

# **ECONOMIC AND MONETARY UNION**

Compilation of  
Community legislation

June 1999

EUROPEAN COMMISSION

## **IMPORTANT**

This publication includes extracts from the consolidated versions of the EU Treaty and the EC Treaty incorporating the changes made by the Treaty of Amsterdam, signed on 2 October 1997, and which entered into force on 1 May 1999.

The extracts contained herein, including protocols, are numbered in accordance with the provisions of the Amsterdam Treaty. In consequence, references to the Treaties in other texts should be read in conjunction with the Table of Equivalences referred to in Article 12 of the Treaty of Amsterdam.

The text has been produced for documentary purposes and does not involve the responsibility of the institutions.

A great deal of additional information on the European Union is available on the Internet. It can be accessed through the Europa server (<http://europa.eu.int>) which has a page specifically devoted to the euro (<http://europa.eu.int/euro>).

Cataloguing data can be found at the end of this publication.

Luxembourg: Office for Official Publications of the European Communities, 1999

ISBN 92-828-4310-6

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*Printed in Belgium*

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## Preface

*On 1 January 1999 the euro became a reality. In creating the single currency, Europe has given its citizens and its partners in the wider world tangible proof of its determination to build a community based on peace and prosperity. The launch of the new currency went ahead according to plan and the euro gained real credibility from the outset. For ordinary citizens the next milestone will be 1 January 2002, when the new notes and coins will be put into circulation. In the meantime, the Commission is working hand in hand with the Member States and the European Central Bank to ensure a smooth transition to what will be the major political event of the new millennium.*

*Management of the new currency has been entrusted to the European Central Bank (ECB), the most independent central bank in the world and one whose main concern is stability. The euro will also be underpinned by a stability and growth pact. The single currency is furthermore emerging as a key instrument in the fight against unemployment: a balanced policy mix, sustained convergence and monetary stability are the foundations of an employment-friendly economic policy. The euro offers a unique opportunity for breaking out of the vicious circle of deficit and unemployment and setting in motion the dynamic of stability and job creation. The single currency is also an essential complement of the single market. It brings to an end exchange-rate fluctuations between the currencies of participating Member States and, by eliminating the exchange risk, it will make firms more competitive and give them the springboard from which to withstand competition in the global economy. It will also make for further integration of goods and services markets.*

*In adopting the euro, the peoples of Europe have decided to occupy a place on the international scene commensurate with their history and their economic and commercial strength. The single currency will enable Europe to enhance its position and role in the world. The euro's credibility, allied to a large and very liquid financial market, will attract foreign investment. More fundamentally, the euro, through its recognised stability and widespread use, will help establish a better balance in international monetary relations. To achieve all this, Europe must be able to speak with one voice and hence play its rightful role on the international scene. The euro will therefore emerge as a reserve currency, a transaction currency and an investment currency; its aim is also to instil more stability into the international monetary system. The arrival of the euro is a major event on the monetary scene and offers all players on the financial market — issuers, intermediaries and investors — new opportunities for raising and investing capital.*

*This compilation brings together the whole body of Community legislation on economic and monetary union and the introduction of the euro. The texts have been updated following the entry into force of the Amsterdam Treaty.*

*It provides the appropriate legal basis for determining the scope of the decisions taken in this area and will constitute an essential reference tool for all those working in the field and a useful aid to understanding what economic and monetary union means both now and in the future.*

*Giovanni Ravasio*

*Director-General for Economic and Financial Affairs*

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<sup>(1)</sup> OJ C 340, 10.11.1997, pp. 85-91.

(\*) New Article introduced by the Treaty of Amsterdam.

(\*\*) New Title introduced by the Treaty of Amsterdam.

(\*\*\*) Title restructured by the Treaty of Amsterdam.

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(\*) New Article introduced by the Treaty of Amsterdam.

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(\*) New Article introduced by the Treaty of Amsterdam.

(\*\*) New Title introduced by the Treaty of Amsterdam.

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*Part A*

**Extracts from the  
Treaty establishing the  
European Community,  
annexed protocols and  
declarations**

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**Article 4 (ex Article 3a) (\*)**

1. For the purposes set out in Article 2, the activities of the Member States and the Community shall include, as provided in this Treaty and in accordance with the timetable set out therein, the adoption of an economic policy which is based on the close coordination of Member States' economic policies, on the internal market and on the definition of common objectives, and conducted in accordance with the principle of an open market economy with free competition.

2. Concurrently with the foregoing, and as provided in this Treaty and in accordance with the timetable and the procedures set out therein, these activities shall include the irrevocable

fixing of exchange rates leading to the introduction of a single currency, the ECU, and the definition and conduct of a single monetary policy and exchange-rate policy the primary objective of both of which shall be to maintain price stability and, without prejudice to this objective, to support the general economic policies in the Community, in accordance with the principle of an open market economy with free competition.

3. These activities of the Member States and the Community shall entail compliance with the following guiding principles: stable prices, sound public finances and monetary conditions and a sustainable balance of payments.

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(\*) OJ C 340, 10.11.1997, p. 182.

## Title VII (ex Title VI)

### Economic and monetary policy (\*)

#### CHAPTER 1

#### ECONOMIC POLICY

##### *Article 98 (ex Article 102a)*

Member States shall conduct their economic policies with a view to contributing to the achievement of the objectives of the Community, as defined in Article 2, and in the context of the broad guidelines referred to in Article 99(2). The Member States and the Community shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 4.

##### *Article 99 (ex Article 103)*

1. Member States shall regard their economic policies as a matter of common concern and shall coordinate them within the Council, in accordance with the provisions of Article 98.

2. The Council shall, acting by a qualified majority on a recommendation from the Commission, formulate a draft for the broad guidelines of the economic policies of the Member States and of the Community, and shall report its findings to the European Council.

The European Council shall, acting on the basis of the report from the Council, discuss a conclusion on the broad guidelines of the economic policies of the Member States and of the Community.

On the basis of this conclusion, the Council shall, acting by a qualified majority, adopt a recommendation setting out these broad guidelines. The Council shall inform the European Parliament of its recommendation.

3. In order to ensure closer coordination of economic policies and sustained convergence of the economic performances of the Member States, the Council shall, on the basis of reports submitted by the Commission, monitor economic developments in each of the Member States and in the Community as well as the consistency of economic policies with the broad guidelines referred to in paragraph 2, and regularly carry out an overall assessment.

For the purpose of this multilateral surveillance, Member States shall forward information to the Commission about important measures taken by them in the field of their economic policy and such other information as they deem necessary.

4. Where it is established, under the procedure referred to in paragraph 3, that the economic policies of a Member State are not consistent with the broad guidelines referred to in paragraph 2 or that they risk jeopardising the proper functioning of economic and monetary union, the Council may, acting by a qualified majority on a recommendation from the Commission, make the necessary recommendations to the Member State concerned. The Council may, acting by a qualified majority on a proposal from the Commission, decide to make its recommendations public.

The President of the Council and the Commission shall report to the European Parliament on

(\*) OJ C 340, 10.11.1997, pp. 215-234.

the results of multilateral surveillance. The President of the Council may be invited to appear before the competent committee of the European Parliament if the Council has made its recommendations public.

5. The Council, acting in accordance with the procedure referred to in Article 252, may adopt detailed rules for the multilateral surveillance procedure referred to in paragraphs 3 and 4 of this Article.

#### *Article 100 (ex Article 103a)*

1. Without prejudice to any other procedures provided for in this Treaty, the Council may, acting unanimously on a proposal from the Commission, decide upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products.

2. Where a Member State is in difficulties or is seriously threatened with severe difficulties caused by exceptional occurrences beyond its control, the Council may, acting unanimously on a proposal from the Commission, grant, under certain conditions, Community financial assistance to the Member State concerned. Where the severe difficulties are caused by natural disasters, the Council shall act by qualified majority. The President of the Council shall inform the European Parliament of the decision taken.

#### *Article 101 (ex Article 104)*

1. Overdraft facilities or any other type of credit facility with the ECB or with the central banks of the Member States (hereinafter referred to as 'national central banks') in favour of Community institutions or bodies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States shall be prohibited, as shall the purchase directly from them by the ECB or national central banks of debt instruments.

2. Paragraph 1 shall not apply to publicly owned credit institutions which, in the context of the supply of reserves by central banks, shall be given the same treatment by national central banks and the ECB as private credit institutions.

#### *Article 102 (ex Article 104a)*

1. Any measure, not based on prudential considerations, establishing privileged access by Community institutions or bodies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States to financial institutions, shall be prohibited.

2. The Council, acting in accordance with the procedure referred to in Article 252, shall, before 1 January 1994, specify definitions for the application of the prohibition referred to in paragraph 1.

