



European Communities

EUROPEAN PARLIAMENT

SESSION DOCUMENTS

English Edition

3 October 1990

A3-0236/90/ANNEX

OPINIONS

of the Committee on Budgets

and

the Committee on Budgetary Control

for the Committee on External Economic Relations

on the Commission proposal for a Council decision on the conclusion of the Articles of Agreement establishing a European Bank for Reconstruction and Development

(COM(90) 190 final - C3-0143/90)

Draftsman : Mr Thomas von der VRING
Mr Georgios SARIDAKIS

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PE 143.073/fin./Ann.

A Series: Reports - B Series: Motions for Resolutions, Oral Questions - C Series: Documents received from other Institutions (e.g. Consultations)

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= Consultation procedure requiring a single reading

**II

= Cooperation procedure (second reading) which requires the votes of a majority of the current Members of Parliament for rejection or amendment

**I

= Cooperation procedure (first reading)

= Parliamentary assent which requires the votes of a majority of the current Members of Parliament

C O N T E N T S

	<u>Page</u>
Opinion of the Committee on Budgets.....	3
Opinion of the Committee on Budgetary Control.....	4

OPINION

of the Committee on Budgets

Letter from the committee chairman to Mr Willy DE CLERCQ, chairman of the Committee on External Economic Relations

Luxembourg, 3 October 1990

Subject : Opinion of the Committee on Budgets on the Commission proposal for a Council decision on the conclusion of the Articles of Agreement establishing a European Bank for Reconstruction and Development
(COM(90) 190 final/2 - C3-143/90)

Dear Mr De Clercq,

At its meetings of 18/19 September and 27/28 September 1990 the Committee on Budgets considered the above proposal.

The committee is only required to deliver an opinion on the financial implications of the proposal, which amount to 300 million ECU, i.e. 3% of the Bank's authorized capital stock.

Given that, in accordance with Article 4 of the Agreement, the capital stock shall be divided into paid-in shares and callable shares and that the paid-in shares shall represent 30% of the total capital stock, the Community would have to put up a total of 90 million ECU in 5 annual instalments. This means that 18 million ECU would have to be provided from the 1991 budget.

In cases of losses of the Bank and/or risks, guarantees, etc., Article 17 of the Agreement provides for such losses to be charged, in the final instance, against an appropriate amount of the uncalled subscribed callable capital. The Commission proposes a token entry for such risks in a corresponding item in the budget of the Communities.

The Committee on Budgets has taken note of these provisions and will consider them in more detail during the procedure for the 1991 budget.

Yours sincerely,

(Sgd) Thomas von der VRING

The following were present : von der Vring, chairman; Lamassoure, second vice-chairman; Colom I Naval, rapporteur; Cochet, Colajanni, Goedmakers, Langes, Lo Guidice, McCartin (for Böge), Miranda da Silva, Pasty, Samland, Theato, Tomlinson and Zavvos.

O P I N I O N

(Rule 120 of the Rules of Procedure)

of the Committee on Budgetary Control
for the Committee on External Economic Relations

Draftsman : Mr Georgios SARIDAKIS

At its meeting of 28/29 June 1990 the Committee on Budgetary Control appointed Mr Saridakis draftsman.

At its meeting of 19/21 September 1990 it considered the draft opinion.

At the latter meeting it adopted the conclusions as a whole unanimously.

The following were present for the vote: Price, chairman; Wynn, vice-chairman; Saridakis, draftsman; Goedmakers, Holzfluss, Theato and Tomlinson.

I. Background - The Community is in a position to introduce implementing rules in connection with the management and supervision of the EBRD

Following the negotiations conducted at an intergovernmental conference during the first half of 1990, the European Bank for Reconstruction and Development (EBRD), the purpose of which is to promote productive and competitive investment and speed up the transition to a market economy in the countries of Central and Eastern Europe, has been set up.

The bank's capital - 10 bn ECU - will be provided by 42 shareholders: 40 countries, the European Community in its own right and the EIB.

Only 30% of the subscribed capital will be paid in, payment to be made over a period of five years (partly in cash and partly as promissory notes).

The Community has subscribed for 3% of the capital, or 300 m ECU. This means that the callable portion will be 90m ECU, i.e. 30% of the subscribed capital. The paid-in portion will be paid over a period of five years, beginning in 1991, at an annual cost to the budget of 18 m ECU.

The Community's holding is far from symbolic: the 3% it controls represents simply the nucleus of the total shareholding of Community Europe (Commission: 3% EIB: 3%; Member States: 45%).

The majority of the bank's capital, then, is held by Community Europe as a whole. The fact of shareholder supervision enables the Community to introduce rules governing the implementation of the Agreement establishing the EBRD, in particular as regards checks on the management and financial operations of the bank.

II. Why should the EBRD be subject to scrutiny?

Generally, in national financial systems, a central body supervises publicly and privately owned banks in respect of solvency and sound management. This body, which enjoys considerable independence vis-à-vis the government concerned, is usually the central bank.

What body could perform the same duties in respect of the EBRD?

