

13th November 1990

Confidential

MINUTES\*

OF THE 248th MEETING OF THE COMMITTEE OF GOVERNORS  
OF THE CENTRAL BANKS OF THE MEMBER STATES  
OF THE EUROPEAN ECONOMIC COMMUNITY

HELD IN BASLE ON TUESDAY, 11th SEPTEMBER 1990 AT 9.30 a.m.

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\* Final text approved at the meeting on 13th November 1990.

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The list of participants is attached.

### Introductory Remarks

The Chairman opened the meeting and suggested changing the order of items on the draft agenda, which had been circulated on 31st August 1990. He proposed that after Item I, the Committee should immediately consider Item III (the Draft Statute of the European Central Bank System). The Committee approved this proposal.

#### I. Approval of the minutes of the 247th meeting

The Committee approved the minutes of the 247th meeting on the understanding that the minor editorial amendments suggested would be incorporated into the final text.

#### II. Draft Statute of the European Central Bank System (version dated 5th September 1990, see extract attached)

The Chairman said that he saw no fundamental reason for delaying the completion of the draft. It would be quite acceptable - and might, indeed, be of some positive advantage - to forward a text to the Intergovernmental Conference which contained a number of options and unsettled issues, such as the chapter on financial provisions.

He then asked Mr. Rey to describe the progress made by the Alternates since the previous meeting of the Committee of Governors.

##### 1. Statement by Mr. Rey

Mr. Rey said that the recent work of the Committee of Alternates had benefited considerably from reports by the Group of Legal Experts and the Monetary Policy Sub-Committee.

##### (a) Legal Experts

This Group, chaired by the Secretary General, had met on 27th August 1990. A number of specific recommendations had been made, some of which had been discussed and subsequently adopted by the Alternates.

With respect to the legal structure of the System, the Experts had recommended giving legal personality to the central institution whilst maintaining the separate legal personality of the national central banks. This would be compatible with the assumption that the System should operate through both the central institution and the national central banks. These

recommendations were reflected in Articles 1.2 and 1.3, which had been placed in square brackets in order to indicate that they were based on provisional assumptions pending clarification of the financial provisions.

The Legal Experts had reviewed the question of the nature of the System as an institution and had advised against including the System in the list of Community institutions contained in Article 4, paragraph 1 of the EEC Treaty. This would avoid the automatic application to the System of a number of general provisions contained in the EEC Treaty relating to Community institutions, but would necessitate the inclusion in the Statute of specific provisions relating, for example, to staff, budgetary issues, auditing and judicial control.

The Legal Experts had also recommended that matters dealt with under the Rules of Procedure of the System should relate purely to aspects of internal management; this recommendation was reflected in Article 9, Section 5.

With respect to the question of the legal tender status of bank-notes, which had also been addressed by the Monetary Policy Sub-Committee, a new Article 15 had been added to Chapter IV.

(b) Monetary Policy Sub-Committee

Mr. Rey explained that the Sub-Committee, chaired by Mr. Raymond, had been requested to examine the appropriateness of the provisions contained in Chapter IV (Operations). The Sub-Committee had met twice in August, and most of its recommendations had been adopted by the Alternates at their meeting on 3rd September 1990.

It had been suggested that the monetary powers of the System should be described in general terms in order to provide the necessary degree of flexibility. The Alternates had supported this view, and Chapter IV had been amended to reflect this general consideration. The Alternates had also supported the recommendation that market-based instruments should be used and that operations should be undertaken in a non-discriminatory manner. The Alternates had accepted the view of the Sub-Committee that this principle was already enshrined in Article 2.3 and that repetition of this concept in Chapter IV was unnecessary.

The Sub-Committee had also analysed, firstly, the extent to which instruments would have to be harmonised to ensure the efficiency of monetary policy so as not to create incentives which would induce commercial banks to seek refinancing from particular national central banks

and, secondly, the extent to which national central banks would have room for manoeuvre in executing the instructions issued by the governing bodies of the System.

The Committee of Alternates had discussed these issues, which were contained in the draft report prepared by the Sub-Committee, the text of which would be finalised at its next meeting. The conclusions of the Alternates could be summarised as follows:

- There were several models to describe the potential role of national central banks in implementing the monetary policy instructions of the centre. These models varied according to the extent of the margin for manoeuvre retained by national central banks. There was no agreement as to the feasibility of the models.
- The report argued that a greater degree of decentralisation and margin for manoeuvre would be justified at the beginning of Stage Three, given the conditions likely to prevail in the respective financial markets. The question of the margin for manoeuvre to be left to national central banks would hinge on assumptions about the degree of integration or segmentation of financial markets; it was argued that it would be wise to provide for an evolutionary process which would not prejudice the future operations of the System.
- A certain harmonisation of monetary policy instruments would appear necessary from the outset and would be even more appropriate following the integration of the respective financial markets. The Alternates felt that this issue needed further discussion and clarification.

As mentioned, the Alternates had been unable to reach a consensus on the feasibility of the models of decentralisation which could be envisaged at the outset of Stage Three. The main area of disagreement was the extent to which segmentation would prevail in the Community financial markets, at the beginning of Stage Three, thereby justifying the greater involvement of national central banks in the supply of liquidity.

There was a broad measure of agreement that the degree of centralisation of the System's operations would have to be left to a decision of the Council. Such a decision would have to take into consideration the extent of integration of financial markets, together with

some overriding principles, which would, amongst other things, require the System to operate credibly and efficiently in a market-friendly way but leaving no uncertainty as to the indivisibility of monetary policy. Moreover, given the principle of subsidiarity, the national central banks should be involved, to the extent possible, in the execution of the operations of the System.

