European Commission Advisory Forums: contributing to enhanced supranational legitimacy?

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Abstract

European Commission Advisory Forums (ECAFs) were created and developed to enhance efficient and effective Community decision-making and continue to provide added-value to the European Union’s (EU) collective decision-making and problem-solving capacity. Major challenges since the 1990s have compelled the EC to develop ways to strengthen the legitimacy of its institutional role and activities. It has therefore fashioned a discourse on the enhancement of its legitimacy via organised interest or organised civil society consultation and has advanced the ECAFs as examples of such consultation and functional participation/representation mechanisms. Although incorporated into the Commission’s latest legitimacy building exercise, ECAFs are the wrong place to introduce the concept of legitimacy; their design flaws mean there are few legitimacy gains to be had through them. ECAFs add value via effectiveness and efficiency while legitimacy is surely best assured at other stages of the political process?

Key words
European, Commission, Advisory Forums, efficiency, effectiveness, legitimacy.

Introduction

This article sets out to formulate and support four significant claims; the focus and empirical emphasis is on the last of these. First, ECAFs were originally created and developed as a means to enhance the efficiency and effectiveness of Community decision-making. Second, ECAFs continue to provide a variety of sources of added-value to the EU’s collective decision-making and problem-solving capacity. Third, since the 1990s and due to a number of challenges faced, the EC has been compelled to develop ways to strengthen public consent for and thus the legitimacy of its institutional role and activities. It has hence fashioned a discourse regarding the enhancement of its legitimacy via consultation; particularly of organised interests or organised civil society. The EC refers specifically to ECAFs as examples of such consultation and functional participation/representation mechanisms. Accordingly, they have been incorporated into the EC’s latest legitimacy building exercise. However, this paper’s most significant assertion comes as a fourth point; ECAFs are the wrong place to introduce the concept of legitimacy because their design flaws make it impossible to achieve such gains. In fact, empirical evidence demonstrates that there are few legitimacy gains to be had via ECAFs. Indeed, forums like these could only ever take on legitimacy tasks with a fundamental overhaul.

1. Efficiency gains through committee governance?

ECAFs are a form of committee governance. The EC is represented on three main types of committee: ‘management’, ‘regulatory’ and ‘advisory’. Committees were first created in the sector of European Agricultural Policy with the first agriculture related management and regulatory committees established in 1962 and 1968
respectively. The first AAGs were created slightly later in the early 1970s. While the former two comprise mainly member state (MS) civil servants and operate principally during the implementation phase of decision-making, the latter type is composed of representatives of relevant socio-economic interest groups and operates primarily during the preparatory phase of the decision-making process.

The EUEB was established in 2000 as the lead competent body and central structure underpinning the EU’s voluntary Eco-Labelling scheme and ‘Flower Label’. The latter was set up to promote products with a reduced environmental impact and to provide consumers with information. The specific label is an actual award for non-food products and services with reduced environmental impacts and was developed as a market-based instrument to help manufacturers, retailers and service providers to gain recognition for good standards and to help purchasers/consumers to make reliable choices. An EU Eco-Label award scheme has been operating since 1993 and the first product groups were established shortly after.

There are several different layers to the Eco-Label structure. At one level there are Ad Hoc Product Working Groups, largely attended by experts. At another level there is the Regulatory Committee which is comprised of Member State (MS) representatives. Two other sub-structures exist as part of the EUEB, the Co-operation and Co-ordination Management Group and the Marketing Management Group. A third, the Policy Management Group, is no longer in operation, having been wound down in December 2004. At a different level is the European Union Eco-Labeling Board (EUEB), which manages the Eco-Label. It is composed of the national Competent Bodies (CBs) who are responsible for managing the European Eco-Label’s implementation across the EU. These CBs are designated by EU Member States (MSs) and are usually officials from the national ministries with competence for environmental matters. The Board is also composed of the Consultative Forum (CF) and is the focus of this discussion. It comprises civil society organizations and is as such a venue for groups and sectors interested in the Eco-Label to meet, exchange views and be consulted by the European Commission and the national CBs on issues related to the European Eco-Label.

DG Trade triggered the Civil Society Dialogue (CSD) in response to a blend of specific internal and external pressures. With regard to the latter, the various developments in the run up to 2000 in the international trade arena, especially those surrounding the Multilateral Agreement on Investments (MAI) and WTO negotiations were significant. In addition, and closer to home, ‘the perceived alienation of the Commission from the wider public’ (Slob & Smakman 2007: 11) was a major contributory factor. Key internal catalysts were more closely related to Commission policy developments. Around this time, there was a growing realization within DG Trade that due to the important linkages between trade, development and environment, the latter two areas needed to be integrated within the EU’s trade negotiations. This realization was aided by the growing awareness that developing countries and an increasing number of CSOs focused on highlighting and opposing the effects of international trade agreements on development were becoming more vocal in their demands for a greater say in policy processes. Furthermore, the collapse of the MAI, the Millennium Round of trade talks at the WTO Ministerial in Seattle in late 1999 and the ensuing media attention on the role of NGOs in instigating this collapse ‘impressed on the Commission the fact that these actors could no longer be
avoided’ (Slob & Smakman 2007: 26). Consequently, at the following WTO meeting that took place in Doha in 2001, many countries included NGOs in their official delegations.

More generally, the CSD served as a response to the criticisms levelled at the Commission of it harbouring a democratic deficit. Trade policy came under particular scrutiny. It is dense and complicated; the scene of ‘complex, technical deals between obscure negotiators’ (Meunier 2006: 2). Additionally, it is a policy area of exclusive Community competence with many of its details decided in the Article 133 Committee comprising representatives from the European Commission and the Council of Ministers. It has consequently been traditionally perceived of as being a predominantly closed policy domain. The aforementioned external and internal triggers as well as globalization and the increased liberalization of world trade mean that this policy area was increasingly seen as affecting the lives of European citizens, touching as it progressively did on employment and environment. The undemocratic nature of trade policy was thus a matter of increased concern. To kick-start the process, the Trade Commissioner at the time, Pascal Lamy, appointed a member of his Cabinet to oversee civil society relations: Mr Robert Madelin. Lamy also persuaded the Council of Ministers to include a group of CSOs in the EU’s 1999 Seattle delegation (Fazi & Smith 2006). Following the collapse of Seattle, and as a direct response to the efforts of both Lamy and Madelin (Slob & Smakman 2007), the CSD was made a permanent feature of DG Trade. The Trade Contact Group (TCG) was itself officially set up after DG Trade had sent out a letter to participants already registered in early consultations asking them to nominate from their midst representative organizations.

