

An important objective that should be added to the Agency's remit.

Amendment 7
Article 2, point (c)

(c) enhance co-operation between different actors operating in the field of network and information security, inter alia by establishing ***a network for national and*** Community bodies;

(c) enhance co-operation between different actors operating in the field of network and information security, inter alia by establishing ***networks of contacts for*** Community bodies, ***public sector bodies and private sector bodies.***

Justification

Most of the infrastructure of information systems and networks is designed, built, owned, and operated by the private sector. On the other hand governments have specific responsibilities such as policy development, protection of national interests, law enforcement, etc... This interdependence means that only a model that is based on mutual trust and equal participation amongst participants will deliver effective security.

Amendment 8
Article 2, point (e)

(e) assist when called upon, the Commission and national regulatory authorities in analysing the implementation of network and information security requirements for operators and service providers, including requirements on data protection, that are contained in Community legislation;

(e) assist when called upon, the Commission and national regulatory authorities in analysing the implementation of network and information security requirements for operators and service providers, including requirements on data protection, that are contained in Community legislation, ***and promote the standard of authentication of messages and signatures;***

Justification

It is important to develop the security of electronic signatures and that Community legislation produces results. Secure protection of the sender's identity may, in the short term, be the most effective protection against attacks on mail.

Amendment 9
Article 2, point (f)

(f) contribute to the assessment of standards on network and information security;

(f) contribute to the assessment of standards ***for products and services*** on network and information security; ***facilitate the development in collaboration with the ICT industry of the establishment, implementation and publication in Europe of a recognised and accepted European ICT security quality assessment ranking system and label;***

Justification

The scope of delivering objective advice should be extended to include products and services. The establishment of a European label that assesses products and services' security

performance would encourage secure products and would influence end-users' purchase decisions.

Amendment 10
Article 2, point (ha) (new)

(ha) coordinate and encourage training and outreach programmes designed to ensure that national and Community bodies and the private sector factor security into the design, implementation and use of all information systems and networks;

Amendment 11
Article 2, point (hb) new

(hb) maintain contacts with national cybercrime units and international high-technology assistance points with a view to assisting with the creation of such capabilities to the extent that they do not already exist;

Amendment 12
Article 2, point (hc) (new)

(hc) assist in establishing institutions that exchange threat and vulnerability assessments (such as Computer Emergency Response Teams) and in coordinating their work;

Amendment 13
Article 2, point (hd) (new)

(hd) establish protocols on information sharing and maintaining confidentiality;

Amendment 14
Article 5, point 1

1. The Management Board shall be composed of six representatives appointed by the Council, six representatives appointed by the Commission, as well as **two** representatives of industry and **one representative** of consumers proposed by the Commission and appointed by the Council without the right to vote.

1. The Management Board shall be composed of six representatives appointed by the Council, six representatives appointed by the Commission, as well as **four** representatives of industry and **two representatives** of consumers **and professional user groups** proposed by the Commission and appointed by the Council without the right to vote.

Amendment 15
Article 8, second paragraph (new)

8. The Agency shall include in its first work programme the project of developing a trustworthy computer initiative at Community level in collaboration with the private and public sectors in the Member States.

Amendment 16
Article 13, paragraph 4

4. For the purpose of the first paragraph “third parties” shall not include the Commission.

4. For the purpose of the first paragraph “third parties” shall not include the Commission, ***provided that the person disclosing the information does not do so on condition that it is not disclosed to the Commission.***

Justification

Parties may be unwilling to provide information in certain circumstances if it will be disclosed to the Commission.

Amendment 17

Article 13a (new)

13 a. Security

1. The Agency shall ensure that its systems are completely secure, in particular against insider threats.

2. The Agency shall ensure that its personnel have security clearance commensurate with their functions and the type of information to which they have access.

3. It shall carry out a security audit once a year.

Amendment 18

Article 14, paragraph 3

Decisions taken by the Agency under Article 8 of Regulation (EC) No 1049/2001 may be appealed by means of ***a complaint to the Ombudsman or*** an action before the Court of Justice of the European Communities, under ***Articles 195 and*** 230 of the EC Treaty respectively.