The Alternates' discussion had led to a reconsideration of Article 13.4; two alternative provisions had been suggested:

- Article 13.4, Option A:

"The operation of the System shall be executed by the central institution or the national central banks, as appropriate for the efficient conduct of monetary policy, in accordance with the terms laid down by the Executive Board."

- Article 13.4, Option B:

"The Council shall normally rely on the national central banks for the execution of the tasks of the System. The execution of these tasks shall be in accordance with the terms laid down by the Executive Board."

The Alternates had also carried out an initial examination of the extent to which external monetary policy operations should be centralised, and of the related issue of the pooling of external reserves. Although it was too early to draw precise conclusions, there was broad agreement that there should be a high degree of centralisation at the outset of Stage Three with respect to the System's interventions on the foreign exchange markets, and that these should be entrusted to the central institution, which should have at its disposal sufficient foreign exchange reserves. This would imply the pooling of all or part of national central banks' foreign exchange reserves. This would have to be provided for in the Statute of the System. The Alternates had identified the issues which arose in this connection, viz, the amount and the kind of assets to be pooled, the key for the national central banks' contributions and the counterpart of the reserve transfer. There remained the question as to whether the reserves should be pooled in the context of building-up the capital of the central institution and/or by giving rise to special claims of the national central banks vis-à-vis the central institution. Further, if only part of the foreign exchange reserves were pooled, the residual part would continue to be held by the national central banks, although they would nevertheless

be reserves of the System. In this context two questions should be considered. Firstly, how would it be ensured that such reserves were managed consistently with the objectives of the System and, secondly, if such reserves were callable, how should provision to this effect be made in the Statute?

The Alternates would recommend to the Committee of Governors that the Foreign Exchange Policy Sub-Committee be asked to study these issues and, in addition, to review Article 21 (External Operations) of the draft Statute.

(c) Financial provisions

Mr. Rey reported that work on the financial provisions had proved a difficult and complex matter. The Alternates had devoted two meetings to the issue. It was, however, considered premature for the Governors to discuss the proposed Articles at this juncture, as they would have to be reviewed further by the Committee of Alternates.

One particular issue which would require additional examination was that of domestic money market operations. Assuming that these would be entrusted to national central banks and that the central institution would carry out foreign exchange market operations, given the fact that both kinds of operation were interrelated, what sort of provision should be made in the Statute to ensure the equitable distribution of income, profits and losses? The Alternates had asked the Secretariat, with the help of the Economic Unit, to study this issue, the outcome of which would have an impact on the drafting of the financial provisions.

There were some other aspects that remained outstanding, for example, the chapter on Transitional Provisions, which would require a thorough examination, and the two options contained in Article 11 on the respective competences of the Council and the Executive Board.

2. Examination of the draft Statute

The Chairman thanked the Alternates, the Sub-Committee, the Group of Legal Experts and the Secretariat for the excellent and comprehensive work undertaken so far and invited the Committee members to address the issues raised by Mr. Rey in the context of a review of the draft Statute.

For the sake of clarity, the following summary reports on the discussion in numerical order of the Articles.

(a) Chapter I (The Constitution), Article 1 (The System)

The Committee agreed to call the central institution of the System the "European Central Bank" and that the European Central Bank and the national central banks would constitute the "System", which would have the full title of the "European System of Central Banks". The title of the draft Statute would be "The Statute of the European Central Bank and of the European System of Central Banks".

In the light of the above, Mr. Leigh-Pemberton proposed the following redraft of Article 1, which - following some amendments - was subsequently adopted:

"A system consisting of a central institution to be known as "The European Central Bank" (hereinafter "the central bank") and of the participating central banks of the Member States of the Community (hereinafter "national central banks") is hereby established and shall be known as the "European System of Central Banks" (hereinafter, the "System")."

(b) Article 3 (Tasks)

The Chairman expressed doubts about the contents of the fifth indent, since he did not wish to see the System obliged to act as a lender of last resort. It was important not to convey the idea that there would be any kind of guarantee for financial institutions. Further consideration would have to be given to this Article, in order to come to an agreement prior to the draft being transmitted to the Intergovernmental Conference.

With respect to Article 3.2, Mr. Doyle said that the appropriate place for the provision was in the Treaty rather than the Statute. The Committee agreed to delete it from the Article and to insert a reference to this effect in the Comments. The Chairman said that it was important to maintain the idea that the initiative should come from the System and that such a Council decision should be subject to a voting procedure requiring more than a simple majority.

(c) Article 6 (International Co-operation) and Chapter III (Governing Bodies), Article 7 (Decision-making bodies)

Mr. Doyle said that Articles 6 and 7 were incompatible. In order to remove any inconsistency, it was agreed to change the words "national central banks" to "System", in the first sentence of Article 6, and to amend the phrase "represented by the System" to "represented by the



European Central Bank or the national central banks". In Article 7.3 the word "System" was changed to "Council".

(d) Article 8 (Independence)

Following an observation by Mr. Chalikias, the phrase after the word "Statute" was changed to "neither the System nor any member of its decision-making bodies may seek or receive any instruction from Community institutions, national governments or any other body".

(e) Article 9 (The Council)

The square brackets around the word "all" were deleted in Article 9.2. In the context of this Article, the Chairman outlined briefly the contents of his statement made at the ECOFIN meeting in Rome on 8th September 1990 concerning voting procedures. After discussing the possibility of introducing a procedure based on rotating voting, the general consensus reached by the Committee was that such a technique would not be appropriate in the context of the System. It was agreed to establish a quorum of two-thirds of the members, since this was seen to reflect an adequate representation. The last phrase in square brackets was deleted.

With respect to Article 9.3, the square brackets were deleted, it being agreed that weighted voting should apply only to financial matters and that votes should be weighted according to the key attached to the Statute.