DG Trade’s Contact Group and Civil Society Dialogue make an interesting comparison with the other cases in being widely regarded as an example of good practice in consultation process (Jarman 2008; Greer and Massard da Fonseca; Slob and Smakman 2006). CSD ‘is currently the largest and most structured stakeholder forum’ in the European Commission (Bizzarri and Iossa 2007: 5) and has been described as ‘the most visible meeting point for the trade policy community’ (Gerlach 2006: 178).

DG SANCO’s EU Health Policy Forum (EUHPF) was born out of a Commission Communication on the European Community Health Strategy published in May 2000 (Slob & Smakman 2007: 88). The central themes underlying this new Community approach to health were openness and transparency. Within this document, the Commission announced its intention to set up the European Health Forum as an important element of this new health strategy. Accordingly, the Forum was to serve as an information and consultation mechanism to ensure that the aims of the Community’s health strategy and the mechanisms by which they were to be pursued were made clear to the public and respond to its needs. Prior to the Forum’s creation, consultation had taken place with a select group of stakeholders, with which DG SANCO already had regular informal contact. According to DG SANCO officials, CSOs were consulted on the organization of the Forum as a means to better understand what the major issues were and which organizations should be included in the process. The EUHPF is now one of numerous stakeholder platforms within DG SANCO; with others including the Food Safety Forum and the Consumer Protection
Forum. This DG does not rely solely on the EUHPF. It also uses other advisory mechanisms to consult on specific issues such as the Obesity Platform.

ECAFs were primarily created to enhance efficiency and effectiveness within the EU. Unforeseen and unprovided for by the treaties, committee-type structures were nonetheless inserted within the Community’s institutional structure (Vos, 1997, p. 215) and Vos confirms their ‘ad hoc institutional evolution’ is linked to the EU’s and EC’s ‘need to achieve effective and efficient’ decision making (1999, p. 19). Indeed, the early 1960s saw the creation of the first Common Agricultural Policy (CAP) related EC committees as the expansion of this first ‘common’ European public policy led the Council to delegate certain executive tasks to the EC in an effort to reduce its own workload. According to Joerges, ‘It was not a coincidence that the committee system was first developed under the auspices of the most intensively regulated sector of the European economy: agriculture’ (1999, p. 8-9) since committees were perceived as a means to facilitate MS consent to and implementation of regulations. In sum, the efficiency/effectiveness agenda behind ECAFs is clear and formalised, institutionalised supranational settings like these continue to possess the potential to contribute to effective and efficient decision-making in manifold ways.

First, the ECAFs are a consultative vehicle for institutionalised dialogue among the European Commission’s Directorates General and Services and Civil Society Organisations (CSOs) to develop policy initiatives; significant because consultation has long been perceived by the EC as a way of enhancing effectiveness and efficiency. Such consultation gains were first lucidly articulated by the EC in 1992. They then re-emerged as a key theme in 1997, 2001 and 2002.

In its 1992 special interest groups Communication, the EC’s desire to strengthen ease of access for CSOs and their representatives was clarified and based on the recognition that being accessible to such actors, promotes the EC’s ‘own interests’ since they ‘can provide the [Commission] services with technical information and constructive advice’ (EC, 1992, p. 1). In its 1997 Communication, part of the rationale underlining the importance of civil society participation rests in its contribution to the effectiveness of representative democracy. This input is assured by such CSOs acting essentially as an intermediary in the exchange of information and opinions between governments and citizens, and by facilitating citizens’ ability to critically examine government actions or proposals (EC, 1997, p. 7). The 2000 Discussion Paper perceives civil society consultation as contributing to policymaking by a) providing the EU with specific expertise b) ‘feedback on the success or otherwise of specific policies’ (p. 5) and c) by contributing to project management by managing and evaluating projects financed by the EU i.e. in environment protection (2000a, p. 5). Consultation increases efficiency in two further ways; via networking and aggregation. For the former, civil society groups can contribute to European integration by encouraging NGO-type CSOs to work together. European NGO networks equally make an important contribution to the formulation of a European public opinion, which is usually seen as pre-requisite to the establishment of a true European political entity. In terms of the latter, the EC recognises that certain aspects of organised civil society have an ability to ‘channel and focus the views of the various NGOs’ and ‘to speak with one voice’ (EC, 2000a, p. 5). Finally, the EC’s 2002 Communication, notes, good consultation serves a dual purpose of improving the effectiveness, efficiency and overall quality of policy outcomes. This is because
proposals are more likely to be ‘technically viable, practically workable and based on a bottom-up approach’ (EC, 2002, p. 5). It also notes that civil society organisations (CSOs) ‘play an important role as facilitators of a broad policy dialogue’ (EC, 2002, p. 5).

ECAFs are endowed with a second efficiency/effectiveness source. ‘Committees are an expression of, and a catalyst for, decision-making based on consensus and consultation in EU decision-making’ (Christiansen & Kirchner 2000, p. 9) and as such function on the basis of institutionalised collective rule. Although ECAFs do not usually make decisions but, in a best case scenario, offer non-binding opinions, these are reached on the basis of consensus building: only where a forum is able to reach unanimous agreement on an opinion can it be officially recorded and transmitted to the Council. This collective rule element is significant; it has been ‘the hallmark of European integration’ (Christiansen & Kirchner 2000, p. 9) respecting as it does the multiplicity and diversity of views and positions and the variety of vantage and opinions within any given policy community. Collective rule via ECAFs can play a similar role within the community of actors making up European level policy in specific sectors.

If ECAFs represent a manifestation of institutionalised collective rule, they also possess a structural capacity to provide an institutionalised interest access point to Commission DGs; a third efficiency gain. Indeed, ECAFs are a formal participatory mechanism regulated by statutes, which the EC intended for the consultation and participation of organised interests in its decision-making activities. They are predominately active at the policy-shaping stage of the policy cycle. Because it is generally considered that lobbying should take place as early as possible in the decision-making process (Andersen and Eliassen, 1996, p. 46; Budd and Jones, 1989, p. 31), ECAFs represent a significant access route and fulfil a vital role facilitating interest participation at this all-important early stage. Their further added value and contribution to the efficiency of decision-making lies in ECAFs’ ability to overcome many of the manifold problems and weaknesses associated with informal direct lobbying at the European level. Close relations between major predominant interests and Commission DGs often characterizes European policy sectors with scholars pointing to a quasi-corporatist relationship between, for example, DG Agriculture and Copa-Cogeca (Greenwood, Grote & Ronit 1992, pp. 4-5; Butt Philip, 1985; Mazey and Richardson, 1991; Lodge and Valentine, 1980) and even an institutionally privileged position or insider status for the agriculture lobby (Smith, 1990, p. 162; Nugent, 2003, p. 391).