#### *Article 103 (ex Article 104b)*

1. The Community shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of any Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project. A Member State shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of another Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project.

2. If necessary, the Council, acting in accordance with the procedure referred to in Article 252, may specify definitions for the application of the prohibition referred to in Article 101 and in this Article.

*Article 104 (ex Article 104c)*

1. Member States shall avoid excessive government deficits.
2. The Commission shall monitor the development of the budgetary situation and of the stock of government debt in the Member States with a view to identifying gross errors. In particular it shall examine compliance with budgetary discipline on the basis of the following two criteria:
  - (a) whether the ratio of the planned or actual government deficit to gross domestic product exceeds a reference value, unless:
    - either the ratio has declined substantially and continuously and reached a level that comes close to the reference value;
    - or, alternatively, the excess over the reference value is only exceptional and temporary and the ratio remains close to the reference value;
  - (b) whether the ratio of government debt to gross domestic product exceeds a reference value, unless the ratio is sufficiently diminishing and approaching the reference value at a satisfactory pace.

The reference values are specified in the Protocol on the excessive deficit procedure annexed to this Treaty.

3. If a Member State does not fulfil the requirements under one or both of these criteria, the Commission shall prepare a report. The report of the Commission shall also take into account whether the government deficit exceeds government investment expenditure and take into account all other relevant factors, including the medium-term economic and budgetary position of the Member State.

The Commission may also prepare a report if, notwithstanding the fulfilment of the requirements under the criteria, it is of the opinion

that there is a risk of an excessive deficit in a Member State.

4. The Committee provided for in Article 114 shall formulate an opinion on the report of the Commission.
  5. If the Commission considers that an excessive deficit in a Member State exists or may occur, the Commission shall address an opinion to the Council.
  6. The Council shall, acting by a qualified majority on a recommendation from the Commission, and having considered any observations which the Member State concerned may wish to make, decide after an overall assessment whether an excessive deficit exists.
  7. Where the existence of an excessive deficit is decided according to paragraph 6, the Council shall make recommendations to the Member State concerned with a view to bringing that situation to an end within a given period. Subject to the provisions of paragraph 8, these recommendations shall not be made public.
  8. Where it establishes that there has been no effective action in response to its recommendations within the period laid down, the Council may make its recommendations public.
  9. If a Member State persists in failing to put into practice the recommendations of the Council, the Council may decide to give notice to the Member State to take, within a specified time-limit, measures for the deficit reduction which is judged necessary by the Council in order to remedy the situation.
- In such a case, the Council may request the Member State concerned to submit reports in accordance with a specific timetable in order to examine the adjustment efforts of that Member State.
10. The rights to bring actions provided for in Articles 226 and 227 may not be exercised

within the framework of paragraphs 1 to 9 of this Article.

11. As long as a Member State fails to comply with a decision taken in accordance with paragraph 9, the Council may decide to apply or, as the case may be, intensify one or more of the following measures:

- to require the Member State concerned to publish additional information, to be specified by the Council, before issuing bonds and securities;
- to invite the European Investment Bank to reconsider its lending policy towards the Member State concerned;
- to require the Member State concerned to make a non-interest-bearing deposit of an appropriate size with the Community until the excessive deficit has, in the view of the Council, been corrected;
- to impose fines of an appropriate size.

The President of the Council shall inform the European Parliament of the decisions taken.

12. The Council shall abrogate some or all of its decisions referred to in paragraphs 6 to 9 and 11 to the extent that the excessive deficit in the Member State concerned has, in the view of the Council, been corrected. If the Council has previously made public recommendations, it shall, as soon as the decision under paragraph 8 has been abrogated, make a public statement that an excessive deficit in the Member State concerned no longer exists.

13. When taking the decisions referred to in paragraphs 7 to 9, 11 and 12, the Council shall act on a recommendation from the Commission by a majority of two-thirds of the votes of its members weighted in accordance with Article 205(2), excluding the votes of the representative of the Member State concerned.

14. Further provisions relating to the implementation of the procedure described in this Article are set out in the Protocol on the

excessive deficit procedure annexed to this Treaty.

The Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the ECB, adopt the appropriate provisions which shall then replace the said Protocol.

Subject to the other provisions of this paragraph, the Council shall, before 1 January 1994, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, lay down detailed rules and definitions for the application of the provisions of the said Protocol.

## CHAPTER 2

### MONETARY POLICY

#### *Article 105 (ex Article 105)*

1. The primary objective of the ESCB shall be to maintain price stability. Without prejudice to the objective of price stability, the ESCB shall support the general economic policies in the Community with a view to contributing to the achievement of the objectives of the Community as laid down in Article 2. The ESCB shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 4.

2. The basic tasks to be carried out through the ESCB shall be:

- to define and implement the monetary policy of the Community;
- to conduct foreign exchange operations consistent with the provisions of Article 111;
- to hold and manage the official foreign reserves of the Member States;

— to promote the smooth operation of payment systems.

3. The third indent of paragraph 2 shall be without prejudice to the holding and management by the governments of Member States of foreign-exchange working balances.

4. The ECB shall be consulted:

— on any proposed Community act in its fields of competence;

— by national authorities regarding any draft legislative provision in its fields of competence, but within the limits and under the conditions set out by the Council in accordance with the procedure laid down in Article 107(6).

The ECB may submit opinions to the appropriate Community institutions or bodies or to national authorities on matters in its fields of competence.

5. The ESCB shall contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system.

6. The Council may, acting unanimously on a proposal from the Commission and after consulting the ECB and after receiving the assent of the European Parliament, confer upon the ECB specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings.

#### *Article 106 (ex Article 105a)*

1. The ECB shall have the exclusive right to authorise the issue of banknotes within the Community. The ECB and the national central banks may issue such notes. The banknotes issued by the ECB and the national central banks shall be the only such notes to have the status of legal tender within the Community.

2. Member States may issue coins subject to approval by the ECB of the volume of the issue. The Council may, acting in accordance with the procedure referred to in Article 252 and after consulting the ECB, adopt measures to harmonise the denominations and technical specifications of all coins intended for circulation to the extent necessary to permit their smooth circulation within the Community.

#### *Article 107 (ex Article 106)*

1. The ESCB shall be composed of the ECB and of the national central banks.

2. The ECB shall have legal personality.

3. The ESCB shall be governed by the decision-making bodies of the ECB which shall be the Governing Council and the Executive Board.

4. The Statute of the ESCB is laid down in a Protocol annexed to this Treaty.

5. Articles 5.1, 5.2, 5.3, 17, 18, 19.1, 22, 23, 24, 26, 32.2, 32.3, 32.4, 32.6, 33.1(a) and 36 of the Statute of the ESCB may be amended by the Council, acting either by a qualified majority on a recommendation from the ECB and after consulting the Commission or unanimously on a proposal from the Commission and after consulting the ECB. In either case, the assent of the European Parliament shall be required.

6. The Council, acting by a qualified majority either on a proposal from the Commission and after consulting the European Parliament and the ECB or on a recommendation from the ECB and after consulting the European Parliament and the Commission, shall adopt the provisions referred to in Articles 4, 5.4, 19.2, 20, 28.1, 29.2, 30.4 and 34.3 of the Statute of the ESCB.



*Article 108 (ex Article 107)*

When exercising the powers and carrying out the tasks and duties conferred upon them by this Treaty and the Statute of the ESCB, neither the ECB, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Community institutions or bodies, from any government of a Member State or from any other body. The Community institutions and bodies and the governments of the Member States undertake to respect this principle and not to seek to influence the members of the decision-making bodies of the ECB or of the national central banks in the performance of their tasks.

*Article 109 (ex Article 108)*

Each Member State shall ensure, at the latest at the date of the establishment of the ESCB, that its national legislation including the statutes of its national central bank is compatible with this Treaty and the Statute of the ESCB.

*Article 110 (ex Article 108a)*

1. In order to carry out the tasks entrusted to the ESCB, the ECB shall, in accordance with the provisions of this Treaty and under the conditions laid down in the Statute of the ESCB:

- make regulations to the extent necessary to implement the tasks defined in Article 3.1, first indent, Articles 19.1, 22 and 25.2 of the Statute of the ESCB and in cases which shall be laid down in the acts of the Council referred to in Article 107(6);
- take decisions necessary for carrying out the tasks entrusted to the ESCB under this Treaty and the Statute of the ESCB;
- make recommendations and deliver opinions.

2. A regulation shall have general application. It shall be binding in its entirety and directly applicable in all Member States.

Recommendations and opinions shall have no binding force.

A decision shall be binding in its entirety upon those to whom it is addressed.