The international character of the institution makes the problem more difficult to solve. (Naturally, a financial institution or state control is out of the question.) Sound supervisory arrangements must be found, however, in order to ensure that the bank can fulfil the purpose and functions set out in Articles 1 and 2 of the Agreement establishing the bank, which are of fundamental political and strategic importance for the development of sound market structures in Central and Eastern Europe.

The extent to which the strategy set out in Articles 1 and 2 of the Agreement is implemented and management is sound then, should be the subject of checks. In this regard, we should stress that important operating principles, constituting criteria for the bank's activities and checks thereon, are laid down in Article 13 of the Agreement establishing the bank:

- (ii) the operations of the Bank shall provide for the financing of specific projects, whether individual or in the context of specific investment programmes, and for technical assistance, designed to fulfil its purpose and functions as set out in Articles 1 and 2 of this Agreement;
- (xiii) the Bank shall take the necessary measures to ensure that the proceeds of any loan made, guaranteed or participated in by the Bank, or any equity investment, are used only for the purposes for which the loan or the equity investment was granted and with due attention to considerations of economy and efficiency.

These two subparagraphs show that, as far as its activities are concerned, the bank is bound by two principles:

- compliance with the strategic objectives that are its raison d'être;
- efficiency and cost-effectiveness.

Permanent checks will have to be carried out, then, that these principles are being acted on as regards both management and the substantive details of financing operations.

III. On whom should responsibility for checks on the EBRD be conferred?

The EBRD is an international organization that is not part of the Community's institutional or constitutional setup; arrangements to supervise it as if it were a Community Institution are therefore out of the question (except as regards the proper utilization of appropriations entered in the budget to meet the obligations deriving from the Agreement establishing the bank (checks by the Court of Auditors and the discharge authority on the payment of the Community's paid-in capital)).

Supervisory responsibilities should therefore be conferred on a prestigious body possessing the requisite competence in matters of financial control which enjoys the requisite degree of independence to ensure that the bank is managed efficiently and effectively. The Court of Auditors of the European Communities would meet these requirements, since:

- (a) the independence of its Members is acknowledged in Article 206(5) of the Treaty and furthermore, in the course of its supervisory duties, it would be acting as a person in international law, on which the Board of Governors and/or the standing orders deriving from the Agreement establishing the bank would have conferred the role as supervisory authority and guarantor, rather than as an independent Community Institution;
- (b) the Court has considerable experience of supervising financial institutions in that, as soon as it was set up, ECSC financial statements and management, EURATOM loans and New Community Instrument (NCI) lending became subject to scrutiny by the Court; it should be pointed out that NCI management is scrutinized directly at the EIB, which grants and manages loans in its capacity as agent, and that, owing to an agreement between the Court and the EIB, checks may also be conducted on the premises of third parties receiving funding.

IV. Conclusions: amendments to the proposal for a Council decision

Community Europe is in a position, then, to introduce sound rules for implementing the Agreement establishing the EBRD: its is the majority shareholding (51%), the 3% held by the Community in its own right representing a strategic nucleus (see section I).

As regards the implementing rules, those relating to checks are essential: checks have to be conducted to ascertain that the EBRD is being managed efficiently and effectively in line with the objectives laid down in Articles 1 and 2 and with the operating principles set out in Article 13 of the Agreement establishing the Bank (see section II).

Such checks presuppose the involvement of an independent institution acting as guarantor without encroaching on the EBRD's independence; this could be a role for the Court of Auditors (see section III).

How can this objective be realized?

The Council decision seeks to approve the Articles of Agreement as a whole; legally, then the Agreement cannot be amended. In its decision, however, the Council can:

- (a) set out, in the recitals, guidelines that are important for the Community and have political merit for the Member States, from which the Council proceeds;
- (b) instruct the Governor appointed by the Commission to represent the Community to negotiate, within the Board of Governors, on drawing up rules for implementing the Articles of Agreement, in particular as regards management and supervisory arrangements.

The amendments submitted by the Committee on Budgetary Control to the Committee on External Economic Relations specifically reflect these objectives (Annex I).

Amendments to the proposal for a Council decision on the conclusion of the Articles of Agreement establishing a European Bank for Reconstruction and Development

Amendment No. 1

Add the following new seventh recital:

Whereas rules should be laid down for implementing the Articles of Agreement and whereas these rules should ensure that the European Bank for Reconstruction and Development is properly managed and lay down checks to make sure that the objectives and duties set out in Articles 1 and 2 of the Agreement are fulfilled efficiently and effectively; whereas the Court of Auditors of the European Communities is in a position to act as the independent supervisory institution and as guarantor;

Amendment No. 2

Article 2

The Governor and Alternate Governor of the EBRD representing the Community under Article 23.1 of the Articles of Agreement shall be appointed by the Commission after consultation of Parliament.

Amendment No. 3

Article 2, second paragraph (new)

The Governor appointed by the Commission shall negotiate on the Community's behalf, within the Board of Governors, on drawing up the rules for implementing the Articles of Agreement, in particular as regards managing and supervising the EBRD's operations.