ECAFs were originally established for the EC to hear a wide body of opinion and moreover were designed to meet the, at times unexpected, functional demands of an ever-expanding European Community for technical expertise (Vos, 1999, p. 19). This constitutes their fourth efficiency gain. Today, ECAFs continue to ‘be resorted to by the EC in an attempt to satisfy its demand for technical and scientific information’ (Vos, 1999, p. 21). ECAFs provide a potentially wide-range of types of knowledge and technical expertise based on the participating organised interests and their member organisations. Depth of knowledge and expertise derives from individual CSO representatives’ backgrounds and ranges from knowledge via further and higher education or research to expertise via practical experience, and expertise via internal or external policy development (i.e. within the interest organisation or for local,
regional, national or supranational government). This range and depth signals the ECAFs’ potential contribution to different policy development phases within Commission DGs: policy implementation for members with practical experience, policy shaping and formulation for members with a background in policy development.

Because its provision is vital in ensuring that Commission DGs can cope with evolving governance trends, this potential supply of knowledge and expertise contributes to the overall efficiency of decision-making. Modern society and its political systems are increasingly characterised by escalating market, administrative and policy-making complexity at all levels of governance, which requires both the expansion and specialisation of decision-makers’ knowledge. To cope with such complexity, the latter increasingly turn to private and semi-private actors for a supply of specialised knowledge and technical and scientific expertise. The involvement of civil society stakeholders in the process of production, implementation and evaluation of policies via consultative mechanisms like ECAFs is arguably a prerequisite to enhancing flexible, fast and effective problem-solving and decision-making.

Contrary to popular myth, it is relatively understaffed thus the EC relies heavily on external organised interests’ technical expertise. The Commission bureaucracy comprizes approximately 34,000 personnel at the time of writing, of which there are 24,500 officials and temporary agents plus 9,500 external staff. These personnel figures are comparatively low when contrasted to the number of individuals employed by a medium-sized UK County Council, for example, and when considered in relation to the Commission’s assigned responsibilities within the EU institutional framework. Hampshire County Council (UK) currently employs 33,000 people. Moreover, EU MSs average around 300 civil servants per 10,000 habitants while EU institutions average around 0.8 civil servants for the same number of habitants. The Commission’s leanness in terms of full-time personnel means that it relies to a large extent on private actors for information supply and to assist in legislative drafting. It is this access that it ‘trades’ against CSO expertise in resource-exchange network-type relationships that become established within such advisory forums. In short, aside from its Treaty obligations and the current ‘participation for legitimization’ discourse, the acquisition of expertise is one of the Commission’s main motivations for entering into a dialogue. The technicalities of trade policy-making with its countless bi-lateral trade agreements and of the common organizations of the market under CAP (export levies, quotas, subsidies) are particular areas of need.

Constituted of a diverse membership representing different national and interest positions on policy proposals, ECAFs’ fifth contribution to efficiency and effectiveness rests in their capacity to provide a context, which facilitates two key EU processes: the transnational socialization of participating socio-economic interest groups and mutual cultural learning: particularly where ECAF members spend substantial amounts of time together.

Schimmelfennig defines transnational socialization as a process via which the identities and interests of international actors are constructed through international social interaction and involvement in international institutions (2005, p. 64) and

1 http://ec.europa.eu/civil_service/about/figures/index_en.htm accessed 23/09/08
ECAFs clearly constitute such settings. This is best-illustrated using examples. Via three formats, ECAFs potentially contribute to the induction or ‘socialisation’ of socio-economic group members from newly acceded EU MSs and candidate countries who attend forum meetings. Firstly, the EC may utilise ECAFs to implicitly transfer and transmit information to representatives from interest organisations in the newly acceded MSs on:

- The appropriate behaviour ‘rules’ to follow in institutionalised EC consultation structures.
- The importance of ECAF members a) developing a European problem-solving perspective, b) amalgamating their affiliate members’ views, c) reaching consensus, d) viewing the European polity as an opportunity rather than a threat and e) presenting technical arguments based on reliable data.
- Familiarising new MS interest organisations with the ‘Brussels context’ (institutional framework, legislative procedures and policy processes).
- Facilitating cross-border convergence by encouraging newly acceded MS socio-economic group members to create a demand for the creation of similar consultation mechanisms back home.

This socialization process may take a second format: the EC may use ECAFs to transfer and transmit to the newly acceded MS governments advice on the importance of integrating all affected interests in decision-making and creating the appropriate structures to facilitate this. The final socialization process involves established European interest organisations transmitting to representatives from interest organisations in the newly acceded or candidate MSs, information on how to a) ‘contest’ European/national policy, b) incorporate and defend aspects of national and European policy-making thus promoting policy transfer, c) maximise the potential of ECAFs by i) networking and developing contacts, ii) optimising EC funded Brussels trips to ECAF meetings to organise peripheral meetings with EC officials and other interest representatives and iii) using ECAFs as an opportunity to exert informal influence on EC officials.

Clearly ECAFs allow organised civil society members to familiarise themselves with the nature of the EC’s processes and procedures and in doing so promote a form of cultural learning. This process may be mutual or two-way since ECAFs may also encourage and facilitate a process of ‘reverse socialisation’ whereby the input of new MS actors may provoke a change in EC attitudes and policy preferences. This may occur as a result of ECAFs providing the EC with an opportunity to observe at first hand and from a close range, the cultural diversity in European CSOs that constitute the membership.

ECAFs’ sixth major contribution to efficiency rests in their capacity to provide a venue for transnational networking. Via their members, ECAFs represent a diversity of organised interests and nationalities. This creates a supranational, multi-interest arena with the potential, to provide knowledge and expertise of a sometimes highly technical nature. Consequently, ECAF members may develop a set of common values and a resulting sense of community, or more specifically, develop an epistemic community (Haas, 1990; 1992). Christiansen and Kirchner (2000), argue that ‘The realm of committee governance is an obvious place to look for such communities’ (p. 20). Indeed, ECAFs appear to share many epistemic community traits: they form a network of experts; some members may share a common understanding of the
scientific and political nature of a particular problem (Betsill and Bulkerley 2004, p. 4) and experts maintain contact with each other across their various geographical locations and fields of interest. In this way ECAFs create valuable channels for information flow and heighten the possibility of introducing and discussing new perspectives. If we think of epistemic communities therefore as networks or as a group of individuals who foster policy learning through the dissemination of factual, consensual knowledge (Betsill and Bulkerley 2004, p. 4), ECAFs clearly have the potential to fulfil such a role.