Articles 253, 254 and 256 shall apply to regulations and decisions adopted by the ECB.

The ECB may decide to publish its decisions, recommendations and opinions.

3. Within the limits and under the conditions adopted by the Council under the procedure laid down in Article 107(6), the ECB shall be entitled to impose fines or periodic penalty payments on undertakings for failure to comply with obligations under its regulations and decisions.

*Article 111 (Article 109)*

1. By way of derogation from Article 300, the Council may, acting unanimously on a recommendation from the ECB or from the Commission, and after consulting the ECB in an endeavour to reach a consensus consistent with the objective of price stability, after consulting the European Parliament, in accordance with the procedure in paragraph 3 for determining the arrangements, conclude formal agreements on an exchange-rate system for the ECU in relation to non-Community currencies. The Council may, acting by a qualified majority on a recommendation from the ECB or from the Commission, and after consulting the ECB in an endeavour to reach a consensus consistent with the objective of price stability, adopt, adjust or abandon the central rates of the ECU within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the ECU central rates.

2. In the absence of an exchange-rate system in relation to one or more non-Community currencies as referred to in paragraph 1, the Council, acting by a qualified majority either on a recommendation from the Commission and after consulting the ECB or on a recommendation from the ECB, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the ESCB to maintain price stability.

3. By way of derogation from Article 300, where agreements concerning monetary or foreign exchange regime matters need to be negotiated by the Community with one or more States or international organisations, the Council, acting by a qualified majority on a recommendation from the Commission and after consulting the ECB, shall decide the arrangements for the negotiation and for the conclusion of such agreements. These arrangements shall ensure that the Community expresses a single position. The Commission shall be fully associated with the negotiations.

Agreements concluded in accordance with this paragraph shall be binding on the institutions of the Community, on the ECB and on Member States.

4. Subject to paragraph 1, the Council shall, on a proposal from the Commission and after consulting the ECB, acting by a qualified majority decide on the position of the Community at international level as regards issues of particular relevance to economic and monetary union and, acting unanimously, decide its representation in compliance with the allocation of powers laid down in Articles 99 and 105.

5. Without prejudice to Community competence and Community agreements as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements.

## CHAPTER 3

### INSTITUTIONAL PROVISIONS

#### *Article 112* (ex Article 109a)

1. The Governing Council of the ECB shall comprise the members of the Executive Board of the ECB and the Governors of the national central banks.
2. (a) The Executive Board shall comprise the President, the Vice-President and four other members.
  - (b) The President, the Vice-President and the other members of the Executive Board shall be appointed from among persons of recognised standing and professional experience in monetary or banking matters by common accord of the governments of the Member States at the level of Heads of State or Government, on a recommendation from the Council, after it has consulted the European Parliament and the Governing Council of the ECB.

Their term of office shall be eight years and shall not be renewable.

Only nationals of Member States may be members of the Executive Board.

#### *Article 113* (ex Article 109b)

1. The President of the Council and a member of the Commission may participate, without having the right to vote, in meetings of the Governing Council of the ECB.

The President of the Council may submit a motion for deliberation to the Governing Council of the ECB.

2. The President of the ECB shall be invited to participate in Council meetings when the Council is discussing matters relating to the objectives and tasks of the ESCB.

3. The ECB shall address an annual report on the activities of the ESCB and on the monetary policy of both the previous and current year to the European Parliament, the Council and the Commission, and also to the European Council. The President of the ECB shall present this report to the Council and to the European Parliament, which may hold a general debate on that basis.

The President of the ECB and the other members of the Executive Board may, at the request of the European Parliament or on their own initiative, be heard by the competent committees of the European Parliament.

#### *Article 114 (ex Article 109c)*

1. In order to promote coordination of the policies of Member States to the full extent needed for the functioning of the internal market, a Monetary Committee with advisory status is hereby set up.

It shall have the following tasks:

- to keep under review the monetary and financial situation of the Member States and of the Community and the general payments system of the Member States and to report regularly thereon to the Council and to the Commission;
- to deliver opinions at the request of the Council or of the Commission, or on its own initiative for submission to those institutions;
- without prejudice to Article 207, to contribute to the preparation of the work of the Council referred to in Articles 59, 60, 99(2), (3), (4) and (5), 100, 102, 103, 104, 116(2), 117(6), 119, 120, 121(2) and 122(1);
- to examine, at least once a year, the situation regarding the movement of capital and the freedom of payments, as they result from the application of this Treaty and of

measures adopted by the Council; the examination shall cover all measures relating to capital movements and payments; the Committee shall report to the Commission and to the Council on the outcome of this examination.

The Member States and the Commission shall each appoint two members of the Monetary Committee.

2. At the start of the third stage, an Economic and Financial Committee shall be set up. The Monetary Committee provided for in paragraph 1 shall be dissolved.

The Economic and Financial Committee shall have the following tasks:

- to deliver opinions at the request of the Council or of the Commission, or on its own initiative for submission to those institutions;
- to keep under review the economic and financial situation of the Member States and of the Community and to report regularly thereon to the Council and to the Commission, in particular on financial relations with third countries and international institutions;
- without prejudice to Article 207, to contribute to the preparation of the work of the Council referred to in Articles 59, 60, 99(2), (3), (4) and (5), 100, 102, 103, 104, 105(6), 106(2), 107(5) and (6), 111, 119, 120(2) and (3), 122(2), 123(4) and (5), and to carry out other advisory and preparatory tasks assigned to it by the Council;
- to examine, at least once a year, the situation regarding the movement of capital and the freedom of payments, as they result from the application of this Treaty and of measures adopted by the Council; the examination shall cover all measures relating to capital movements and payments; the Committee shall report to the Commis-

sion and to the Council on the outcome of this examination.

The Member States, the Commission and the ECB shall each appoint no more than two members of the Committee.

3. The Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the ECB and the Committee referred to in this Article, lay down detailed provisions concerning the composition of the Economic and Financial Committee. The President of the Council shall inform the European Parliament of such a decision.

4. In addition to the tasks set out in paragraph 2, if and as long as there are Member States with a derogation as referred to in Articles 122 and 123, the Committee shall keep under review the monetary and financial situation and the general payments system of those Member States and report regularly thereon to the Council and to the Commission.

#### *Article 115 (ex Article 109d)*

For matters within the scope of Articles 99(4), 104 with the exception of paragraph 14, 111, 121, 122 and 123(4) and (5), the Council or a Member State may request the Commission to make a recommendation or a proposal, as appropriate. The Commission shall examine this request and submit its conclusions to the Council without delay.

### CHAPTER 4

#### **TRANSITIONAL PROVISIONS**

#### *Article 116 (ex Article 109e)*

1. The second stage for achieving economic and monetary union shall begin on 1 January 1994.
2. Before that date:
  - (a) each Member State shall:

— adopt, where necessary, appropriate measures to comply with the prohibitions laid down in Article 56 and in Articles 101 and 102(1);

— adopt, if necessary, with a view to permitting the assessment provided for in subparagraph (b), multiannual programmes intended to ensure the lasting convergence necessary for the achievement of economic and monetary union, in particular with regard to price stability and sound public finances;

(b) the Council shall, on the basis of a report from the Commission, assess the progress made with regard to economic and monetary convergence, in particular with regard to price stability and sound public finances, and the progress made with the implementation of Community law concerning the internal market.

3. The provisions of Articles 101, 102(1), 103(1) and 104 with the exception of paragraphs 1, 9, 11 and 14 shall apply from the beginning of the second stage.

The provisions of Articles 100(2), 104(1), (9) and (11), 105, 106, 108, 111, 112, 113 and 114(2) and (4) shall apply from the beginning of the third stage.

4. In the second stage, Member States shall endeavour to avoid excessive government deficits.

5. During the second stage, each Member State shall, as appropriate, start the process leading to the independence of its central bank, in accordance with Article 109.

#### *Article 117 (ex Article 109f)*

1. At the start of the second stage, a European Monetary Institute (hereinafter referred to as 'EMI') shall be established and take up its duties; it shall have legal personality and be directed and managed by a Council, consisting

of a President and the Governors of the national central banks, one of whom shall be Vice-President.

The President shall be appointed by common accord of the governments of the Member States at the level of Heads of State or Government, on a recommendation from the Council of the EMI, and after consulting the European Parliament and the Council. The President shall be selected from among persons of recognised standing and professional experience in monetary or banking matters. Only nationals of Member States may be President of the EMI. The Council of the EMI shall appoint the Vice-President.

The Statute of the EMI is laid down in a Protocol annexed to this Treaty.