(f) Article 10 (The Executive Board)

Regarding the appointment and re-appointment of the President and the members of the Executive Board, at the suggestion of the Chairman, it was agreed that:

- in order to give due regard to democratic accountability, the other members of the Executive Board would be appointed by the European Council after consultation with, and not on a proposal from, the Council of the System, Article 10.3;
- the words "which shall be confidential" were superfluous and could be deleted, Article 10.2;
- the issue of re-appointment should be deleted from Articles 10.2 and 10.3.

It was accepted that an instance might arise in which the President could vote for himself in an election. However, it was thought

unlikely in practice that such a conflict of interest would arise, since it was considered likely that the nominee would withdraw from that specific vote.

(g) Article 11 (Responsibilities of the Governing Bodies)

The Chairman said that one of the key issues before the Committee was the question of the distribution of responsibilities between the decision-making bodies. In this connection he circulated to the members a compromise draft proposal that he had prepared concerning Article 11. The guiding principle behind the text was to underline the competence of the Council as the supreme authority and to empower it to delegate powers to the Executive Board. The Chairman pointed out that no reference had been made to the type of instruments to be used because it was the Council which should decide which instruments were appropriate. Furthermore, and as a general rule, he felt that not all the details should be included in the Statute; some of the decisions should be left to the Rules of Procedure, for example, the frequency of the meetings of the Council.

Following a suggestion by Mr. de Larosière, which was supported by a number of members, it was agreed that the first paragraph of Article 11 should not include an exhaustive list of the component elements of monetary policy formation. Mr. de Larosière proposed that the Council should take the key monetary policy decisions; as a result, the words "including decisions on basic rates of interest and overall liquidity supply in the System" were inserted after the word "Community" in the second sentence.

Following a number of interventions, the wording of the second paragraph of Article 11.1 was amended to "The Council shall delegate to the Executive Board the necessary operational powers for implementing the monetary policy decisions and guidelines. The Council may delegate other powers as it may specify to the Executive Board". This was agreed on the understanding that:

- the powers delegated to the Executive Board for implementing monetary policy could be revoked by the Council, but the decisions and guidelines would have to be re-delegated, albeit on different terms;
- the word "delegate" did not mean a transfer of responsibilities and, therefore, the decision-making power would remain firmly in the hands of the Council.

In order to maintain consistency with Article 11.1, it was agreed to insert the words "decision and" before the word "guidelines" in Article 11.2.

Mr. de Larosière proposed that a reference to the periodicity of the meetings should also be included in the Article. Mr. Leigh-Pemberton and Mr. Ciampi expressed support and it was agreed that the Council would meet at least ten times a year. A provision to this effect was inserted in Article 11.

Mr. Duisenberg said he acknowledged and welcomed the compromise and the concessions that had been made by those who were supporters of a very centralised decision-making body with a strong Executive Board.

(h) Article 13 (National central banks)

The Chairman pointed out to the members that the decisions taken with respect to Article 11 would have some bearing on the contents of Article 13 and the two options for paragraph 13.4, as has been pointed out by Mr. Rey in his introductory remarks (see above).

Mr. de Larosière was not convinced that the alternatives proposed were appropriate in the light of the amendments agreed with respect to Article 11. He felt that the Article did not specifically concern the powers of either the Council or the Executive Board, but related more to the role of national central banks in the implementation and execution of monetary policy. He said that, according to the principle of subsidiarity, the System should rely as much as possible on national central banks for the execution of the tasks of the System and therefore new operational devices should not be created. Mr. Leigh-Pemberton agreed that, wherever possible and appropriate, partly to avoid confusion and partly to reduce expense, the existing national central banks and their operating procedures should be used. Mr. Hoffmeyer pointed out that the situation in the future might be different if there were a single currency; he felt that then the current degree of market segmentation might not be so apparent. Mr. Rey drew the attention of the Committee to the fact that Article 13.4 would be a general provision and would not be limited specifically to the conduct of monetary policy.

Following proposals by the Chairman and Mr. Doyle, the text "the Executive Board shall, to the extent possible and appropriate, make use of the national central banks in the execution of the System's operations" was adopted.

(i) Chapter IV (Monetary Functions and Operations), Article 15 (Notes and Coins)

Mr. Rey briefly explained which amendments had been suggested by the Alternates, the Monetary Policy Sub-Committee and the Legal Experts and highlighted the area to which the Governors should pay particular attention. He mentioned that it had been suggested that, at a stage where monetary union existed but national currencies still circulated, it would be awkward to have all Community currencies designated as legal tender in all countries; this would imply that shopkeepers would have to accept as payment any of the twelve currencies. It had been suggested by the Legal Experts that the matter should be regulated according to Community legislation. Furthermore, since the locking of parities should imply that the exchange of bank-notes could be undertaken at par value, a sentence should be included to facilitate the necessary arrangements. In addition, under Article 15.2 there was the question of whether the exchange should be undertaken without cost. It had been agreed that central banks should stand ready to exchange Community bank-notes at par value, but not all the Alternates were agreed whether commercial banks should be free to charge the cost of such transactions. Mr. Rey questioned whether the Committee needed to deal specifically with this issue at the present juncture.

The Chairman agreed that these very detailed issues probably did not need to be settled at this stage. In response to a point raised by Mr. Rubio and Mr. de Larosière, it was confirmed that, as long as there was no single currency, Article 15.1 would enable individual national central banks to continue to issue bank-notes in accordance with the monetary policy of the centre.

It was felt that the words "authorise issue of" in Article 15.1 would afford the System sufficient protection against the indiscriminate issue of bank-notes by a national central bank.

It was agreed that the square brackets in Article 15.3 should remain, this being a matter to be addressed principally by the Treasuries of the Member States.