Their final contribution to efficiency lies in the fact that the EU has been increasingly theorised as a system of multi-level governance; a decision-making system based on a range of territorial layers which create intermeshing networks. Essential for the correct functioning and performance of joint tasks within such a multi-level governance system is a high degree of cooperation between the different tiers. Because they provide a context for linkage between policy actors at different levels (EC officials constitute the EU level while CSOs represent the Community and/or the national, regional and local levels) ECAFs are linked to multi-level governance and help to facilitate it.

Thus far, this paper has explored claims one and two and has found that ECAFs were originally created and developed as a means to enhance the efficiency and effectiveness of Community decision-making and problem-solving. Equally, a multi-fold rationale has been advanced to reinforce the claim that ECAFs continue to provide such added-value. However, ECAFs have not only been perceived of as a means to enhance efficiency but also as a source of legitimacy gains. The aim of the following section is to build on this, the paper’s third claim.

2. A possible legitimacy source too?

The EC’s advancement of ECAFs as a vehicle to provide legitimacy gains is linked to a wider process whereby European integration has become a more politically contentious process since the late 1980s and 1990s. This politicisation largely resulted from the Danish ‘no’ and narrow French ‘yes’ to the Maastricht Treaty which marked the end of the so-called ‘permissive consensus’, a consequent increased focus on high politics, as well as the 1999 Santer Commission resignation which sparked an institutional crisis. These events have generated increased pressure for the EC to justify its institutional role and activities. Moreover, responsible as it is for decisions by unelected officials, the need to obtain more legitimacy from other sources has dawned on it. Consequently, it has adopted a legitimating strategy whereby it attributes increasing importance to organised civil society participation as a means to help legitimise its function and position and win public acceptance for these. Particularly from 1992 onwards, the EC has gradually developed a legitimating discourse around the concepts of ‘civil society’ and ‘civil dialogue’, referring regularly to the importance of functional participation, representation and consultation and its institutionalised interactions with intermediary organisations.

In 2000 the EC noted, certain aspects of civil society provide ‘valuable support for a democratic system of government’ and as an additional means to participate, ‘can make a contribution fostering more participatory democracy’ (EC, 2000a, p. 4) which should act as a complement to the concept of representative democracy (EC, 1997;
The 2001 White Paper on European Governance was published with the specific aim of legitimising Commission policy-making in the public eye via enhanced consultation and participation processes. Here, the EC commented ‘Democracy depends on people being able to take part in public debate’ and that today legitimacy ‘depends on involvement and participation’ where policy making can follow a virtuous circle based on ‘feedback, networks and involvement from policy creation to implementation’ (EC, 2001, p. 11). Furthermore, it notes the importance of ‘The organizations that make up civil society’ who ‘mobilise people and support’ (EC, 2001, p. 11). Participation is considered a response to ‘the expectations of the Union’s citizens’ (EC, 2001: 35), it should ‘connect Europe with its citizens’ (3), facilitate the adoption of ‘a less top-down approach’ (4) and render policymaking ‘more inclusive and accountable’ (8). All these factors should, in turn, augment ‘the quality, relevance and effectiveness of EU policies’, ‘create more confidence in the end-result and in the institutions which deliver policies’ (10) and produce ‘a sense of belonging to Europe’ (11). In 2002, the EC asserted its commitment ‘to an inclusive approach’ in the development of its policies which means ‘consulting as widely as possible on major policy initiatives’ (EC, 2002, p. 16).

Since the early 1990s, the EC’s discourse is clear; civil society consultation is important and functional participation represents an additional source of legitimacy for its institutional role and activities.

Moreover, the EC has specifically referred to the AAGs as a venue for organised civil society participation. These specific examples of ECAFs, were indeed set up under the auspices of DG Agriculture as a result of the 1972 Paris Summit which called for the increased participation of economic and social interests in the Community policy-making process. This is significant and clearly indicates the general contribution ECAFs were initially intended to make; to expand organised interest participation. Since their creation, the EC has further linked ECAFs, which are after all institutionalised participatory mechanisms, to organised civil society or functional participation. In 1992 it asserted, that advisory committees or forums as we prefer to label them here, ‘which assist the Commission in the exercise of its own competences’ are one of two ‘forms of dialogue between the Commission and special interest groups’ (EC, 1992, p. 1). In addition, the 2001 White Paper saw advisory forums referred to as a means to promote improved participation; the EC ‘already consults interested parties through different instruments such as...advisory committees’ (2001, p. 15). Furthermore, its website notes vii, ‘Putting in place a committee’ is about the EC opting for ‘dialogue’ and laying down rules for ‘a formal consultation’ (EC, 2006). Indeed, of the four examples of ECAFs specifically explored here, all have aims associated with the improvement of dialogue between the Commission and civil society. In sum the ECAFs intended aim is to act as a forum for the consultation and participation of interested and affected CSOs. Throughout the EC’s broader discourse, functional participation is a perceived source of additional legitimacy. It follows that because such participation can occur through ECAFs, implicitly if not explicitly, the consultations conducted by the EC within these forums are perceived of as a means to increase the legitimacy of its proposals and the ECAFs have been incorporated into its legitimation strategy.

However, can the ECAFs really engender legitimacy gains? This paper’s fourth and main, empirically backed assertion is that ECAFs are the wrong place to introduce
legitimacy because their design flaws make it impossible to achieve such gains. Clearly ECAFs constitute political institutions or institutionalised participatory forums or mechanisms designed to promote functional participation. However, they lack both input and output legitimacy and cannot therefore enhance the EC’s overall legitimacy.

3. ECAFs: a feasible source of legitimacy

On application of Scharpf’s input/output legitimacy dichotomy (2003), ECAFs present prominent legitimacy deficits. The input-legitimacy of a structure of functional representation refers to legitimacy derived from the democratic process. It is guaranteed when political choices reflect ‘the will of the people’ and is ensured essentially by involving European citizens and interest groups through direct participation as much as possible in policy choices, decision-making and the monitoring process. Legitimacy is thus linked to representativeness. Input-legitimacy in its modern sense also has an emphasis on ‘government by discussion’ (Habermas, 1962 cited by Scharpf, 2003, p. 4) or deliberation. This necessitates a fair and thoughtful hearing of differing conceptions of the public interest (Rhinard, 2002, p. 191), which in turn necessitates ‘public argument and (collective) reasoning among free and equal citizens’ to assess the reasonableness and merits of public policy proposals and ideas (Jacobsson & Vifell, 2003, p. 3).