2. The EMI shall:

- strengthen cooperation between the national central banks;
- strengthen the coordination of the monetary policies of the Member States, with the aim of ensuring price stability;
- monitor the functioning of the European Monetary System;
- hold consultations concerning issues falling within the competence of the national central banks and affecting the stability of financial institutions and markets;
- take over the tasks of the European Monetary Cooperation Fund, which shall be dissolved; the modalities of dissolution are laid down in the Statute of the EMI;
- facilitate the use of the ECU and oversee its development, including the smooth functioning of the ECU clearing system.

3. For the preparation of the third stage, the EMI shall:

- prepare the instruments and the procedures necessary for carrying out a single monetary policy in the third stage;

- promote the harmonisation, where necessary, of the rules and practices governing the collection, compilation and distribution of statistics in the areas within its field of competence;
- prepare the rules for operations to be undertaken by the national central banks within the framework of the ESCB;
- promote the efficiency of cross-border payments;
- supervise the technical preparation of ECU banknotes.

At the latest by 31 December 1996, the EMI shall specify the regulatory, organisational and logistical framework necessary for the ESCB to perform its tasks in the third stage. This framework shall be submitted for decision to the ECB at the date of its establishment.

4. The EMI, acting by a majority of two thirds of the members of its Council, may:

- formulate opinions or recommendations on the overall orientation of monetary policy and exchange-rate policy as well as on related measures introduced in each Member State;
- submit opinions or recommendations to governments and to the Council on policies which might affect the internal or external monetary situation in the Community and, in particular, the functioning of the European Monetary System;
- make recommendations to the monetary authorities of the Member States concerning the conduct of their monetary policy.

5. The EMI, acting unanimously, may decide to publish its opinions and its recommendations.

6. The EMI shall be consulted by the Council regarding any proposed Community act within its field of competence.

Within the limits and under the conditions set out by the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament and the EMI, the EMI shall be consulted by the authorities of the Member States on any draft legislative provision within its field of competence.

7. The Council may, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the EMI, confer upon the EMI other tasks for the preparation of the third stage.

8. Where this Treaty provides for a consultative role for the ECB, references to the ECB shall be read as referring to the EMI before the establishment of the ECB.

9. During the second stage, the term 'ECB' used in Articles 230, 232, 233, 234, 237 and 288 shall be read as referring to the EMI.

#### *Article 118 (ex Article 109g)*

The currency composition of the ECU basket shall not be changed.

From the start of the third stage, the value of the ECU shall be irrevocably fixed in accordance with Article 123(4).

#### *Article 119 (ex Article 109h)*

1. Where a Member State is in difficulties or is seriously threatened with difficulties as regards its balance of payments either as a result of an overall disequilibrium in its balance of payments, or as a result of the type of currency at its disposal, and where such difficulties are liable in particular to jeopardise the functioning of the common market or the progressive implementation of the common commercial policy, the Commission shall immediately investigate the position of the State in question and the action which, making use of all the means at its disposal, that State has taken or may take in accordance with the provisions

of this Treaty. The Commission shall state what measures it recommends the State concerned to take.

If the action taken by a Member State and the measures suggested by the Commission do not prove sufficient to overcome the difficulties which have arisen or which threaten, the Commission shall, after consulting the Committee referred to in Article 114, recommend to the Council the granting of mutual assistance and appropriate methods therefor.

The Commission shall keep the Council regularly informed of the situation and of how it is developing.

2. The Council, acting by a qualified majority, shall grant such mutual assistance; it shall adopt directives or decisions laying down the conditions and details of such assistance, which may take such forms as:

- (a) a concerted approach to or within any other international organisations to which Member States may have recourse;
- (b) measures needed to avoid deflection of trade where the State which is in difficulties maintains or reintroduces quantitative restrictions against third countries;
- (c) the granting of limited credits by other Member States, subject to their agreement.

3. If the mutual assistance recommended by the Commission is not granted by the Council or if the mutual assistance granted and the measures taken are insufficient, the Commission shall authorise the State which is in difficulties to take protective measures, the conditions and details of which the Commission shall determine.

Such authorisation may be revoked and such conditions and details may be changed by the Council acting by a qualified majority.

4. Subject to Article 122(6), this Article shall cease to apply from the beginning of the third stage.

*Article 120 (ex Article 109i)*

1. Where a sudden crisis in the balance of payments occurs and a decision within the meaning of Article 119(2) is not immediately taken, the Member State concerned may, as a precaution, take the necessary protective measures. Such measures must cause the least possible disturbance in the functioning of the common market and must not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen.

2. The Commission and the other Member States shall be informed of such protective measures not later than when they enter into force. The Commission may recommend to the Council the granting of mutual assistance under Article 119.

3. After the Commission has delivered an opinion and the Committee referred to in Article 114 has been consulted, the Council may, acting by a qualified majority, decide that the State concerned shall amend, suspend or abolish the protective measures referred to above.

4. Subject to Article 122(6), this Article shall cease to apply from the beginning of the third stage.

*Article 121 (ex Article 109j)*

1. The Commission and the EMI shall report to the Council on the progress made in the fulfilment by the Member States of their obligations regarding the achievement of economic and monetary union. These reports shall include an examination of the compatibility between each Member State's national legislation, including the statutes of its national central bank, and Articles 108 and 109 of this Treaty and the Statute of the ESCB. The reports shall also examine the achievement of a high degree of sustainable convergence by reference to the fulfilment by each Member State of the following criteria:

- the achievement of a high degree of price stability; this will be apparent from a rate of inflation which is close to that of, at most, the three best performing Member States in terms of price stability;
- the sustainability of the government financial position; this will be apparent from having achieved a government budgetary position without a deficit that is excessive as determined in accordance with Article 104(6);
- the observance of the normal fluctuation margins provided for by the exchange-rate mechanism of the European Monetary System, for at least two years, without devaluing against the currency of any other Member State;
- the durability of convergence achieved by the Member State and of its participation in the exchange-rate mechanism of the European Monetary System being reflected in the long-term interest-rate levels.

The four criteria mentioned in this paragraph and the relevant periods over which they are to be respected are developed further in a Protocol annexed to this Treaty. The reports of the Commission and the EMI shall also take account of the development of the ECU, the results of the integration of markets, the situation and development of the balances of payments on current account and an examination of the development of unit labour costs and other price indices.

2. On the basis of these reports, the Council, acting by a qualified majority on a recommendation from the Commission, shall assess:

- for each Member State, whether it fulfils the necessary conditions for the adoption of a single currency;
- whether a majority of the Member States fulfil the necessary conditions for the adoption of a single currency,

and recommend its findings to the Council, meeting in the composition of the Heads of State or Government. The European Parliament shall be consulted and forward its opinion to the Council, meeting in the composition of the Heads of State or Government.

3. Taking due account of the reports referred to in paragraph 1 and the opinion of the European Parliament referred to in paragraph 2, the Council, meeting in the composition of the Heads of State or Government, shall, acting by a qualified majority, not later than 31 December 1996:

— decide, on the basis of the recommendations of the Council referred to in paragraph 2, whether a majority of the Member States fulfil the necessary conditions for the adoption of a single currency;

— decide whether it is appropriate for the Community to enter the third stage,

and if so:

— set the date for the beginning of the third stage.

4. If by the end of 1997 the date for the beginning of the third stage has not been set, the third stage shall start on 1 January 1999. Before 1 July 1998, the Council, meeting in the composition of the Heads of State or Government, after a repetition of the procedure provided for in paragraphs 1 and 2, with the exception of the second indent of paragraph 2, taking into account the reports referred to in paragraph 1 and the opinion of the European Parliament, shall, acting by a qualified majority and on the basis of the recommendations of the Council referred to in paragraph 2, confirm which Member States fulfil the necessary conditions for the adoption of a single currency.

#### *Article 122 (ex Article 109k)*

1. If the decision has been taken to set the date in accordance with Article 121(3), the

Council shall, on the basis of its recommendations referred to in Article 121(2), acting by a qualified majority on a recommendation from the Commission, decide whether any, and if so which, Member States shall have a derogation as defined in paragraph 3 of this Article. Such Member States shall in this Treaty be referred to as 'Member States with a derogation'.

If the Council has confirmed which Member States fulfil the necessary conditions for the adoption of a single currency, in accordance with Article 121(4), those Member States which do not fulfil the conditions shall have a derogation as defined in paragraph 3 of this Article. Such Member States shall in this Treaty be referred to as 'Member States with a derogation'.

2. At least once every two years, or at the request of a Member State with a derogation, the Commission and the ECB shall report to the Council in accordance with the procedure laid down in Article 121(1). After consulting the European Parliament and after discussion in the Council, meeting in the composition of the Heads of State or Government, the Council shall, acting by a qualified majority on a proposal from the Commission, decide which Member States with a derogation fulfil the necessary conditions on the basis of the criteria set out in Article 121(1), and abrogate the derogations of the Member States concerned.