(j) Article 18 (Minimum Reserves)

Mr. Rey mentioned that this had proved to be a somewhat controversial Article; some Alternates felt that the use of minimum reserves should be prohibited or restricted more severely than the

provisions as drafted allowed. The Special Report of the Monetary Policy Sub-Committee had commented that this was an issue where the harmonisation of instruments would probably be necessary from the outset of Stage Three. The Committee agreed to delete the words "acting by [simple] [qualified] majority" as the qualified majority requirement appeared to be at variance with the principle that monetary policy decisions should be taken by simple majority. The Chairman said that the Committee should revert to this issue in due course and discuss its implications in greater detail.

At the suggestion of Mr. Doyle, who foresaw a danger that the System might become locked into a prescribed method of monetary control, a general Article (18.3) was added, which stated: "the Council may decide [unanimously] [by qualified majority] upon such other methods of monetary control as it sees fit." Such an enabling provision would take care of any unenvisaged eventualities. The Chairman asked the Legal Experts to reconsider the issues raised by the proposed Article, bearing in mind the provisions of Article 2.3 and also Article 18.1, which specifically enabled the System to impose obligations on third parties.

(k) Article 19 (Operations with public entities)

Mr. Leigh Pemberton asked whether Article 19.1 could be redrafted so that the System was not prevented from granting overdrafts or any other type of credit facility to Community institutions, etc., but was not placed under an obligation to do so. He pointed out that occasionally it would be useful to undertake such operations to influence the market. Mr. de Larosière said that Article 19.1 would prevent the System from purchasing debt instruments directly from Community institutions, governments, etc., however, Article 17.1 would enable the System to buy and sell marketable instruments, such as Treasury bills and other securities, in the pursuit of monetary policy and, as such, Mr. Leigh-Pemberton's point was covered.

Following an observation by Mr. Doyle, who questioned whether the words "other public entities" included state-owned banks, the clause "This provision shall not apply to publicly owned credit institutions" was inserted at the end of Article 19.1.

(l) Article 21 (Relations to third countries)

It was agreed that the Foreign Exchange Sub-Committee would review the provisions of this Article.

(m) Chapter V (Prudential Supervision)

Mr. Rey mentioned that the Banking Supervisory Sub-Committee was currently considering provisions for the chapter on prudential supervision. The Chairman felt that if that Committee were unable to produce a text, the final report would have to leave the subject to further examination. Mr. de Larosière hoped that the Quinn Report would be ready in time for inclusion in the version of the Statute sent to the Intergovernmental Conference; he said that it was essential to the report. He regarded banking supervision as a principal function of a central bank and a pillar of monetary policy supervision.

(n) Chapter VI (Financial Provisions)

Mr. Rey said that there was general agreement amongst the Alternates that legal personality should be given to the central institution and retained by the national central banks. Thus the thirteen entities would be able to hold assets and liabilities. The System would assume a managerial role with respect to the thirteen institutions. There was agreement that analytical and statistical practices would have to be harmonised in order to enable the System to publish a consolidated statement and to identify the source of monetary impulses.

One of the major problems was that in the initial proposals for financial provisions the integration of the national central banks into the System presupposed that all assets and liabilities of the national central banks would be pooled from the outset. Thus the endowment of the central institution with particular assets would be, in a sense, internalised and the Council would decide on the method whereby assets would be transferred from the national central banks to the central institution. Following on from that construction, it had been assumed that all the income, profits and losses for the System as a whole would be redistributed in a way that would minimise - at least at the inception of the System - shifts in income patterns for the national central banks. However, this construction had not been generally accepted by the majority of Alternates. The view had been expressed that a distinction should be made between those assets that needed to be pooled with the central institution to enable it to carry out the interventions necessary for the application of the exchange rate policy of the System, and those that could remain with the national central banks. Part of the reserve assets would remain with the national central banks.

Each national central bank would undertake not to use these assets in a manner contrary to the prevailing exchange rate regime. However, they would remain assets of the System and therefore could still be called by the central institution.

In addition, it had been questioned whether it was necessary to pool all income, profits and losses of the System. Since domestic operations would continue to be conducted through national central banks the income could be left with these institutions in a similar manner as income on the reserve assets which were not to be transferred to the central institution. At the same time, income, profits and losses of the central institution should be redistributed according to share-holdings. Since there was some uncertainty regarding the equitableness of the profit/loss distribution within the System, the Secretariat had been asked by the Alternates to investigate the question of the differentiation of profit-sharing between domestic and external operations of national central banks, and whether or not a scheme separating income would produce an equitable result.

The Chairman asked whether two models could be produced, one based on a centralised approach, whereby all the profits and losses on domestic and external operations would be pooled, and the other on a decentralised basis. The issue should then be left to governments to decide, owing to the question's political implications. Mr. de Larosière fully endorsed the concept of presenting the Ministers with maximum and minimum models. Under the maximum model everything would be pooled and the profits of both domestic and external operations would also be pooled. With the minimalist approach, which would probably be the more practical solution at this juncture, the important questions would be the nature of the key to be used for the pooling and the minimum amount of foreign assets to be pooled. The residual reserves would remain in the hands of the national central banks and should be managed in a way completely consistent with monetary policy objectives, decisions and guidelines. If necessary, there should be an enabling clause which would make it possible to call the remaining assets for use by the centre. Nonetheless, even under this approach there should be a sharing of profits of domestic operations.

Mr. Ciampi commented that the contents of Chapter VI were conditioned in part by the provisions contained in the previous chapters. These reflected a relatively centralised system towards which the Governors

were moving. He endorsed the presentation of two models, the centralised and decentralised approaches.

Mr. Leigh-Pemberton agreed with the scenarios described by previous speakers. He was sure that any decision regarding the level of transfer of reserves to the centre had to be with governments. The disadvantage of the maximalist approach was that in some countries the levels of reserves were high in relation to GNP, and in others low. The maximalist solution implied a greater relative transfer by some countries than by others, and this might not be favoured. Governments should, therefore, be required to decide upon the level of capital and reserves that the new central institution would require and to make a contribution based, say, on a straight arithmetic proportion of GNP. This brought into question the total amount of capital the central institution would require.