The output legitimacy of a functional representation structure refers to legitimacy related to the effectiveness, performance and efficiency of decision-making. Its central feature is that improved policy outputs engender an increased social acceptance or the increased legitimacy of the policy-making process. This requires governing institutions that protect public policy against the potential tyranny of the majority and the corruption risk posed by self-interested governors (Scharpf, 2003, p. 4). Output legitimacy thus demands norms and mechanisms serving two potentially conflicting purposes: the hindrance of the abuse of public power and the facilitation of effective problem solving (Scharpf, 1999, p. 13). To assess the latter, the performance of a structure in fulfilling its assigned role and the influence of a structure on the decision-making process may be examined. To assess the former, the presence of effective checks and balances within the structure can be evaluated. These should ensure accountability and transparency and that policy tracks public opinion.

**Balanced representation?**

ECAFs do not always guarantee a balanced representation. Ideally, ECAF members should be selected to represent diverse and opposing interests to ensure against a preponderance of representatives known to have a similar position or who have already formed an alliance for a common purpose (Schmitter, 2001, p. 8) and considered equal even when they represent constituencies of differing size, resources, public or private status, and ‘political clout’ (Schmitter, 2001, p. 8).

Unquestionably, ECAFs are often composed of varied and divergent interests. However, balanced representation is undermined when ECAFs are composed of a prevalence of representatives recognized as sharing similar views of who have already forged a close association.
In its evaluation of the Eco-Label (2004), the European Environment Bureau (EEB) noted that environmental NGOs constitute a minority on the EUEB and that the ‘parity balance between environment and industry’ is ‘disturbed’. The organisation also complains of the ‘too frequent evidence of industry participation overload’ throughout the EUEB process and has requested a ‘reduction of imbalance of conservative industry influence’ and ‘clearer guidelines on stakeholder balance’ (EEB, 2004, p. 28).

On the EUHPF, the pharmaceutical industry is considered by some participants to be overrepresented compared to patients groups. Moreover, certain participating CSO representatives are concerned about the ‘tight’ relationship between DG SANCO, some patient-orientated CSOs and the pharmaceuticals industry. According to a Health Action International (HAI) Europe press release, ‘privileged access to European Union forums [such as the EUHPF] has been accorded to the European Patient’s Forum despite its links to the pharmaceutical industry’. This CSO’s circumstances are problematic because there is a perception that within SANCO, EPF is seen as ‘the chief patients’ group that it consults. Indeed, EPF is considered to have actually been ‘established with the backing of the Commission’ in response to its calls for ‘one pan-European patient body to address and be consulted on issues concerning the interests of patients in the European healthcare debate’. The EPF ‘was immediately elevated into a position of presumed legitimacy as the representative of European patients’, in spite of the ‘extremely limited and informal’ nature of the consultation that preceded the decision. Today the EPF is heavily sponsored by the pharmaceuticals industry. For example, its operational programme for 2007 was funded by:

- Astrazeneca: 20,000 EUR;
- Baxter's Healthcare: 15,000 EUR;
- GlaxoSmithKline (GSK): 40,000 EUR;
- MSD: 50,000 EUR;
- NOVARTIS: 50,000 EUR;
- PFIZER: 50,000 EUR;
- PhRMA: 50,000 EUR.

Aside from funding, there is further evidence of conflicts of interest in relation to EPH. Amongst other examples, research conducted in 2005 by EPH staff about how the CSO could improve its profile and establish a more secure funding base, was funded by Baxter Healthcare – a large US-based pharmaceutical corporation – and by a grant from an EPH member, the European Coalition of Positive People (HAI 2005). Furthermore, some patients’ group conferences have been organized with funding from the European Federation of Pharmaceutical Industries and Associations (HAI 2005: 4). The IAPO is in a similar position vis-à-vis industry funding with 99% of its activities and running costs funded by the pharmaceuticals industry. Its website mentions so-called ‘Current Industry Partners’. Its 2008 Gold Industry Partners

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2 July 14th 2007
3 This CSO was developed as a result of a meeting which took place on July 18 2002 between SANCO, a number of patients’ groups, BEUC and the European Public Health Alliance. At that stage there was simply a declaration of intent signed by nine groups indicating their wish to set up a Europe-wide patients’ organization. The EPF was then formally established in January 2003.
funding IAPO at $50,000 per year are GE Healthcare; GlaxoSmithKline; The Medtronic Foundation; Novartis and The Pfizer Foundation. Its Silver Industry Partners give $25,000 per year and are AstraZeneca and Merck & Co., Inc. One CSO complains of the fundamental conflict of interest ‘inherent in receiving funds from companies seeking to sell products to the people that an organization represents’ given that ‘The interests of patients and those of the industry are not the same’. It continues, ‘If the Commission ...truly wish[es] to consult with patients...[it] must seek groups that are independent of pharmaceutical industry financing’ (HAI 2005: 7).

Funding aside, the EPH as an organization is described as ‘a model of secrecy and conflict of interest’ (HAI 2005: 2), which goes against the spirit of the European Transparency Initiative, which establishes transparency as ‘an essential prerequisite for the integrity and credibility of our political institutions’. It also goes against the recommendations of Siim Kallas, the Commissioner in charge of the Initiative, who described the aim of establishing transparency as being ‘to promote the long term success of sound, time-tested policies by acquiring general public support’. The sense of disillusionment and distance that the European public seems to feel towards EU institutions, has led to multiple efforts to rebuild public trust. Tackling the culture of secrecy that characterizes EU consultation and decision-making processes is one of these. According to HAI Europe, the example of the European Patients Forum demonstrates the need for DG SANCO to develop ‘clear and enforceable rules about disclosure’ of ‘who is really behind the activities’ and ‘who is funding non-governmental organizations and lobbyists’ (7). HAI questions the legitimacy of EPF and advises SANCO that continuing to ‘automatically offer a place to the EPF at consultative forums sends out a message that there is no problem with secrecy and conflict of interest’. Instead, it would be ‘Far better...to consult with patients’ groups which are transparent and accountable to those that they represent and which are free of industry funding’ (HAI, 2005).

With regard to TCG/CSD, Business interests are said to overwhelmingly dominate external trade discussions at the EU-level, and Commissioner Mandelson’s views (the trade commissioner at the time of writing) are said to be closely allied to one particular business group (CSO representatives, personal communications, June and September, 2007). Interview data certainly confirms previous findings that certain CSOs question DG Trade’s definition of the different constituencies included in the TCG given what, in their view, is the too large inclusion of business and labour constituencies compared to the comparatively lower representation of the full range of NGO interests (Fazi and Smith 2006: 68). The position of ‘cross-sectoral European industry associations’ apparently ‘carries the greatest weight’ and of these BusinessEurope ‘is the clear leader’ representing, as of September 2008, 41 national industry associations from 34 countries. Eurochambers, an association of 46 national chambers of commerce takes an equally active role in European trade policy and represents approximately 5.5 million companies (Gerlach 2006: 177-180).