3. A derogation referred to in paragraph 1 shall entail that the following Articles do not apply to the Member State concerned: Articles 104(9) and (11), 105(1), (2), (3) and (5), 106, 110, 111, and 112(2)(b). The exclusion of such a Member State and its national central bank from rights and obligations within the ESCB is laid down in Chapter IX of the Statute of the ESCB.

4. In Articles 105(1), (2) and (3), 106, 110, 111 and 112(2)(b), 'Member States' shall be read as 'Member States without a derogation'.



5. The voting rights of Member States with a derogation shall be suspended for the Council decisions referred to in the Articles of this Treaty mentioned in paragraph 3. In that case, by way of derogation from Articles 205 and 250(1), a qualified majority shall be defined as two-thirds of the votes of the representatives of the Member States without a derogation weighted in accordance with Article 205(2), and unanimity of those Member States shall be required for an act requiring unanimity.
6. Articles 119 and 120 shall continue to apply to a Member State with a derogation.

*Article 123 (ex Article 109l)*

1. Immediately after the decision on the date for the beginning of the third stage has been taken in accordance with Article 121(3), or, as the case may be, immediately after 1 July 1998:
- the Council shall adopt the provisions referred to in Article 107(6);
  - the governments of the Member States without a derogation shall appoint, in accordance with the procedure set out in Article 50 of the Statute of the ESCB, the President, the Vice-President and the other members of the Executive Board of the ECB. If there are Member States with a derogation, the number of members of the Executive Board may be smaller than provided for in Article 11.1 of the Statute of the ESCB, but in no circumstances shall it be less than four.

As soon as the Executive Board is appointed, the ESCB and the ECB shall be established and shall prepare for their full operation as described in this Treaty and the Statute of the ESCB. The full exercise of their powers shall start from the first day of the third stage.

2. As soon as the ECB is established, it shall, if necessary, take over tasks of the EMI. The EMI shall go into liquidation upon the establishment of the ECB; the modalities of

liquidation are laid down in the Statute of the EMI.

3. If and as long as there are Member States with a derogation, and without prejudice to Article 107(3) of this Treaty, the General Council of the ECB referred to in Article 45 of the Statute of the ESCB shall be constituted as a third decision-making body of the ECB.

4. At the starting date of the third stage, the Council shall, acting with the unanimity of the Member States without a derogation, on a proposal from the Commission and after consulting the ECB, adopt the conversion rates at which their currencies shall be irrevocably fixed and at which irrevocably fixed rate the ECU shall be substituted for these currencies, and the ECU will become a currency in its own right. This measure shall by itself not modify the external value of the ECU. The Council shall, acting according to the same procedure, also take the other measures necessary for the rapid introduction of the ECU as the single currency of those Member States.

5. If it is decided, according to the procedure set out in Article 122(2), to abrogate a derogation, the Council shall, acting with the unanimity of the Member States without a derogation and the Member State concerned, on a proposal from the Commission and after consulting the ECB, adopt the rate at which the ECU shall be substituted for the currency of the Member State concerned, and take the other measures necessary for the introduction of the ECU as the single currency in the Member State concerned.

*Article 124 (ex Article 109m)*

1. Until the beginning of the third stage, each Member State shall treat its exchange-rate policy as a matter of common interest. In so doing, Member States shall take account of the experience acquired in cooperation within the framework of the European Monetary System

(EMS) and in developing the ECU, and shall respect existing powers in this field.

2. From the beginning of the third stage and for as long as a Member State has a derogation, paragraph 1 shall apply by analogy to the exchange-rate policy of that Member State.

## Protocol on the Statute of the European System of Central Banks and of the European Central Bank (\*)

THE HIGH CONTRACTING PARTIES,

DESIRING to lay down the Statute of the European System of Central Banks and of the European Central Bank provided for in Article 8 of the Treaty establishing the European Community,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty establishing the European Community.

### CHAPTER I

#### CONSTITUTION OF THE ESCB

##### *Article 1*

##### The European System of Central Banks

1.1. The European System of Central Banks (ESCB) and the European Central Bank (ECB) shall be established in accordance with Article 8 of this Treaty; they shall perform their tasks and carry on their activities in accordance with the provisions of this Treaty and of this Statute.

1.2. In accordance with Article 107(1) of this Treaty, the ESCB shall be composed of the ECB and of the central banks of the Member States ('national central banks'). The Institut monétaire luxembourgeois will be the central bank of Luxembourg.

(\*) Origin: Treaty of Maastricht. Protocol annexed to the Treaty establishing the European Community.

### CHAPTER II

#### OBJECTIVES AND TASKS OF THE ESCB

##### *Article 2*

##### Objectives

In accordance with Article 105(1) of this Treaty, the primary objective of the ESCB shall be to maintain price stability. Without prejudice to the objective of price stability, it shall support the general economic policies in the Community with a view to contributing to the achievement of the objectives of the Community as laid down in Article 2 of this Treaty. The ESCB shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 4 of this Treaty.

##### *Article 3*

##### Tasks

3.1. In accordance with Article 105(2) of this Treaty, the basic tasks to be carried out through the ESCB shall be:

- to define and implement the monetary policy of the Community;
- to conduct foreign exchange operations consistent with the provisions of Article 111 of this Treaty;
- to hold and manage the official foreign reserves of the Member States;
- to promote the smooth operation of payment systems.

3.2. In accordance with Article 105(3) of this Treaty, the third indent of Article 3.1 shall be without prejudice to the holding and management by the governments of Member States of foreign exchange working balances.

3.3. In accordance with Article 105(5) of this Treaty, the ESCB shall contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system.

#### *Article 4*

##### **Advisory functions**

In accordance with Article 105(4) of this Treaty:

- (a) the ECB shall be consulted:
- on any proposed Community act in its fields of competence;
  - by national authorities regarding any draft legislative provision in its fields of competence, but within the limits and under the conditions set out by the Council in accordance with the procedure laid down in Article 42;
- (b) the ECB may submit opinions to the appropriate Community institutions or bodies or to national authorities on matters in its fields of competence.

#### *Article 5*

##### **Collection of statistical information**

5.1. In order to undertake the tasks of the ESCB, the ECB, assisted by the national central banks, shall collect the necessary statistical information either from the competent national authorities or directly from economic agents. For these purposes it shall cooperate with the Community institutions or bodies and with the competent authorities of the Member States or

third countries and with international organisations.

5.2. The national central banks shall carry out, to the extent possible, the tasks described in Article 5.1.

5.3. The ECB shall contribute to the harmonisation, where necessary, of the rules and practices governing the collection, compilation and distribution of statistics in the areas within its fields of competence.

5.4. The Council, in accordance with the procedure laid down in Article 42, shall define the natural and legal persons subject to reporting requirements, the confidentiality regime and the appropriate provisions for enforcement.

#### *Article 6*

##### **International cooperation**

6.1. In the field of international cooperation involving the tasks entrusted to the ESCB, the ECB shall decide how the ESCB shall be represented.

6.2. The ECB and, subject to its approval, the national central banks may participate in international monetary institutions.

6.3. Articles 6.1 and 6.2 shall be without prejudice to Article 111(4) of this Treaty.

### CHAPTER III

## **ORGANISATION OF THE ESCB**

#### *Article 7*

##### **Independence**

In accordance with Article 108 of this Treaty, when exercising the powers and carrying out the tasks and duties conferred upon them by this Treaty and this Statute, neither the ECB, nor a national central bank, nor any member of their decision-making bodies shall seek or take

instructions from Community institutions or bodies, from any government of a Member State or from any other body. The Community institutions and bodies and the governments of the Member States undertake to respect this principle and not to seek to influence the members of the decision-making bodies of the ECB or of the national central banks in the performance of their tasks.

### *Article 8*

#### **General principle**

The ESCB shall be governed by the decision-making bodies of the ECB.

### *Article 9*

#### **The European Central Bank**

9.1. The ECB which, in accordance with Article 107(2) of this Treaty, shall have legal personality, shall enjoy in each of the Member States the most extensive legal capacity accorded to legal persons under its law; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.

9.2. The ECB shall ensure that the tasks conferred upon the ESCB under Article 105(2), (3) and (5) of this Treaty are implemented either by its own activities pursuant to this Statute or through the national central banks pursuant to Articles 12.1 and 14.

9.3. In accordance with Article 107(3) of this Treaty, the decision-making bodies of the ECB shall be the Governing Council and the Executive Board.

### *Article 10*

#### **The Governing Council**

10.1. In accordance with Article 112(1) of this Treaty, the Governing Council shall comprise the members of the Executive Board

of the ECB and the governors of the national central banks.