The Chairman agreed with the views expressed by Mr. Leigh-Pemberton. He said that the Statute would have two principal objectives: firstly, to ensure the indivisibility of monetary policy decisions and, secondly, to provide assurance that national central banks would not act contrary to this objective by pursuing their own intervention policy in the exchange markets or undertaking their own open market operations which were not in line with the decisions of the centre. The question remained, therefore, of what the national central banks would do with those reserves which were not pooled. The optimal system was one in which the central institution owned all the reserves, but this was probably not politically acceptable at this juncture.

Mr. Leigh-Pemberton stated that the problem with the maximalist approach lay in the fact that individual governments would continue to undertake transactions which would require a certain level of reserves. It was, therefore, axiomatic that individual governments would wish to retain a certain proportion of their reserves and, consequently, the maximalist approach would not be workable. This view was not fully shared by Mr. Rubio.

The Chairman felt that there were a number of issues at stake. One of the primary considerations was the distribution of profits, since it was inconceivable that each central bank should retain the profits from transactions undertaken on behalf of the System. Therefore, with either a minimalist or a maximalist solution, a key had to be devised for the distribution of expenses and profits. One of the consequences of this would



be that the balance sheets of national central banks would have to be drawn up on the same accounting basis and according to the same criteria.

Mr. Jaans said that the two concepts should be presented as alternatives in their own right. He also suggested that the draft Statute should propose some order of magnitude for the combined capital and reserves of the central institution.

The Chairman was reluctant at this stage to state an absolute figure, but accepted that the essential criteria for determining an appropriate capital base should be described.

Mr. de Larosière suggested that the letter of transmission accompanying the draft Statute should state an order of magnitude, leaving the suggested figure in brackets. An observation might be made in a footnote describing the criteria indicating that it would have to be a substantial amount. The difficult issue, however, would be to gauge the initial amount of external reserves to be pooled, and this would be a more relevant question than that of the amount of capital. This amount should be inserted in the Statute; it would be too vague to say the central institution needed a "sufficient" amount.

Mr. Doyle said that another factor to be borne in mind would be the share of capital to be subscribed and the distribution of profits. The return on assets achieved by each Member State's central bank was currently quite different, and any return on assets achieved by the central institution would be different again. The return on profits to the shareholders would, therefore, be different from that to which they were accustomed, and this would have a direct bearing on the amount of capital for which each Member State applied.

Mr. Duisenberg said that the issue of keys did not have to be addressed at this juncture. It would not, however, be acceptable to take as a basis the existing amount of national reserves; such reserves, in some instances, had been accumulated over a considerable period and would be regarded as part of the national wealth. The criterion would have to be something along the lines of GNP.

The Committee of Governors asked the Foreign Exchange Sub-Committee to examine the issues relating to the pooling of reserves with a view to the drafting of the financial provisions of the Statute. The amount and kind of reserves to be pooled should be assessed, as should the

key for national central banks' contributions, the counterpart of the reserve transfer and the provisions governing residual reserves.

(o) Article 24 (Voting on financial matters)

Mr. Doyle questioned whether it would be appropriate to include Article 24.2 in the Statute of the System. He felt that the correct place for such a reference would be in the Treaty. In the same context, Mr. Christophersen also questioned whether it would be correct to refer to the the competence of the Council of Ministers in such an Article. However, it was pointed out by Mr. Rey that the Statute would be a Protocol to the new Treaty; the provision would be the means to revise the key without requiring an amendment to the Treaty and the Council of the European Communities could take a decision to this effect. Following a discussion by the Committee, it was agreed to amend the provision.

Mr. de Larosière said that he welcomed the application of a key reflecting the voting powers relating to the distribution of capital, since those involved the financial contributions of the Member States. On the other hand, the monetary policy decision-making powers, which would have to be universal, should not be based on a key.

3. Concluding Remarks

The Chairman said that at its next meeting the Committee should try to finalise the text.

In response to a question from the Chairman, Mr. Christophersen said that it was the intention of the Italian Presidency to draw some preliminary conclusions on 27th October 1990, when an extraordinary meeting of the European Council would take place in Rome. At that meeting it was the intention to gauge whether the necessary preparatory work had been undertaken. It was not the intention to discuss the substance of any reports or texts. In this respect, he thought that it would be politically expedient for the Committee of Governors to transmit the draft to the European Council before that meeting.

The Chairman thanked Mr. Christophersen for the information but said that if it were a choice between presenting an incomplete text in time for the European Council meeting or waiting, say, four weeks for a completed version, then he would prefer the latter solution. Both Mr. de Larosière and Mr. Duisenberg, however, favoured presenting the

Statute in time for the meeting on 27th October 1990. In response to a question from the Chairman, Mr. Rey felt that it would be possible for the Alternates to reach agreement on a set of financial provisions before the end of October 1990; he added that in his view it would be extremely difficult to present a coherent Statute which did not include such an important chapter.

With regard to a suggestion that a preliminary report should be provided for the European Council, the Chairman said that at the ECOFIN meeting in Rome in September 1990 he had presented such a statement, and he felt that further elaboration was unwarranted. The Committee agreed to set 24th October 1990 aside as a tentative date for a possible meeting of the Committee should an opportunity arise to finalise the text following the meeting of the Alternates on 15/16th October 1990.

The Chairman suggested that the draft Statute should be accompanied by a commentary, which should not take the form of footnotes. It should explain the rationale behind the text and outline the effects of and any considerations concerning the articles.

Mr. Doyle recommended that the covering note accompanying the Statute should contain a sentence emphasising that the text represented what could be achieved in the time available and that the Committee of Governors reserved the right to revert to issues raised in the text as circumstances developed.