In the AAGs, Copa and Cogeca, two groups under the farmers and cooperatives categories respectively, have a strong alliance; they are sister-organisations. Their

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4 The need for a European transparency initiative, Siim Kallas, Vice-President of the European Commission and Commissioner for Administrative Affairs, Audit and Anti-Fraud, speaking at The European Foundation for Management, Nottingham Business School, 3 March 2005
secretariats merged in 1962 and today comprise 50 plus staff. In addition, approximately 50 joint working groups and 300 other meetings are held between the groups each year. Indeed, ‘Cogeca’s lobbying work is carried out as a complement to Copa’ (Coca, 2005). Furthermore, Copa also has a strong association with the CEJA to the extent that the President of CEJA participates in Copa Presidium meetings and the two groups share policy positions on many issues. AAG seats are unequally distributed among participating groups consequently members are not considered equal, which further compromises balanced representation. The like-minded interests of Copa-Cogeca and the CEJA occupy 47% of available seats (28 of 60) on AC1 and 40% (16 of 40) on AC9. This considerable seat share facilitates the dominance of farmer/producer interests in AAC meetings.

Deliberation compromised?

In each of the cases examined here, the Commission presents the advisory forums as processes of dialogue and debate with the intention, either explicit or implicit, of making responsive policy as a result of consulting them. This expectation suggests therefore that the structures possess some degree of scope and prospect for inter-CSO deliberation towards the realization of some sort of accommodation. However, the evidence suggests that many participants are highly sceptical about the prospects for a rapprochement of views within ECAFs. One of their primary uses as indicated by CSO representatives is their ability to serve as a vehicle for the transfer of valuable information regarding the policy positions of other CSOs. There is little evidence however that individual-level or CSO-level positions alter as a result of advisory forum meetings. Indeed, some ideological differences remain irreconcilable.

The meeting formats adopted by the four ECAFs explored here: briefings, panel presentations, Q&A and tours de table, all constrain deliberation. Essentially, they do not foster exchange between CSOs to allow for a modification of viewpoint, but rather the major interaction occurs between the CSO representatives and the Commission. Furthermore, each of the cases suffers issues of repetition, duplication, grandstanding and monologues and the reading out of pre-prepared and known position papers that are freely available via desk research. A further problem suffered by some CSO representatives, as perceived by the Commission, is that they do not know ‘how to act’ in formal meetings with officials; they are not socialized into the expected behavioral format. New MS representatives are rare attendees of ECAFs, but when they do appear at meetings, they may particularly suffer from this. The inadequate socialization levels of CSO representatives can be a contributing factor to dull meetings; responsible as it is, at least in part, for the reading aloud of pre-prepared statements, grandstanding and ‘set piece’ meetings. In sum, these ECAFs constitute a formal dialogue space and deliberation process that lacks any real dialogue and fails to generate deliberation. This only provides further confirmation that ‘deliberation is an ambition that no consultation process to date has achieved satisfactorily’ (Jordan 2007). Indeed, although the idea of participation and deliberation may be widely appreciated, the reality of it is quite different (Lowndes et al 2001b: 450). Rather than achieving consensus through discussions of preferences and bridge-building towards conflict reduction, the encouragement of participation and deliberation via structures like the ECAFs can actually emphasize existing differences, promote new ones, generate greater parochialism and exacerbate cleavages (Wilson 2001: 301; Shapiro 1999: 31). Indeed, deliberation can equate to ‘consciousness raising’, revealing to participants the nature of what separates them
(Jordan 2007: 59) and polarizing attitudes towards more extreme alternatives’ (Hibbing and Theiss-Morse 2002: 195).

Deficits in transparency and feedback – contributors to a lack of ECAF influence on decision-making?

Forums like ECAs that are created to ensure the participation and consultation of CSOs can hardly be considered legitimate if participant input has no ultimate influence on the decision-making process. Recording influence necessitates a paper trail to ensure proper audit and traceability; it should be possible to check input received by Commission DGs via consultation or dialogue against the final decisions made. The actual impact of consultations should be visible or feedback provided as to why input was not acted upon.

Certain aspects of the EUEB process lack transparency such as inter-service consultation and minutes. There is also a lack of public awareness of the structure. Three problems are paramount in relation to ISCs. The first is the general inability of interested parties to follow the process. EUEB participants are not systematically informed of which DGs are involved in each ISC. Additionally, because no report is established on the criteria before and after ISC, it is difficult to accurately trace modifications to texts by particular DGs. The second problem concerns the ISC’s duration; files can remain with the Commission services involved for a long time (EEB Evaluation of the Eco-Label 2004: 7). Previous ISCs have been particularly lengthy where DG Enterprise has blocked criteria (i.e. criteria for printed materials) and a situation may remain in limbo for one or one and a half years before the blockage clears. The third ISC-related problem is the risk of heavy industry lobbying during this phase, which means that files rarely emerge ‘unaltered’ (EEB Evaluation of the Eco-Label 2004: 7). The ISC provides opportunities for ‘hidden’ lobbying outside of meetings held within the EUEB framework. Indeed, any interest, which feels that DG Environment has not sufficiently heeded it during criteria development, can take action to lobby another DG involved in the ISC, such as Enterprise.

Although those participating in meetings held as part of the EUEB framework receive minutes, their fullness is another issue of contention. Some complain that they are often a simple summary of meetings containing no detail as to who said what, action points to be addressed or rationales for decisions taken. Although it is possible to comment on or amend minutes during their circulation for approval following a meeting, they are not then re-circulated to allow verification that comments or amendments have actually been inserted. Notwithstanding whether minutes are drafted and circulated to meeting participants, a significant transparency related concern lies in the fact that there is little public disclosure of minutes on the Eco Label website. At the time of writing, no minutes have been posted for 2008 for AHWG, EUEB, RC or Marketing Management Group meetings. In 2007, minutes were posted for all three Marketing Management Group meetings, both EUEB presidential meetings, four of the eight AHWG meetings, the sole Regulatory Committee meeting and one of the three Competent Body meetings. However, no minutes were produced for the two Cooperation and Coordination Management
Group meetings and most significantly for this discussion, for the six days that the EUEB met during 2007, no minutes were posted.

As the table indicates, between 2000 and 2004, minutes of almost all EUEB meetings (including preparatory) were posted whereas during the period from 2005 to 2007 a very low proportion have been uploaded.