Decisions taken by the Agency under Article 8 of Regulation (EC) No 1049/2001 may be appealed by means of an action before the Court of Justice of the European Communities, under Article 230 of the EC Treaty respectively. ***Anyone dissatisfied with decisions taken by the Centre may also lodge a complaint with the Ombudsman in accordance with Article 195 of the EC Treaty.***

Justification

In formal terms, appeals are not submitted to the Ombudsman.

Amendment 19

Article 20, paragraph 2a (new)

2a. Recruitment to the staff of the Agency shall be conditional upon staff members' being given security clearance within the meaning of Article 13a, paragraph 2.

10 July 2003

OPINION OF THE COMMITTEE ON CITIZENS' FREEDOMS AND RIGHTS, JUSTICE AND HOME AFFAIRS

for the Committee on Industry, External Trade, Research and Energy

on the proposal for a European Parliament and Council regulation on establishing the European Network and Information Security Agency
(COM(2003) 63 – C5-0058/2003 – 2003/0032(COD))

Draftsman: Charlotte Cederschiöld

PROCEDURE

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs appointed Charlotte Cederschiöld draftsman at its meeting of 20 March 2003.

It considered the draft opinion at its meeting of 23 April 2003, 20 May 2003 and 10 July 2003.

At the latter meeting it adopted the following amendments by 26 votes to 5, with no abstention.

The following were present for the vote Jorge Salvador Hernández Mollar (chairman), Robert J.E. Evans (vice-chairman), Johanna L.A. Boogerd-Quaak (vice-chairman), Giacomo Santini (vice-chairman), Charlotte Cederschiöld (draftsman), Mary Elizabeth Banotti, Kathalijne Maria Buitenweg (for Alima Boumediene-Thiery), Marco Cappato (for Mario Borghezio), Michael Cashman, Charlotte Cederschiöld, Carmen Cerdeira Morterero, Carlos Coelho, Gérard M.J. Deprez, Evelyne Gebhardt (for Margot Keßler), Marie-Thérèse Hermange (for Marcelino Oreja Arburúa), Eva Klamt, Alain Krivine (for Giuseppe Di Lello Finuoli), Jean Lambert (for Patsy Sørensen), Baroness Ludford, Lucio Manisco (for Ole Krarup), Manuel Medina Ortega (for Sérgio Sousa Pinto), Elena Ornella Paciotti, Hubert Pirker, José Ribeiro e Castro, Martine Roure, Heide Rühle, Ilka Schröder, Ole Sørensen (for Bill Newton Dunn), Joke Swiebel, Fodé Sylla, Anna Terrón i Cusí, Maurizio Turco and Christian Ulrik von Boetticher.

SHORT JUSTIFICATION

In its resolution of 22 October 2002 on 'Network and information security: proposal for a European policy approach' the European Parliament welcomed the Commission's proposal to set up a task force for network and information security. Furthermore, it was Parliament which, via the proposals of its Committee on Civil Liberties, suggested to the Commission that the legal basis should be changed. Initially the Commission envisaged merely consulting Parliament, but now codecision is the applicable procedure, on the basis of the articles dealing with the internal market and the trans-European networks - more appropriate for a regulation of this kind. The current proposal refers to the creation of a proper agency, which will therefore be of a more diverse nature and have more extensive tasks than the task force originally envisaged. For this reason your rapporteur has tried to introduce additional tasks for the future agency and includes explicit reference to its support for the law enforcement authorities. The Agency will thus be able to cover all the aspects of network and information security, ranging from prevention to the punishment of criminal behaviour. The purpose is not to alter the Agency's legal basis but, by involving third-pillar bodies, to give the Agency the task of support in cases where network security has actually been violated. Similarly, the Agency will have to work in cooperation with existing European bodies, such as OLAF, Europol and Eurojust, which already deal with matters connected with combating computer crime. The creation of interoperable networks is an imported added value, which may nevertheless make the networks themselves more vulnerable. The Agency will therefore also have to study instances of actual violation of the networks and provide the national and European authorities with the instruments and support they need to combat these violations.

Your rapporteur also insisted on another important point: the role of the European Parliament. The codecision procedure is being used and Parliament must therefore be involved in both deciding on the seat of the Agency, evaluating its work and assessing whether the duration of the Agency should be extended. Furthermore, Parliament should be able to express an opinion on the appointment of the Director, the extension of the Agency's tasks and its work programme.