III. Adoption of the Committee's report to the EEC Ministers of Finance on developments on the foreign exchange markets of the nineteen countries participating in the concertation procedure during July and August and the first few days of September 1990

The Committee adopted this report, which would be sent to the EEC Ministers of Finance in the usual way.

IV. Other matters falling within the competence of the Committee

Since the Chairman felt that there was insufficient time to deal with the remaining draft agenda items, the meeting was drawn to a close.

V. Date and place of next meeting

The Committee's next regular meeting would be held in Basle on Tuesday, 13th November 1990 at 9.30 am.

The tentative date of 24th October 1990 was set aside by the Governors for a special meeting in the event that the Committee of Alternates, the Sub-Committees and the Legal Experts were in a position to finalise their work before that date.

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Committee of Governors of the  
Central Banks of the Member States  
of the European Economic Community

5th September 1990

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Committee of Alternates

DRAFT STATUTE OF THE [EUROPEAN SYSTEM OF CENTRAL BANKS]  
[EUROPEAN CENTRAL BANK SYSTEM]

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Articles and Comments

CHAPTER I - CONSTITUTION

Article 1 - The "System"

1.1. A ["System"], consisting of the participating central banks of the Member States of the Community (hereinafter "national central banks") and of a central institution, is hereby established.

1.2. [The central institution shall have legal personality.]

1.3. [In each of the Member States the central institution shall enjoy the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.]

1.4. For the purpose of this Statute, the Institut Monétaire Luxembourgeois shall be regarded as a national central bank.

CHAPTER II - OBJECTIVES AND TASKS

Article 2 - Objectives

2.1. The primary objective of the System shall be to maintain price stability.

2.2. Without prejudice to the objective of price stability, the System shall support the general economic policy of the Community.

2.3. In exercising its functions, the System shall act consistently with free and competitive markets.

Article 3 - Tasks

3.1. The basic tasks of the System shall be:

- to formulate and implement the monetary policy of the Community;
- to conduct foreign exchange operations in accordance with the prevailing exchange rate regime of the Community as referred to in Article 4.3.;
- to hold and manage [the] official foreign reserves [of the Community];
- to ensure the smooth operation of the payment system;
- [- to support the stability of the financial system];
- to participate as necessary in the formulation and execution of policies relating to prudential supervision.

3.2. Following a proposal from the System, other tasks may be conferred by a [unanimous] [qualified majority] decision of the Council of the European Communities in order to promote the primary objectives of EMU whilst respecting the objectives contained in Article 2 of the present Statute.

Article 4 - Advisory functions

4.1. The System shall be consulted regarding any draft Community legislation in the monetary, banking or financial field.

4.2. The System may give opinions to any Community or national authority on matters within its field of competence.

4.3. The System shall be consulted with a view to reaching consensus prior to any decision relating to the exchange rate regime of the Community, including, in particular, the adoption, abandonment or change in central rates or exchange rate policies vis-à-vis third currencies.

4.4. The System may publish its opinions.

Article 5 - Collection of statistical information

5.1. In order to perform its functions, the System shall collect necessary information either from the competent national authorities or

directly from economic agents. For these purposes, it shall co-operate with the competent authorities of the Community, the Member States or non-member States and with international organisations.

5.2. The national central banks shall carry out, to the extent possible, the tasks described in Article 5.1. The central institution shall promote the harmonisation, where necessary, of the conditions governing the collection, compilation and distribution of statistics in the areas within its field of competence.

5.3. The System shall exercise this task and respect the confidentiality of information it receives in accordance with the relevant provisions of Community law.

#### Article 6 - International co-operation

In the field of international co-operation where it relates to the tasks entrusted to the System, the national central banks shall be represented by the System. The Council shall decide the methods of this representation. The System may participate in international monetary institutions.

### CHAPTER III - THE GOVERNING BODIES

#### Article 7 - Decision-making bodies of the System

7.1. The decision-making bodies of the System shall be the Council and the Executive Board.

7.2. The President, or, in his absence, the Vice President shall chair these bodies.

7.3. The President or his nominee shall represent the System externally.

#### Article 8 - Independence

In exercising the powers and performing the duties conferred upon them by the Treaty and this Statute, the System and all members of its decision-making bodies may neither seek nor receive any instructions from Community institutions, national governments or any other body.

Article 9 - The Council

9.1. The Council shall comprise the President of the System, the other members of the Executive Board and the Governors of the national central banks.

9.2. Subject to Article 9.3, [all] members of the Council present in person shall have the right to vote. Each member has one vote. Save as otherwise provided in the Statute, the Council shall act by a simple majority. In the event of a tie, the President shall have the casting vote. In order for the Council to vote, there shall be a quorum of [2/3rds] [1/2 + 1] of the members [who have the right to vote].

[9.3. Weighted voting shall apply to decisions pursuant to Article ... When weighted voting applies, the Governors' votes shall be based on the capital share of their respective national central bank. If a Governor is unable to be present, he may nominate an Alternate to cast his weighted vote.]

9.4. The proceedings of the meetings shall be confidential. The Council may decide to make the outcome of its deliberations public.

9.5. The Council shall adopt Rules of Procedure on the proposal of the Executive Board. The Rules of Procedure shall include provisions on the functioning of the central institution and the organisation of the relations within the System.

Article 10 - The Executive Board

10.1. The Executive Board shall comprise the President, the Vice-President, and 4 other members.

The members of the Executive Board shall be selected among persons of recognised standing and professional experience in monetary or banking matters.

The members shall perform their duties on a full-time basis. No member shall, without approval of the Council, receive a salary or other form of compensation from any source other than the System or occupy any other office or employment, whether remunerated or not, except as a nominee of the System.