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The issue of minutes reflects a significant contradiction identified by some CF participants, at the heart of the Eco Label. It was actually developed in part so that consumers would know about it and make choices about consumer products based on environmental criteria. The current irony is however, that consumers potentially know very little about it and the Flower logo has a very low public profile. DG Environment appears to rate the lacuna in public awareness as a priority given its placement at the top of the agenda in the Eco Label Regulation revision process (EC, 2007). In a recent ‘public’ consultation launched by the Commission in conjunction with the reform, 92.5% of the 168 respondents declared that they knew about the EU Eco-Label and 92.7% knew what it stood for (EC 2007: 19). However, as the Commission itself admits, the consultation’s results cannot be considered ‘as the opinions of the EU population as a whole’, but rather ‘as a representation of the views of those who are interested in the revision of the Eco-Label Scheme, were aware of the consultation and were able to fill in the questionnaire’. Moreover, the respondents required internet access and a command of the English language given that the questionnaire was only available in English. Responses were also not received from all MSs (EC 2007: 4). One interest group considered it a ‘miracle’ if consumers even know it exists (personal communication, July 24, 2007).

Some EUHPF participants are adamant that the public have little clue of its existence or function, or indeed of the EU as a whole (CSO representatives, personal communications, July 25, July 24, September 19 and July 30, 2007). Another notes that citizens in any case probably have little interest in its function (CSO
representatives, personal communication, October 19 and September 18, 2007) or indeed do not even need to know about it (CSO representative, personal communication, September 19, 2007). One CSO argues that it is difficult to communicate to the public on the Forum; lacking as it does in appeal (CSO representative, personal communication, July 24, 2007) and another that one priority should be to raise awareness first of all amongst the CSO community, before focusing on informing the public (CSO representative, personal communication, September 17, 2007).

In relation to access to documents, DG SANCO has responded to requests for more EUHPF transparency that total access to documentation is not feasible given that it produces thousands of documents on a daily basis. SANCO has insisted that it will make a greater future commitment in the areas of access and communication. On this issue, one CSO argues that transparency is in the eye of the beholder. If your guarantee for transparency is that all documentation is rendered public then the EUHPF certainly fails to comply. A more realistic expectation is to hope that documents will become publicly available at certain intervals, ‘in good time for a meaningful reaction to them…This should be transparency enough’ (CSO representative, personal communication, September 17, 2007). Apart from SANCO’s relations with industry lobbies, which remain closed, on the whole, DG SANCO is considered generally open to different actors and transparent, particularly when compared to other DGs (CSO representatives, personal communications, July 30 and July 24, 2007). SANCO generally realizes the importance of good consultation and seeking broad support for moving the health agenda forward. SANCO’s EUHPF website is particularly noted as a good repository of information and effective communication tool. There remains however ‘a long way to go because unfortunately a lot of information arrives very late’ (CSO representative, personal communication, September 18, 2007).

There are several significant issues to consider in relation to the AAGs’ openness. First, DG AGRI’s website simply provides a list of the 30 AAGs and includes CD 2004/391/EC as a link. At the time of writing there is little other information available via this channel; there are, for example, only five meeting summaries available for AAGs and no other public access to meeting minutes. DG AGRI admits that this ‘is not very transparent’ but places the onus on the participants to correct this transparency gap; ‘as the participants come from EU NGOs, we always tell them that they should disseminate their information further’ (personal communication, October 22, 2007). A Commission official states that ‘we are considering that this eventually could change and that we could put the report of the minutes drafted by the president on our website directly’, but the official emphasizes, ‘this is for the moment’ only ‘under consideration’ (personal communication, October 22, 2007). It is noteworthy that of the four advisory settings examined, the AAGs are the only ones not to regularly publish any minutes or meeting summaries on its website. There is also no evidence on the Commission’s principal agriculture webpage of any internal server via which AAG participants can access further documentation. For one CSO representative there is no need for greater transparency in relation to the AAGs; all relevant and appropriate stakeholders are already invited to meetings so there is no

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5 Comments made at a meeting of DG SANCO’s stakeholder involvement Peer Review Group held on June 1 2007 in Brussels.
justification for publicizing any further documentation via the Internet (personal communication, November 23, 2007).

CAP related decision-making at the European-level has often been tarnished with a reputation for a lack of transparency and for operating in a closed setting limited to the participation of DG AGRI, national agriculture ministers, and the producer interests. This ‘self contained system’ is perceived as a location for ‘client group’ discussions (CSO representative, personal communication, October 22, 2007). Given that co-decision does not apply to this policy area, the EP certainly has little impact on the CAP; unable as it is to affect this policy area’s budget and how it is spent, in the way that it does the rest of the Community budget. The EP’s Agricultural Committee equally has little influence, given the role and status of the Special Committee on Agriculture, which operates under the auspices of the Council.

The absence of feedback from DG Environment on how it has taken on board CSO contributions via the EUEB is also a major cause for concern. How are CSO views then incorporated in the policy formulation process asks one participant. If the intention is for the Commission to simply ‘say okay we’ve got everybody around the table’ or to give the Commission the impression ‘that they are doing what they should’, or that everybody who should be there is or that ‘everything is transparent’, then that is fine. But how the views sought are integrated by the Commission and how it decides which argument to include and which to omit is unclear (personal communication, July 24, 2007). The fact that views expressed in EUEB meetings are not followed up with feedback on whether and how they have been taken on board is responsible for much frustration among CSO participants who blame the Commission for its ‘ultimate responsibility’ in drafting documentation. This lack of feedback is costly; generating a perception that the EUEB is a ‘hollow’ participatory mechanism where civil society input is welcomed but, when further drafts of documentation are received, there is no evidence that the views of those participants have had an actual visible impact.

EUHPF participants question what actually happens to their responses to consultations (CSO representatives, personal communications, July 24 and 30, 2007) given that this is not properly documented (CSO representative, personal communication, September 19, 2007). Where minutes are drawn up, often the first draft may arrive up to two months after a meeting takes place and the final draft just prior to the next meeting. Such a lapse of time makes it difficult to recall events. To address this, one of SANCOs priority tasks is to appreciate the importance of producing synthesis reports after each stakeholder consultation or involvement process.

