

Secretariat

SUGGESTIONS FOR MINOR AMENDMENTS TO THE DRAFT STATUTE

During the preparation of mutually consistent translations of the draft Statute into the other Community languages, the Secretariat's attention was drawn to a number of provisions whose language could easily be improved without any change in substance. The proposed changes are set out hereafter (additions in italics, deletions in overstrike).

A general change to be made in the Statute concerns the supreme decision-making body of the ECB, called the "Council" in the Statute. The notion "Council" is reserved to the Council of the European Communities. Accordingly, since the Statute is to be annexed to the Treaty in the form of a protocol and thus will become an integral part of the Treaty, it will be necessary to word the Statute consistently with the Treaty. As the "Council of the European Communities" has thus to be called the "Council" in the Statute, there will be the question of how to call the Council of the ECB.

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 The System shall act consistently with *the principles of free and competitive markets*.

Article 9 - The European Central Bank

9.1 The ECB is hereby established and shall have legal personality.

9.2 In each of the Member States the ECB 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.

9.3 The property of the ECB shall be exempt from all forms of requisition or expropriation.

Disputes between the ECB, on the one hand, and its creditors, debtors or any other person, on the other, shall be decided by the competent national courts, save where jurisdiction has been conferred on the Court of Justice.

9.4 The function of the ECB shall be to ensure that the tasks conferred upon the System under Article 3 shall be implemented either by ~~it~~ ~~or~~ the ECB's activities pursuant to this Statute or through the national central banks pursuant to Article 14.

9.5 The decision-making bodies of the ECB shall be the Council and the Executive Board.

Article 15 - Inter-institutional co-operation and reporting commitments

15.1 The President of the Council of the European Communities 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.

15.2 The President of the ECB 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.

15.3 The ECB shall draw up an annual report on the activities of the System and on the monetary policy of both the previous and current year at a date to be established in the Rules of Procedure. The President shall present the annual report to the European Council, the Council of the European Communities and the European Parliament. The President and members of the Executive Board may attend meetings of the European Parliament's specialised committees, if circumstances justify.

15.4 The ECB shall draw up *and publish* reports on the activities of the System at regular intervals. ~~These reports and statements are to be published and to be made available to interested parties free of charge!~~

15.5 A consolidated financial statement of the System shall be published each week.

15.6 The reports and statements referred to above shall be made available to interested parties free of charge.

Article 21 - Operations with public entities

21.1 The ECB and national central banks shall not grant overdrafts or any other type of credit facility to the Community, ~~institutions/ governments/~~ Member States ~~of~~ and other public entities ~~of~~ in the Member States or purchase debt instruments directly from them.

21.2 The ECB and national central banks may act as fiscal agents for ~~Community institutions/ governments of other public entities of Member States~~ the entities referred to in Article 21.1.

21.3 The function of fiscal agent shall comprise all banking transactions except those referred to in ~~paragraph 1 of this~~ Article 21.1 above.

21.4 ~~Community institutions/ governments and other public entities of Member States~~ The entities for which the ECB and national central banks act as fiscal agents in accordance with Articles 21.2 and 21.3 shall issue debt instruments either through the System or in consultation with it.

21.5 The provisions under this Article shall not apply to publicly-owned credit institutions.

Article 29 - Capital of the ECB

29.1 The capital of the ECB 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.

29.2 The national central banks shall be the sole subscribers to and holders of the capital of the ECB. The subscription of capital shall be according to the key attached to this Statute.

29.3 The Council, acting by a qualified majority, shall determine the extent to which and the form in which capital shall be paid-up.

29.4 The shares of the national central banks in the subscribed capital of the ECB may not be transferred, pledged or attached other than in accordance with a decision taken by the Council.

29.5 If the key attached to this Statute is modified in accordance with Article 28.2, the national central banks shall transfer among themselves capital shares to the extent necessary to ensure that the distribution of capital shares corresponds to the revised key. The Council shall determine the terms and conditions of such transfers.

Article 30 - Transfer of foreign reserve assets to the ECB

30.1 Without prejudice to the provisions of Article 29, the ECB shall be endowed by the national central banks with foreign reserve assets, other than Community currencies and ecus, up to an amount equivalent to ecu (x). The Council shall decide ~~about~~ upon the proportion to be called up by the ECB at the entry into force of this Statute and the amounts called up at later dates.

30.2 The contributions of each national central bank shall be fixed in accordance with the key attached to this Statute.

30.3 Each national central bank shall be credited by the ECB with a claim equivalent to its contribution. The Council shall determine the denomination and remuneration of such claims.

30.4 Further calls of foreign reserve assets beyond the limit set in Article 30.1 may be effected by the ECB in accordance with Community legislation.

30.5 The ECB shall be authorised to accept the pooling of IMF reserve positions and SDRs.

30.6 The Council shall determine all other conditions required for the application of this Article.