Furthermore, your rapporteur considers that the Agency should be located near centres of excellence in the field of informatics and the most advanced telecommunications technologies, such as wireless telephony. This would enable the Agency to benefit from existing structures and the skilled labour force required and would constitute an attraction for private investors in the area. The Agency should therefore be able to operate in an environment with large transmission capacity, highly-developed public electronic services and in the proximity of a substantial community of users of information technologies, including the Internet.

Finally, the rapporteur considers it appropriate to create a task force consisting of representatives of the Agency and of the corresponding body in the USA, for the purposes of comparing their respective activities, working together and sharing information and best practices in the interests of the population.

AMENDMENTS

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs calls on the Committee on Industry, External Trade, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by Commission ¹	Amendments by Parliament
Amendment 1 Second Recital	
(2) Network and information security is about ensuring the availability of services and data, preventing <i>the</i> disruption and unauthorised interception of communications, confirmation that data which have been sent, received or stored are complete and unchanged, securing the confidentiality of data, protecting information systems against unauthorised access and against attacks involving malicious software and securing dependable authentication.	(2) Network and information security is about ensuring the availability of services and data, preventing disruption, <i>attacks</i> and unauthorised interception of communications, confirmation that data which have been sent, received or stored are complete and unchanged, securing the confidentiality of data, protecting information systems against unauthorised access and against attacks involving malicious software and securing dependable authentication.

Justification

No justification.

Amendment 2 **Recital 10a (new)**

10a. The proposal for a Council framework decision on attacks against information systems² relates to the approximation of criminal law in the area of attacks against information systems, and constitutes part of the Community's response to achieving a safer Information Society.

¹ Not yet published in OJ.

² OJ C 203, 27.8.2002, p. 109.

Justification

No justification.

Amendment 3
Recital 13

(13) The increased Community and global impacts of security incidents call for a timely and effective response to such breaches. However, at present no authorised body in Europe systematically collects data on network and information security that could be used for analysis of security breaches.

(13) The increased Community and global impacts of security incidents call for a timely and effective response to such breaches. However, at present no authorised body in Europe systematically collects data on network and information security that could be used for analysis of security breaches. ***Furthermore, national law enforcement authorities are not sufficiently versed in the detection and identification of attacks against information networks.***

Justification

No justification.

Amendment 4
Recital 14

(14) Ensuring confidence in networks and information systems requires that individuals, businesses and public administrations are sufficiently informed and knowledgeable in the field of security. Public authorities have taken steps to increase awareness by informing the public. However these measures need to be further developed, in particular, with regard to new vulnerabilities and their risks. An increased information exchange between Member States will facilitate such awareness raising actions.

(14) Ensuring confidence in networks and information systems requires that individuals, businesses and public administrations are sufficiently informed and knowledgeable in the field of security. Public authorities have taken steps to increase awareness by informing the public. However these measures need to be further developed, in particular, with regard to new vulnerabilities and their risks. An increased information exchange between Member States will facilitate such awareness raising actions ***and will help to coordinate the responses of the national authorities responsible for safeguarding network security.***

Justification

No justification.

Amendment 5
Recital 16a (new)

16a. The Agency should also be able to coordinate, at European level, responses to attacks against security, by promoting cooperation between users, industry, law enforcement authorities and data protection authorities.

Justification

No justification.

Amendment 6
Recital 16b (new)

16b. The Agency should work in cooperation with the bodies and agencies created under EU law which deal with computer crime, such as Europol, Eurojust and OLAF.

Justification

Amendment 7
Recital 18

(18) Network and information security problems are global issues which are confined neither to individual Member States nor to the Community. A security problem can originate in a third country. Products and services are often developed and evaluated in third countries. Once entered into the Community, security products circulate virtually without restrictions and services can be freely offered. There is a need for closer co-operation at global level to improve security standards, improve information,

(18) Network and information security problems are global issues which are confined neither to individual Member States nor to the Community. A security problem can originate in a third country. Products and services are often developed and evaluated in third countries. Once entered into the Community, security products circulate virtually without restrictions and services can be freely offered. There is a need for closer co-operation at global level to improve security standards, improve information,

and develop common response mechanisms. Several international partners of the Community have begun to set up security bodies to allow for better responses and policy development. Efficient co-operation with these countries and the global community has become a task also at European level.

and develop common response mechanisms. Several international partners of the Community, ***in particular the United States of America***, have begun to set up security bodies to allow for better responses and policy development. Efficient co-operation with these countries and the global community has become a task also at European level.