With regard to the TCG/CSD process, DG Trade does not systematically provide reports on the documents or positions they are working on, and there is no formal mechanism via which the Commission reports on how it has utilized CSO contributions and whether these were considered during the policy-making process. Certainly, more concerns were voiced on this area than any other. The first inadequacy is the absence of any general explanation of how and why DG Trade takes certain decisions or general policy lines. The second is a perceived failure to
acknowledge sufficiently receipt of specific CSO advice and positions and clear explanation of which contributions influenced the final policy decisions. Whereas when the CSD was first established, DG Trade used to post stakeholder position papers on their website together with their own (Bizzarri and Iossa 2007: 25), today there is no public record of the position papers submitted to it. Although TCG meetings always have the evaluation of recent CSD meetings on their agenda, no particular analysis of individual CSD meetings and the discussions that occurred as part of them is undertaken (CSO representative, personal communication, June 6, 2007). Current follow-up to meetings is limited, in a best-case scenario, to the exchange of business cards with Commission officials at the end of meetings or an invitation from the Commission to a CSO representative to respond to questions via email (personal communication, June 6, 2007). DG Trade could better close the feedback loop via regular communication with CSOs between meetings and the production of regular reports on how advice and comments were taken on board and why certain views raised in the framework of TCG/CSD were not taken up (CSO representatives, personal communications, June 7 and September 19, 2007). The current absence of feedback has been frequently raised at both TCG and CSD meetings and DG Trade has promised to do more in this area, but with little evidence of concrete action reported to date by CSOs (personal communication, June 8, 2007).

As with the other cases, the most significant issue within the AAGs relates to feedback. Although DG AGRI assures that ‘the views of the experts are taken on board’ and ‘used later on in the production of documents, or in changing decisions, or in the reforms of the market sectors’ (personal communication, October 22, 2007), there is little to substantiate that this is actually the case. One CSO representative does confirm that ‘a number of our suggestions...have been taken up’ and that ‘constant follow-up’ exists on certain issues such as simplification (personal communication, November 6, 2007). What this CSO representative calls ‘follow-up’ however, would be more appropriately described as updates on Commission progress in the formulation of its white paper on simplification, rather than feedback on how stakeholder views have been taken into account in this context. CD 2004/391/EC makes little formal provision to assure acknowledgement of information received and feedback on how it has been taken into account by the Commission. The Decision actually refers to only three potential feedback mechanisms: the production of minutes or draft summaries, the formulation of joint conclusions which can be attached to an AAG’s summary report (if a group reaches unanimous agreement on the opinion to be given) and the communication of the outcome of a group's discussion to the Council if proposed by the group (article 9). These are used too infrequently to constitute real feedback channels and it is therefore unclear what store the Commission actually sets by the AAGs or how it concretely informs members of how it has taken account of their views. In any case, like the other ECAFs explored here, the Commission is not bound by AAG opinions. Where DG AGRI appears most open, however, is in taking up invitations to attend events such as panels, workshops and conferences organized by CSOs and in reading position papers sent directly to particular Commission desk officers (CSO representative, personal communication, September 21, 2007).
The scarcity of feedback in relation to the ECAFs is the most readily advanced criticism of these structures by their participants. None have clear and standardized mechanisms in place to ensure that CSO representatives are aware of how the comments they have expressed via ECAF meetings have been taken into consideration, rejected or incorporated into policy proposals by the Commission. It is also noteworthy that particularly within the framework of the EUHPF; the Commission firmly places the onus for improved transparency on the CSOs themselves preferring to highlight the importance of these groups’ ability to secure their own internal accountability rather than focusing on its own transparency deficits. This is not to overlook the importance of intermediary bodies operating in a transparent manner as a means to demonstrate their own legitimacy by showing their worth as valuable interlocutors for the Commission. This in itself helps foster citizens’ beliefs that the participation of organized civil society makes their voice better heard, thus encouraging citizens to participate fully and directly. It is only then that inclusion can really translate into more input-based legitimacy, which can after all rely either on the involvement of organized civil society or on the direct involvement of citizens.

Conclusions

This paper has advanced and sustained four assertions. ECAFs, were born and multiplied as a means to achieve effective and efficient collective decision-making and problem-solving and today, ECAFs continue to represent a significant source of added value for these processes. In response to significant challenges faced during the 1990s and its continuing unelected status, the EC has been compelled to more convincingly justify its institutional role and activities to an increasingly sceptical European citizenry. Consequently, it has adopted a legitimation strategy whereby it has advanced itself as the institution safeguarding and promoting functional participation and representation. Such a positioning aims to secure enhanced public consent via indirect representation of the people via CSO involvement. ECAFs have been advertently or inadvertently drawn into this recent discourse; the EC referring to these institutionalised participatory structures as a venue for functional representation. However, the key finding here is that ECAFs are clearly the wrong place to introduce the concept of legitimacy. They suffer significant design flaws which jeopardise these political institutions’ ability to guarantee input and output legitimacy.

ECAFs provide little in the way of legitimacy gains and could only ever take on legitimacy tasks with a fundamental overhaul to enhance their legitimacy as political institutions, particularly their transparency. This overhaul might comprise:

- The online publication of meeting dates, agendas, draft proposals for discussion and minutes;
- Feedback from sponsoring Commission DGs on how ECAF member comments impact upon EC decision-making;
- An annual report to the EP with an evaluation of ECAF activities and outputs;
- The online publication of a more comprehensive and readily accessible report of ECAF composition and details of their appointment processes.

Yet even if these reforms could be achieved, certain fundamental questions would remain. Firstly, certain aspects of ECAF legitimacy such as balanced representation
may be improved but there is still a question mark over the legitimacy of the participating CSOs themselves (Warleigh, 2000); their own contribution to legitimate governance is in many ways compromised. Secondly, it is arguable that the composition, structure and functioning of ECAFs lends itself more to providing efficiency and effectiveness gains rather than legitimacy gains. Therefore, should the EC even be suggesting that ECAFs can serve as a tool to enhance legitimacy? Certainly they provide a basis for functional participation yet legitimacy is surely better assured at other stages of the political process.

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Notes

i Agricultural producers and cooperatives, the agricultural and food manufacturing industries, the agricultural products and foodstuffs trade, farm and food industry workers, consumers, environmentalists and animal welfare groups.

ii AACs meet at the Commission’s request and their opinions are non-binding.

iii Voluntary Organisations and Foundations

iv Non Governmental Organisations (NGOs)

v Knowledge is understood as the awareness and understanding of facts, truths or information gained in the form of experience or learning (a posteriori), or through introspection (a priori), while expertise is understood as a superior level of special skill at a task or knowledge of a subject.

vi See note 1.


viii Empirical research was mainly carried out via a series of 66 in-depth, focused and semi-structured interviews conducted between September 2003 and March 2004, both face-to-face and by telephone over an average of 45 minutes. A small number of follow-up email communications are also included in the analysis. The interview subjects were DG Agriculture officials and AAC members, both current and previous, from various socio-economic groups representing farmers or producers, environmentalists, consumers and animal welfare.

ix Here AAC representativeness refers to whether the representation of all the socio-economic groups participating in the AACs is balanced.