10.2. Subject to Article 10.3, only members of the Governing Council present in person shall have the right to vote. By way of derogation from this rule, the Rules of Procedure referred to in Article 12.3 may lay down that members of the Governing Council may cast their vote by means of teleconferencing. These rules shall also provide that a member of the Governing Council who is prevented from voting for a prolonged period may appoint an alternate as a member of the Governing Council.

Subject to Articles 10.3 and 11.3, each member of the Governing Council shall have one vote. Save as otherwise provided for in this Statute, the Governing Council shall act by a simple majority. In the event of a tie, the President shall have the casting vote.

In order for the Governing Council to vote, there shall be a quorum of two thirds of the members. If the quorum is not met, the President may convene an extraordinary meeting at which decisions may be taken without regard to the quorum.

10.3. For any decisions to be taken under Articles 28, 29, 30, 32, 33 and 51, the votes in the Governing Council shall be weighted according to the national central banks' shares in the subscribed capital of the ECB. The weights of the votes of the members of the Executive Board shall be zero. A decision requiring a qualified majority shall be adopted if the votes cast in favour represent at least two thirds of the subscribed capital of the ECB and represent at least half of the shareholders. If a Governor is unable to be present, he may nominate an alternate to cast his weighted vote.

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

10.5. The Governing Council shall meet at least 10 times a year.

### *Article 11*

#### The Executive Board

11.1. In accordance with Article 112(2)(a) of this Treaty, the Executive Board shall comprise the President, the Vice-President and four other members.

The members shall perform their duties on a full time basis. No member shall engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Governing Council.

11.2. In accordance with Article 112(2)(b) of this Treaty, the President, the Vice-President and the other members of the Executive Board shall be appointed from among persons of recognised standing and professional experience in monetary or banking matters by common accord of the governments of the Member States at the level of the Heads of State or Government, on a recommendation from the Council after it has consulted the European Parliament and the Governing Council.

Their term of office shall be eight years and shall not be renewable.

Only nationals of Member States may be members of the Executive Board.

11.3. The terms and conditions of employment of the members of the Executive Board, in particular their salaries, pensions and other social security benefits shall be the subject of contracts with the ECB and shall be fixed by the Governing Council on a proposal from a committee comprising three members appointed by the Governing Council and three members appointed by the Council. The members of the Executive Board shall not have the right to vote on matters referred to in this paragraph.

11.4. If a member of the Executive Board no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct, the Court of Justice may, on application by the Governing Council or the Executive Board, compulsorily retire him.

11.5. Each member 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, 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 shall be specified in the Rules of Procedure referred to in Article 12.3.

11.6. The Executive Board shall be responsible for the current business of the ECB.

11.7. Any vacancy on the Executive Board shall be filled by the appointment of a new member in accordance with Article 11.2.

### *Article 12*

#### Responsibilities of the decision-making bodies

12.1. The Governing Council shall adopt the guidelines and take the decisions necessary to ensure the performance of the tasks entrusted to the ESCB under this Treaty and this Statute. The Governing Council shall formulate the monetary policy of the Community including, as appropriate, decisions relating to intermediate monetary objectives, key interest rates and the supply of reserves in the ESCB, and shall establish the necessary guidelines for their implementation.

The Executive Board shall implement monetary policy in accordance with the guidelines and decisions laid down by the Governing Council. In doing so the Executive Board shall give the necessary instructions to national central banks. In addition the Executive Board may have certain powers delegated to it where the Governing Council so decides.

To the extent deemed possible and appropriate and without prejudice to the provisions of this article, the ECB shall have recourse to the national central banks to carry out operations which form part of the tasks of the ESCB.

12.2. The Executive Board shall have responsibility for the preparation of meetings of the Governing Council.

12.3. The Governing Council shall adopt Rules of Procedure which determine the internal organisation of the ECB and its decision-making bodies.

12.4. The Governing Council shall exercise the advisory functions referred to in Article 4.

12.5. The Governing Council shall take the decisions referred to in Article 6.

### *Article 13*

#### **The President**

13.1. The President or, in his absence, the Vice-President shall chair the Governing Council and the Executive Board of the ECB.

13.2. Without prejudice to Article 39, the President or his nominee shall represent the ECB externally.

### *Article 14*

#### **National central banks**

14.1. In accordance with Article 109 of this Treaty, each Member State shall ensure, at the latest at the date of the establishment of the ESCB, that its national legislation, including the statutes of its national central bank, is compatible with this Treaty and this Statute.

14.2. The statutes of the national central banks shall, in particular, provide that the term of office of a Governor of a national central bank shall be no less than five years.

A Governor may be relieved from office only if he no longer fulfils the conditions required for

the performance of his duties or if he has been guilty of serious misconduct. A decision to this effect may be referred to the Court of Justice by the Governor concerned or the Governing Council on grounds of infringement of this Treaty or of any rule of law relating to its application. Such proceedings shall be instituted within two months of the publication of the decision or of its notification to the plaintiff or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

14.3. The national central banks are an integral part of the ESCB and shall act in accordance with the guidelines and instructions of the ECB. The Governing Council shall take the necessary steps to ensure compliance with the guidelines and instructions of the ECB, and shall require that any necessary information be given to it.

14.4. National central banks may perform functions other than those specified in this Statute unless the Governing Council finds, by a majority of two thirds of the votes cast, that these interfere with the objectives and tasks of the ESCB. Such functions shall be performed on the responsibility and liability of national central banks and shall not be regarded as being part of the functions of the ESCB.

### *Article 15*

#### **Reporting commitments**

15.1. The ECB shall draw up and publish reports on the activities of the ESCB at least quarterly.

15.2. A consolidated financial statement of the ESCB shall be published each week.

15.3. In accordance with Article 113(3) of this Treaty, the ECB shall address an annual report on the activities of the ESCB and on the monetary policy of both the previous and the current year to the European Parliament, the

Council and the Commission, and also to the European Council.

15.4. The reports and statements referred to in this article shall be made available to interested parties free of charge.

### *Article 16*

#### **Banknotes**

In accordance with Article 106(1) of this Treaty, the Governing Council shall have the exclusive right to authorise the issue of banknotes within the Community. The ECB and the national central banks may issue such notes. The banknotes issued by the ECB and the national central banks shall be the only such notes to have the status of legal tender within the Community.

The ECB shall respect as far as possible existing practices regarding the issue and design of banknotes.

— operate in the financial markets by buying and selling outright (spot and forward) or under repurchase agreement and by lending or borrowing claims and marketable instruments, whether in Community or in non-Community currencies, as well as precious metals;

— conduct credit operations with credit institutions and other market participants, with lending being based on adequate collateral.

18.2. The ECB shall establish general principles for open market and credit operations carried out by itself or the national central banks, including for the announcement of conditions under which they stand ready to enter into such transactions.

### *Article 19*

#### **Minimum reserves**

19.1. Subject to Article 2, the ECB may require credit institutions established in Member States to hold minimum reserve on accounts with the ECB and national central banks in pursuance of monetary policy objectives. Regulations concerning the calculation and determination of the required minimum reserves may be established by the Governing Council. In cases of non-compliance the ECB shall be entitled to levy penalty interest and to impose other sanctions with comparable effect.

19.2. For the application of this article, the Council shall, in accordance with the procedure laid down in Article 42, define the basis for minimum reserves and the maximum permissible ratios between those reserves and their basis, as well as the appropriate sanctions in cases of non-compliance.

## CHAPTER IV

### **MONETARY FUNCTIONS AND OPERATIONS OF THE ESCB**

#### *Article 17*

##### **Accounts with the ECB and the national central banks**

In order to conduct their operations, the ECB and the national central banks may open accounts for credit institutions, public entities and other market participants and accept assets, including book entry securities, as collateral.

#### *Article 18*

##### **Open market and credit operations**

18.1. In order to achieve the objectives of the ESCB and to carry out its tasks, the ECB and the national central banks may:



*Article 20***Other instruments of monetary control**

The Governing Council may, by a majority of two thirds of the votes cast, decide upon the use of such other operational methods of monetary control as it sees fit, respecting Article 2.

The Council shall, in accordance with the procedure laid down in Article 42, define the scope of such methods if they impose obligations on third parties.

*Article 21***Operations with public entities**

21.1. In accordance with Article 101 of this Treaty, overdrafts or any other type of credit facility with the ECB or with the national central banks in favour of Community institutions or bodies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States shall be prohibited, as shall the purchase directly from them by the ECB or national central banks of debt instruments.