Justification

No justification.

Amendment 8
Recital 20a (new)

20a. It would be desirable for a task force to be created consisting of representatives of the Agency and of the corresponding body in the USA.

Justification

No justification.

Amendment 9
Recital 21

(21) The good functioning of the Agency requires that its Executive Director is appointed on the grounds of merit and documented administrative and managerial skills, as well as competence and experience relevant for network and information security and that he/she performs his/her duties with complete independence and flexibility as to the organisation of the internal functioning of the Agency. To this end, the Executive Director should prepare and take all necessary steps to ensure the proper accomplishment of the working programme of the Agency, should prepare

(21) The good functioning of the Agency requires that its Executive Director is appointed on the grounds of merit and documented administrative and managerial skills, as well as competence and experience relevant for network and information security and that he/she performs his/her duties with complete independence and flexibility as to the organisation of the internal functioning of the Agency. To this end, the Executive Director should prepare and take all necessary steps to ensure the proper accomplishment of the working programme of the Agency, should prepare

each year a draft general report to be submitted to the Management Board, should draw up estimates of the revenues and expenditure of the Agency and should implement the budget.

each year a draft general report to be submitted to the Management Board, ***should similarly prepare each year a report on the security problems encountered in the European Union during the previous year***, should draw up estimates of the revenues and expenditure of the Agency and should implement the budget.

Justification

No justification.

Amendment 10
Recital 23

To the extent that the Agency will process data related to unlawful acts against information systems, incident handling procedures and threat assessment functions, a certain overall political co-ordination will be required, both at national and European Union level. Such co-ordination should be ensured within the framework of the Advisory Board referred to in Article 7 and be carried out without compromising confidentiality requirements as referred to in Article 13.

To the extent that the Agency will process data related to unlawful acts against information systems, incident handling procedures and threat assessment functions, a certain overall political co-ordination will be required, both at national and European Union level ***with the national law enforcement authorities in defining responses to attacks against information systems***. Such co-ordination should be ensured within the framework of the Advisory Board referred to in Article 7 and be carried out without compromising confidentiality requirements as referred to in Article 13

Justification

No justification

Amendment 11

Recital 25a (new)

25a. The Agency should be located in an area where there are efficient ready-functioning leading-edge electronic communications facilities, including wireless mobile technologies, near centres

of excellence where there is a pool of highly skilled and expert labour, so that economies of scale can be generated and a high-level activity pole developed.

Justification

No justification.

Amendment 12
Article 1, paragraph 2

2. The Agency shall facilitate the application of Community measures relating to network and information security and help ensure interoperability of security functions in networks and information systems, thereby contributing to the functioning of the Internal Market. It shall enhance the capability of the Community and the Member States to respond to network and information security problems.

2. The Agency shall facilitate the application of Community measures relating to network and information security and help ensure interoperability of security functions in networks and information systems, thereby contributing to the functioning of the Internal Market. It shall enhance the capability of the Community and the Member States to ***react and*** respond to network and information security problems.

Justification

No justification.

Amendment 13
Article 2(b)

(b) provide assistance and deliver opinions within its objectives to the Commission and other competent bodies;

(b) provide assistance and deliver opinions within its objectives to the Commission and other ***national and European*** competent bodies;

Justification

No justification.

Amendment 14
Article 2(e)a (new)

(e)a assist the national law enforcement authorities, at their request, to define responses to attacks against information systems, as well as Europol and Eurojust;

Justification

No justification.

Amendment 15
Article 2(g)a (new)

(g)a contribute to the development, implementation and effective use of risk prevention technologies;

Justification

No justification.

Amendment 16
Article 2(h)

(h) contribute to the Community approach on co-operation with third countries including facilitating contacts with international fora;

(h) contribute to the Community approach on co-operation with third countries including facilitating contacts with international fora, ***including the European forum on cybercrime, at least once a year;***

Justification

No justification.

Amendment 17
Article 2(i)

(i) undertake any other task assigned to it by the Commission within its objectives.

(i) undertake any other task assigned to it by the Commission, ***in agreement with the European Parliament,*** within its objectives.

Justification

No justification.