10.2. The President shall be appointed for a period of 8 years by the European Council, after the Council of the System has given its opinion,



which shall be confidential [and after consultation with the European Parliament]. The President may not be reappointed.

10.3. The Vice-President and the other members of the Executive Board shall be appointed, for a period of 8 years by the European Council on a proposal from the Council of the System. They may be re-appointed once.

10.4. With the exception of the President, no member of the Executive Board shall hold office beyond the age of 65.

10.5. Legal status of the members of the Executive Board (details to be given).

10.6. All members of the Executive Board present in person shall have the right to vote and shall have, for that purpose, one vote. Save as otherwise provided in the Statute, the Executive Board shall act by a simple majority of the votes cast. In the event of a tie, the President shall have the casting vote. The voting arrangements will be specified in the Rules of Procedure.

Article 11 - Responsibilities of the governing bodies

	OPTION A		OPTION B
11.1.	<p>The Council shall take the decisions necessary for the performance of tasks entrusted to the System under the present Statute.</p> <p>The Council shall formulate the monetary policy of the Community. It shall give the Executive Board the necessary guidelines for the implementation of monetary policy.</p>	11.1.	<p>The Council shall take the decisions necessary for the performance of tasks entrusted to the System under the present Statute.</p> <p>The Council shall formulate the monetary policy of the Community and fix the rates, terms and conditions for discounting, advances, loans and other operations which the System undertakes with credit institutions and in the market. It shall give the Executive Board the necessary instructions for implementing monetary policy.</p>

(See Article 11.2, last sentence, Option A)

The Council may delegate such powers as it may specify to the Executive Board and may, at its discretion, revoke such powers.

- 11.2. The Executive Board shall be responsible for implementing the policy decisions entrusted to it by the Council and shall give the necessary instructions to national central banks. In so doing, it shall be empowered to fix the rates, terms and conditions for discounting, advances, loans and other operations which the System undertakes with credit institutions and in the market. It shall act in accordance with the Council's guidelines. The Executive Board shall have responsibility for the preparation of the meetings of the Council. It shall be responsible for administering the central institution. The Executive Board shall

The Council shall act on all matters not expressly reserved for the Executive Board by this Statute or the Rules of Procedure.

The Council may delegate such powers as it may specify to the Executive Board and may, at its discretion, revoke such powers.

- 11.2. The Executive Board shall be responsible for implementing the policy decisions laid down by the Council and shall give the necessary instructions to national central banks.

It shall act in accordance with the Council's instructions. The Executive Board shall be responsible for the preparation of the meetings of the Council. It shall be responsible for administering the central institution.

act on all matters not expressly reserved for the Council by the Statutes or the Rules of Procedure.

Alternative version proposed by the Chairman:

Article 11 - Responsibilities of the governing bodies

11.1. The Council shall take the decisions necessary for the performance of tasks entrusted to the System under the present Statute. The Council shall formulate the monetary policy of the Community and shall establish the necessary guidelines for its implementation.

The Council shall give to the Executive Board the necessary operational powers for implementing the monetary policy guidelines. The Council may delegate other powers as it may specify to the Executive Board and may, at its discretion, revoke such powers.

11.2. When implementing monetary policy in accordance with the guidelines established by the Council, the Executive Board shall give the necessary instructions to national central banks.

The Executive Board shall have responsibility for the preparation of the meetings of the Council. It shall be responsible for administering the central institution.

Article 12 - [Permanent central institution staff]

(Details to be given).

Article 13 - National central banks

13.1. The statutes of national central banks shall be made compatible with this Statute.

13.2. The statutes of the national central banks shall in particular provide that the Governor of a national central bank is appointed by the national authorities of the Member State following consultation with the Council of the System. The term of office shall be no less than 5 years and the Governor may be relieved from office only for serious cause resting in

his person. A decision to this effect must be submitted to the European Council for approval.

13.3 Subject to Article 13.5., the national central banks are an integral part of the System and shall act in accordance with the policy guidelines and instructions of the Council or Executive Board.

The Council shall take the necessary steps to ensure compliance with its policy guidelines and instructions, and shall require that any necessary information be given to it.

13.4. The tasks of the System [may] [shall normally] be executed by the national central banks. The execution of these tasks shall be in accordance with the terms laid down by the Executive Board.

13.5. National central banks may continue to perform functions other than those described in the Statute of the System unless the Council finds, by an [appropriate] majority that these interfere with the objectives and tasks of the System. Such functions shall not be regarded as being part of the System. The national central banks may assume new functions subject to the prior approval of the Council of the System.

#### Article 14 - Inter-institutional co-operation

14.1. The President of the Council of the European Communities (ECOFIN) and a Member of the Commission may attend meetings of the Council. They may take part in the Council's deliberations but not in the voting.

14.2. The President of the System shall be invited to participate in meetings of the European Council and Council of the European Communities when matters relating to the System's objectives and tasks are discussed.

14.3. The System shall draw up an annual report on its activities and on the monetary policy of both the previous and current year. This annual report shall be transmitted to the European Council, the Council of the European Communities and the European Parliament. The President of the System may present the annual report before these institutions. The President and members of the Executive Board may attend meetings of the European Parliament's specialised committees, if circumstances justify.

CHAPTER IV - MONETARY FUNCTIONS AND OPERATIONS

Article 15 - Notes and coins

15.1. The Council shall have the exclusive right to authorise the issue of notes in the System which shall be the only legal tender.

15.2. Provisions concerning the legal tender status of Community currencies shall be regulated according to the Community legislation. The Council shall make the necessary arrangements for the exchange of notes denominated in Community currencies by the national central banks at par value.

15.3. The volume and denomination of coins issued within the Community shall be subject to approval of the Council of the System. The coins [shall] [may] be put into circulation by the System.