21.2. The ECB and national central banks may act as fiscal agents for the entities referred to in Article 21.1.

21.3. The provisions of this article shall not apply to publicly owned credit institutions which, in the context of the supply of reserves by central banks, shall be given the same treatment by national central banks and the ECB as private credit institutions.

*Article 22***Clearing and payment systems**

The ECB and national central banks may provide facilities, and the ECB may make regulations, to ensure efficient and sound clearing and payment systems within the Community and with other countries.

*Article 23***External operations**

The ECB and national central banks may:

- establish relations with central banks and financial institutions in other countries and, where appropriate, with international organisations;
- acquire and sell spot and forward all types of foreign exchange assets and precious metals; the term ‘foreign exchange asset’ shall include securities and all other assets in the currency of any country or units of account and in whatever form held;
- hold and manage the assets referred to in this article;
- conduct all types of banking transactions in relations with third countries and international organisations, including borrowing and lending operations.

*Article 24***Other operations**

In addition to operations arising from their tasks, the ECB and national central banks may enter into operations for their administrative purposes or for their staff.

## CHAPTER V

**PRUDENTIAL SUPERVISION***Article 25***Prudential supervision**

25.1. The ECB may offer advice to and be consulted by the Council, the Commission and the competent authorities of the Member States on the scope and implementation of Community legislation relating to the prudential supervision of credit institutions and to the stability of the financial system.

25.2. In accordance with any decision of the Council under Article 105(6) of this Treaty, the ECB may perform specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings.

## CHAPTER VI

### FINANCIAL PROVISIONS OF THE ESCB

#### *Article 26*

##### Financial accounts

26.1. The financial year of the ECB and national central banks shall begin on the first day of January and end on the last day of December.

26.2. The annual accounts of the ECB shall be drawn up by the Executive Board, in accordance with the principles established by the Governing Council. The accounts shall be approved by the Governing Council and shall thereafter be published.

26.3. For analytical and operational purposes, the Executive Board shall draw up a consolidated balance sheet of the ESCB, comprising those assets and liabilities of the national central banks that fall within the ESCB.

26.4. For the application of this article, the Governing Council shall establish the necessary rules for standardising the accounting and reporting of operations undertaken by the national central banks.

#### *Article 27*

##### Auditing

27.1. The accounts of the ECB and national central banks shall be audited by independent external auditors recommended by the Governing Council and approved by the Council. The auditors shall have full power to examine all

books and accounts of the ECB and national central banks and obtain full information about their transactions.

27.2. The provisions of Article 248 of this Treaty shall only apply to an examination of the operational efficiency of the management of the ECB.

#### *Article 28*

##### Capital of the ECB

28.1. The capital of the ECB, which shall become operational upon its establishment, shall be ECU 5 000 million. The capital may be increased by such amounts as may be decided by the Governing Council acting by the qualified majority provided for in Article 10.3, within the limits and under the conditions set by the Council under the procedure laid down in Article 42.

28.2. 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 established in accordance with Article 29.

28.3. The Governing Council, acting by the qualified majority provided for in Article 10.3, shall determine the extent to which and the form in which the capital shall be paid up.

28.4. Subject to Article 28.5, the shares of the national central banks in the subscribed capital of the ECB may not be transferred, pledged or attached.

28.5. If the key referred to in Article 29 is adjusted, 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 adjusted key. The Governing Council shall determine the terms and conditions of such transfers.

### Article 29

#### Key for capital subscription

29.1. When in accordance with the procedure referred to in Article 123(1) of this Treaty the ESCB and the ECB have been established, the key for subscription of the ECB's capital shall be established. Each national central bank shall be assigned a weighting in this key which shall be equal to the sum of:

- 50 % of the share of its respective Member State in the population of the Community in the penultimate year preceding the establishment of the ESCB;
- 50 % of the share of its respective Member State in the gross domestic product at market prices of the Community as recorded in the last five years preceding the penultimate year before the establishment of the ESCB.

The percentages shall be rounded up to the nearest multiple of 0.05 percentage points.

29.2. The statistical data to be used for the application of this article shall be provided by the Commission in accordance with the rules adopted by the Council under the procedure provided for in Article 42.

29.3. The weightings assigned to the national central banks shall be adjusted every five years after the establishment of the ESCB by analogy with the provisions laid down in Article 29.1. The adjusted key shall apply with effect from the first day of the following year.

29.4. The Governing Council shall take all other measures necessary for the application of this article.

### Article 30

#### Transfer of foreign reserve assets to the ECB

30.1. Without prejudice to Article 28, the ECB shall be provided by the national central banks with foreign reserve assets, other than

Member States' currencies, ecus, IMF reserve positions and SDRs, up to an amount equivalent to ECU 50 000 million. The Governing Council shall decide upon the proportion to be called up by the ECB following its establishment and the amounts called up at later dates. The ECB shall have the full right to hold and manage the foreign reserves that are transferred to it and to use them for the purposes set out in this Statute.

30.2. The contributions of each national central bank shall be fixed in proportion to its share in the subscribed capital of the ECB.

30.3. Each national central bank shall be credited by the ECB with a claim equivalent to its contribution. The Governing 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 Article 30.2, within the limits and under the conditions set by the Council in accordance with the procedure laid down in Article 42.

30.5. The ECB may hold and manage IMF reserve positions and SDRs and provide for the pooling of such assets.

30.6. The Governing Council shall take all other measures necessary for the application of this article.

### Article 31

#### Foreign reserve assets held by national central banks

31.1. The national central banks shall be allowed to perform transactions in fulfilment of their obligations towards international organisations in accordance with Article 23.

31.2. All other operations in foreign reserve assets remaining with the national central banks after the transfers referred to in Article 30, and Member States' transactions with their foreign

exchange working balances shall, above a certain limit to be established within the framework of Article 31.3, be subject to approval by the ECB in order to ensure consistency with the exchange rate and monetary policies of the Community.

31.3. The Governing Council shall issue guidelines with a view to facilitating such operations.

### *Article 32*

#### **Allocation of monetary income of national central banks**

32.1. The income accruing to the national central banks in the performance of the ESCB's monetary policy function (hereinafter referred to as 'monetary income') shall be allocated at the end of each financial year in accordance with the provisions of this article.

32.2. Subject to Article 32.3, the amount of each national central bank's monetary income shall be equal to its annual income derived from its assets held against notes in circulation and deposit liabilities to credit institutions. These assets shall be earmarked by national central banks in accordance with guidelines to be established by the Governing Council.

32.3. If, after the start of the third stage, the balance sheet structures of the national central banks do not, in the judgment of the Governing Council, permit the application of Article 32.2, the Governing Council, acting by a qualified majority, may decide that, by way of derogation from Article 32.2, monetary income shall be measured according to an alternative method for a period of not more than five years.

32.4. The amount of each national central bank's monetary income shall be reduced by an amount equivalent to any interest paid by that central bank on its deposit liabilities to credit institutions in accordance with Article 19.

The Governing Council may decide that national central banks shall be indemnified against costs incurred in connection with the issue of banknotes or in exceptional circumstances for specific losses arising from monetary policy operations undertaken for the ESCB. Indemnification shall be in a form deemed appropriate in the judgment of the Governing Council; these amounts may be offset against the national central banks' monetary income.

32.5. The sum of the national central banks' monetary income shall be allocated to the national central banks in proportion to their paid up shares in the capital of the ECB, subject to any decision taken by the Governing Council pursuant to Article 33.2.

32.6. The clearing and settlement of the balances arising from the allocation of monetary income shall be carried out by the ECB in accordance with guidelines established by the Governing Council.

32.7. The Governing Council shall take all other measures necessary for the application of this article.

### *Article 33*

#### **Allocation of net profits and losses of the ECB**

33.1. The net profit of the ECB shall be transferred in the following order:

- a. an amount to be determined by the Governing Council, which may not exceed 20 % of the net profit, shall be transferred to the general reserve fund subject to a limit equal to 100 % of the capital;
- b. the remaining net profit shall be distributed to the shareholders of the ECB in proportion to their paid up shares.

33.2. In the event of a loss incurred by the ECB, the shortfall may be offset against the general reserve fund of the ECB and, if necessary, following a decision by the Governing Council, against the monetary income of

the relevant financial year in proportion and up to the amounts allocated to the national central banks in accordance with Article 32.5.

## CHAPTER VII

### GENERAL PROVISIONS

#### *Article 34*

##### Legal acts

34.1. In accordance with Article 110 of this Treaty, the ECB shall:

- make regulations to the extent necessary to implement the tasks defined in Article 3.1, first indent, Articles 19.1, 22 or 25.2 and in cases which shall be laid down in the acts of the Council referred to in Article 42;
- take decisions necessary for carrying out the tasks entrusted to the ESCB under this Treaty and this Statute;
- make recommendations and deliver opinions.