Amendment 18 Article 3, new indent

For the purposes of this Regulation the following definitions shall apply:

- ‘*network*’ means transmission systems and, where applicable, switching or routing equipment and other resources which permit the conveyance of signals by wire, by radio, by optical or by other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including Internet) and mobile terrestrial networks, networks used for radio and television broadcasting, and cable TV networks, irrespective of the type of information conveyed;
- ‘*information system*’ means computers and electronic communication networks, as well as electronic data stored, processed, retrieved or transmitted by them for the purposes of their operation, use, protection and maintenance;
- ‘*network and information security*’ means the ability of a network or an information system to resist, at a given level of confidence, accidental events or unlawful or malicious actions that compromise the availability, authenticity, integrity and confidentiality of stored or transmitted data and the related services offered by or accessible via these networks and systems;
- ‘*availability*’ means that data is accessible and services are operational;
- ‘*authentication*’ means the confirmation of an asserted identity of

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- ‘*information system*’ means computers and electronic communication networks, as well as electronic data stored, processed, retrieved or transmitted by them for the purposes of their operation, use, protection and maintenance;
- ‘*network and information security*’ means the ability of a network or an information system to resist, at a given level of confidence, accidental events or unlawful or malicious actions that compromise the availability, authenticity, integrity and confidentiality of stored or transmitted data and the related services offered by or accessible via these networks and systems;
- ‘*availability*’ means that data is accessible and services are operational;
- ‘*authentication*’ means the confirmation of an asserted identity of

entities or users;

- '*data integrity*' means the confirmation that data which has been sent, received, or stored are complete and unchanged;

- '*data confidentiality*' means the protection of communications or stored data against interception and reading by unauthorised persons;

- '*risk*' means a function of the probability that a vulnerability in the system affects the availability, authentication, integrity or confidentiality of the data processed or transferred and the severity of that effect, consequential to the intentional or non-intentional use of such a vulnerability;

- '*risk assessment*' means a scientific and technologically based process consisting of four steps threats identification, threat characterisation, exposure assessment and risk characterisation;

- '*risk management*' means the process, distinct from risk assessment, of weighing policy alternatives in consultation with interested parties, considering risk assessment and other legitimate factors, and, if need be, selecting appropriate prevention and control options.

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- '*data integrity*' means the confirmation that data which has been sent, received, or stored are complete and unchanged;

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- '*risk assessment*' means a scientific and technologically based process consisting of four steps threats identification, threat characterisation, exposure assessment and risk characterisation;

- '*risk management*' means the process, distinct from risk assessment, of weighing policy alternatives in consultation with interested parties, considering risk assessment and other legitimate factors, and, if need be, selecting appropriate prevention and control options.

- '***attacks***': ***unauthorised accessing of information systems, disruption of information systems, execution of malicious software that modifies or destroys data, interception of communications or malicious representation.***

Justification

No justification.

Amendment 19
Article 5, paragraphe 1

1. The Management Board shall be composed of ***six*** representatives appointed by the Council, ***six*** representatives appointed by the Commission, as well as ***two*** representatives of industry and one representative of consumers proposed by the Commission and appointed by the Council without the right to vote.

1. The Management Board shall be composed of ***five*** representatives appointed by the Council, ***five*** representatives appointed by the Commission, as well as ***three*** representatives of industry, one representative of ***research and education*** and one representative of consumers proposed by the Commission and appointed by the Council without the right to vote.

Amendment 20
Article 5, paragraph 9

9. Before 31 January each year, the Management Board, having received the ***Commission's approval***, shall adopt the Agency's work programme for that year. The Management Board shall ensure that the work programme is consistent with the Community's legislative and policy priorities in the area of network and information security.

9. Before 31 January each year, the Management Board, having received the ***approval of the Commission and the European Parliament***, shall adopt the Agency's work programme for that year. The Management Board shall ensure that the work programme is consistent with the Community's legislative and policy priorities in the area of network and information security.

Justification

No justification.

Amendment 21
Article 5, paragraph 10a (new)

10a. Before 31 March each year, the Management Board shall adopt the annual report on the security problems encountered in the European Union during the previous year.

Justification

No justification.