Article 16 - Accounts with the System

In order to conduct its operations, the System may open accounts for credit institutions, public entities and other market participants and accept assets including book-entry securities as collateral.

Article 17 - Open market and credit operations

17.1. In order to influence money market conditions in the Community, the System shall be entitled:

- to operate in the financial markets by buying and selling outright (spot and forward) or under repurchase agreement, and at its discretion, claims and marketable instruments such as Treasury bills and other securities, whether in Community or in foreign currencies, as well as precious metals;
- to conduct credit operations with credit institutions and other market participants.

17.2. The System shall establish general principles for its open market and credit operations including the announcement of conditions under which it stands ready to enter into such transactions.

Article 18 - Minimum reserves

18.1. The System shall be entitled to require credit institutions to hold minimum reserves on accounts with the System. Regulations concerning

the calculation and determination of the required minimum reserves shall be established by the Council, acting by [simple] [qualified] majority.

18.2. The System shall be entitled to penalise credit institutions which fail to comply with the obligations referred to in Article 18.1.

Article 19 - Operations with public entities

19.1. The System shall not grant overdrafts or any other type of credit facilities to Community institutions, governments or other public entities of Member States or purchase debt instruments directly from them.

19.2. The System may act as fiscal agent for Community institutions, governments or other public entities of Member States.

19.3. The function of fiscal agent shall comprise all banking transactions except those referred to in Article 19.1. above.

19.4. Community institutions, governments and other public entities of Member States for which the System acts as fiscal agent shall issue debt instruments either through the System or in consultation with it.

Article 20 - Clearing and payment systems

The System may provide facilities and establish provisions to ensure efficient and sound clearing and payment systems inside the Community and with third countries.

Article 21 - Operations in relation to third countries and external assets

21.1. The System shall be entitled to establish relations with central banks and financial institutions in third countries and, where appropriate, with international organisations.

21.2. It is entitled to acquire and sell foreign exchange, precious metals and securities. The term 'securities' shall include securities and assets in currency of any country and in whatever form held.

21.3. In relation to third countries it is entitled to conduct all types of banking transactions.

Article 22 - Other operations

In addition to operations arising from its tasks, the System may enter into operations that serve its administrative purposes or for its staff.

CHAPTER V - PRUDENTIAL SUPERVISION

The Banking Supervisory Sub-Committee is preparing the relevant provision(s) to be included in this section concerning the exercise of the System's competence in this field.

CHAPTER VI - FINANCIAL PROVISIONS

Article 23 - Financial structure

23.1. The System's financial operations shall be recorded in the balance sheets of either the central institution or the national central banks.

23.2. For analytical and statistical purposes, the Board shall draw up a consolidated balance sheet of the System, comprising the assets and liabilities of the central institution and the national central banks.

23.3. For the application of Article 23.2., the Council shall establish rules relating to the standardisation of national central banks' balance sheets.

Article 24 - Voting on financial matters

24.1. For the purposes of Articles 25 to 28, the votes in the Council shall be weighted according to the key attached to the Statute. A decision by a qualified majority shall be deemed to be approved if it carries [...] votes on the total of [...].

24.2. The key referred to in Article 24.1. may be modified by a decision of the Council of the European Community, acting by .... majority upon a proposal from the Council of the System.

Article 25 - Capital of the Central Institution

25.1. The capital of the central institution shall, upon its establishment, be ecu [x] million. The capital may be increased from time to time by such amounts as may be decided by the Council acting by qualified majority.

25.2. The national central banks shall be the sole subscribers to and holders of the capital of the central institution. The distribution of capital shall be according to the key attached to this Statute.

[25.3. The Council shall determine the form in which capital shall be paid-up.]

Article 26 - Transfer of assets and liabilities to the central institution

Article to be drafted.

Article 27 - Allocation of income, losses and profits of the System

Article to be drafted.

Article 28 - Accounts

Article to be drafted.

CHAPTER VII - MISCELLANEOUS PROVISIONS

Article 29 - Publication

[The System shall report on its activities at regular intervals. These reports are to be published and to be made available to interested parties free of charge.]

Article 30 - [Monthly] [Weekly] returns

A consolidated financial statement of the System shall be published each [month] [week].

CHAPTER VIII - TRANSITIONAL PROVISIONS



248th MEETING OF THE COMMITTEE OF GOVERNORS

11TH SEPTEMBER 1990

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Those present were:

Chairman of the Committee of Governors	Mr. Pöhl
Banque Nationale de Belgique	Mr. Verplaetse Mr. Rey Mr. Michielsens
Danmarks Nationalbank	Mr. Hoffmeyer Mr. Mikkelsen
Deutsche Bundesbank	Mr. Tietmeyer Mr. Rieke
Bank of Greece	Mr. Chalikias Mr. Papademos Mr. Karamouzis
Banco de España	Mr. Rubio Mr. Linde Mr. Durán
Banque de France	Mr. de Larosière Mr. Lagayette Mr. Cappanera
Central Bank of Ireland	Mr. Doyle Mr. Coffey Mr. Reynolds
Banca d'Italia	Mr. Ciampi Mr. Dini Mr. Fazio/Santini
Institut Monétaire Luxembourgeois	Mr. Jaans
Nederlandsche Bank	Mr. Duisenberg Mr. Szász Mr. Boot
Banco de Portugal	Mr. Tavares Moreira Mr. Borges Mr. Amorim
Bank of England	Mr. Leigh-Pemberton Mr. Crockett Mr. Price
Commission of the European Communities	Mr. Christopherson Mr. Pons
Chairman of the Monetary Policy Sub-Committee	Mr. Raymond
Chairman of the Foreign Exchange Sub-Committee	Mr. Dalgaard
Secretariat of the Committee of Governors	Mr. Baer Mr. Scheller Mr. Viñals