Amendment 22
Article 6, paragraph 2

2. The Executive Director shall be appointed by the Management Board on the basis of a list of candidates proposed by the Commission after an open competition following publication in the Official Journal of the European Communities and elsewhere of a call for expressions of interest. Before appointment the candidate nominated by the Management Board shall be invited without delay to ***make a statement*** before the European Parliament ***and to answer questions put by members of his institution***. The Executive Director may be removed from office by the Management Board having received the Commission's approval.

2. The Executive Director shall be appointed by the Management Board on the basis of a list of candidates proposed by the Commission after an open competition following publication in the Official Journal of the European Communities and elsewhere of a call for expressions of interest. Before appointment the candidate nominated by the Management Board shall be invited without delay to ***a hearing*** before the European Parliament. The Executive Director may be removed from office by the Management Board having received the Commission's approval.

Justification

No justification.

Amendment 23
Article 6, paragraph 7a (new)

7a. The Executive Director shall, prior to its adoption by the Management Board, forward the annual report on the security problems encountered in the European Union during the previous year to the European Parliament, the Council and the Commission.

Justification

No justification.

Amendment 24
Article 7, paragraph 6 (b)

b) advise the Executive Director on ensuring close co-operation between the Agency and the

b) advise the Executive Director on ensuring close co-operation between the Agency and the

competent institutions and bodies in the Member States, and in particular on ensuring consistency of the Agency's work with activities conducted by Member States.

competent institutions and bodies in the Member States, ***including the law enforcement bodies***, and in particular on ensuring consistency of the Agency's work with activities conducted by Member States.

Justification

No justification.

Amendment 25
Article 7, paragraph 6 (c) (new)

(c) advise the Executive Director on how to ensure coordination, if necessary and in compliance with the applicable national law, with the national law enforcement authorities and with Europol and Eurojust.

Justification

No justification

Amendment 26
Article 7, paragraph 7

7. The Executive Director may invite representatives of the European Parliament and other relevant bodies to take part in the meetings of the Advisory Board.

7. The Executive Director may invite representatives of the European Parliament and other relevant bodies, ***in particular Europol, Eurojust and the national law enforcement bodies***, to take part in the meetings of the Advisory Board.

Justification

No justification.

Amendment 27
Article 9, paragraph 2 (b)

(b) a national regulatory authority as defined in Article 2 of the Framework Directive or another Member State competent body recognised by the

(b) a national regulatory authority as defined in Article 2 of the Framework Directive or another Member State competent body recognised by the Management Board for this purpose,

Management Board for this purpose.

including law enforcement bodies.

Justification

No justification.

Amendment 28

Article 10a (new)

Joint EU/US task force

1. The task force shall meet twice yearly and, at the proposal of the Executive Director, in cases of urgency.

2. The purpose of the task force shall be to exchange information and best practices in the areas for which the Agency has responsibility.

Justification

No justification.

Amendment 29

Article 13, paragraph 1

1. The Agency shall not divulge to third parties information that it processes or receives for which confidential treatment has been requested and justified, except for information which must be disclosed in accordance with national law, in order to protect public security and for the prevention, investigation, detection and prosecution of criminal offences.

1. The Agency shall not divulge to third parties information that it processes or receives for which confidential treatment has been requested and justified, except for information which must be disclosed in accordance with national ***and Community*** law, in order to protect public security and for the prevention, investigation, detection and prosecution of criminal offences.

Justification

No justification.

Amendment 30

Article 23, paragraph 2

2. The evaluation shall be made public.

2. ***The evaluation shall be forwarded to the European Parliament, which shall give its opinion thereon.*** The evaluation shall be made public.

Justification

No justification.

Amendment 31
Article 23, paragraph 3

3. The Commission shall ***undertake the evaluation notably with the aim to determine*** whether the duration of the Agency should be extended beyond the date specified in Article 26.

3. ***On the basis of the evaluation carried out,*** the Commission shall ***decide, in agreement with the European Parliament,*** whether the duration of the Agency should be extended beyond the date specified in Article 26.

Justification

No justification.

Amendment 32
Article 25

The seat of the Agency shall be decided by the competent authorities, at the latest six months after the adoption of this regulation, on a proposal from the Commission.

The European Parliament and the Council shall agree on the seat of the Agency, on the basis of the applications received, within six months of this regulation being adopted. Should no agreement have been reached by the end of that period, the seat of the Agency shall be in Brussels.

Justification

No justification.