34.2. A regulation shall have general application. It shall be binding in its entirety and directly applicable in all Member States.

Recommendations and opinions shall have no binding force.

A decision shall be binding in its entirety upon those to whom it is addressed.

Articles 253, 254 and 256 of this Treaty shall apply to regulations and decisions adopted by the ECB.

The ECB may decide to publish its decisions, recommendations and opinions.

34.3. Within the limits and under the conditions adopted by the Council under the procedure laid down in Article 42, the ECB shall be entitled to impose fines or periodic penalty payments on undertakings for failure to

comply with obligations under its regulations and decisions.

#### *Article 35*

##### Judicial control and related matters

35.1. The acts or omissions of the ECB shall be open to review or interpretation by the Court of Justice in the cases and under the conditions laid down in this Treaty. The ECB may institute proceedings in the cases and under the conditions laid down in this Treaty.

35.2. 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 upon the Court of Justice.

35.3. The ECB shall be subject to the liability regime provided for in Article 288 of this Treaty. The national central banks shall be liable according to their respective national laws.

35.4. The Court of Justice shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the ECB, whether that contract be governed by public or private law.

35.5. A decision of the ECB to bring an action before the Court of Justice shall be taken by the Governing Council.

35.6. The Court of Justice shall have jurisdiction in disputes concerning the fulfilment by a national central bank of obligations under this Statute. If the ECB considers that a national central bank has failed to fulfil an obligation under this Statute, it shall deliver a reasoned opinion on the matter after giving the national central bank concerned the opportunity to submit its observations. If the national central bank concerned does not comply with the opinion within the period laid down by the ECB, the latter may bring the matter before the Court of Justice.

*Article 36***Staff**

36.1. The Governing Council, on a proposal from the Executive Board, shall lay down the conditions of employment of the staff of the ECB.

36.2. The Court of Justice shall have jurisdiction in any dispute between the ECB and its servants within the limits and under the conditions laid down in the conditions of employment.

*Article 37***Seat**

Before the end of 1992, the decision as to where the seat of the ECB will be established shall be taken by common accord of the governments of the Member States at the level of Heads of State or Government.

*Article 38***Professional secrecy**

38.1. Members of the governing bodies and the staff of the ECB and the national central banks shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy.

38.2. Persons having access to data covered by Community legislation imposing an obligation of secrecy shall be subject to such legislation.

*Article 39***Signatories**

The ECB shall be legally committed to third parties by the President or by two members of the Executive Board or by the signatures of two members of the staff of the ECB who have been duly authorised by the President to sign on behalf of the ECB.

*Article 40<sup>(1)</sup>***Privileges and immunities**

The ECB shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol on the privileges and immunities of the European Communities.

## CHAPTER VIII

**AMENDMENT OF THE STATUTE AND  
COMPLEMENTARY LEGISLATION***Article 41***Simplified amendment procedure**

41.1. In accordance with Article 107(5) of this Treaty, Articles 5.1, 5.2, 5.3, 17, 18, 19.1, 22, 23, 24, 26, 32.2, 32.3, 32.4, 32.6, 33.1(a) and 36 of this Statute may be amended by the Council, acting either by a qualified majority on a recommendation from the ECB and after consulting the Commission, or unanimously on a proposal from the Commission and after consulting the ECB. In either case the assent of the European Parliament shall be required.

41.2. A recommendation made by the ECB under this article shall require a unanimous decision by the Governing Council.

*Article 42***Complementary legislation**

In accordance with Article 107(6) of this Treaty, immediately after the decision on the date for the beginning of the third stage, the Council, acting by a qualified majority either on a proposal from the Commission and after consulting the European Parliament and the ECB or on a recommendation from the ECB

<sup>(1)</sup> As amended by Article 6, point III.4 of the Amsterdam Treaty.

and after consulting the European Parliament and the Commission, shall adopt the provisions referred to in Articles 4, 5.4, 19.2, 20, 28.1, 29.2, 30.4 and 34.3 of this Statute.

#### CHAPTER IX

### **TRANSITIONAL AND OTHER PROVISIONS FOR THE ESCB**

#### *Article 43*

##### **General provisions**

43.1. A derogation as referred to in Article 122(1) of this Treaty shall entail that the following articles of this Statute shall not confer any rights or impose any obligations on the Member State concerned: 3, 6, 9.2, 12.1, 14.3, 16, 18, 19, 20, 22, 23, 26.2, 27, 30, 31, 32, 33, 34, 50 and 52.

43.2. The central banks of Member States with a derogation as specified in Article 122(1) of this Treaty shall retain their powers in the field of monetary policy according to national law.

43.3. In accordance with Article 122(4) of this Treaty, ‘Member States’ shall be read as ‘Member States without a derogation’ in the following articles of this Statute: 3, 11.2, 19, 34.2 and 50.

43.4. ‘National central banks’ shall be read as ‘central banks of Member States without a derogation’ in the following articles of this Statute: 9.2, 10.1, 10.3, 12.1, 16, 17, 18, 22, 23, 27, 30, 31, 32, 33.2 and 52.

43.5. ‘Shareholders’ shall be read as ‘central banks of Member States without a derogation’ in Articles 10.3 and 33.1.

43.6. ‘Subscribed capital of the ECB’ shall be read as ‘capital of the ECB subscribed by the central banks of Member States without a derogation’ in Articles 10.3 and 30.2.

#### *Article 44*

##### **Transitional tasks of the ECB**

The ECB shall take over those tasks of the EMI which, because of the derogations of one or more Member States, still have to be performed in the third stage.

The ECB shall give advice in the preparations for the abrogation of the derogations specified in Article 122 of this Treaty.

#### *Article 45*

##### **The General Council of the ECB**

45.1. Without prejudice to Article 107(3) of this Treaty, the General Council shall be constituted as a third decision-making body of the ECB.

45.2. The General Council shall comprise the President and Vice-President of the ECB and the Governors of the national central banks. The other members of the Executive Board may participate, without having the right to vote, in meetings of the General Council.

45.3. The responsibilities of the General Council are listed in full in Article 47 of this Statute.

#### *Article 46*

##### **Rules of Procedure of the General Council**

46.1. The President or, in his absence, the Vice-President of the ECB shall chair the General Council of the ECB.

46.2. The President of the Council and a Member of the Commission may participate, without having the right to vote, in meetings of the General Council.

46.3. The President shall prepare the meetings of the General Council.

46.4. By way of derogation from Article 12.3, the General Council shall adopt its Rules of Procedure.

46.5. The Secretariat of the General Council shall be provided by the ECB.

### *Article 47*

#### **Responsibilities of the General Council**

47.1. The General Council shall:

- perform the tasks referred to in Article 44;
- contribute to the advisory functions referred to in Articles 4 and 25.1.

47.2. The General Council shall contribute to:

- the collection of statistical information as referred to in Article 5;
- the reporting activities of the ECB as referred to in Article 15;
- the establishment of the necessary rules for the application of Article 26 as referred to in Article 26.4;
- the taking of all other measures necessary for the application of Article 29 as referred to in Article 29.4;
- the laying down of the conditions of employment of the staff of the ECB as referred to in Article 36.

47.3. The General Council shall contribute to the necessary preparations for irrevocably fixing the exchange rates of the currencies of Member States with a derogation against the currencies, or the single currency, of the Member States without a derogation, as referred to in Article 123(5) of this Treaty.

47.4. The General Council shall be informed by the President of the ECB of decisions of the Governing Council.

### *Article 48*

#### **Transitional provisions for the capital of the ECB**

In accordance with Article 29.1 each national central bank shall be assigned a weighting in the key for subscription of the ECB's capital. By way of derogation from Article 28.3, central banks of Member States with a derogation shall not pay up their subscribed capital unless the General Council, acting by a majority representing at least two thirds of the subscribed capital of the ECB and at least half of the shareholders, decides that a minimal percentage has to be paid up as a contribution to the operational costs of the ECB.

### *Article 49*

#### **Deferred payment of capital, reserves and provisions of the ECB**

49.1. The central bank of a Member State whose derogation has been abrogated shall pay up its subscribed share of the capital of the ECB to the same extent as the central banks of other Member States without a derogation, and shall transfer to the ECB foreign reserve assets in accordance with Article 30.1. The sum to be transferred shall be determined by multiplying the ecu value at current exchange rates of the foreign reserve assets which have already been transferred to the ECB in accordance with Article 30.1, by the ratio between the number of shares subscribed by the national central bank concerned and the number of shares already paid up by the other national central banks.

49.2. In addition to the payment to be made in accordance with Article 49.1, the central bank concerned shall contribute to the reserves of the ECB, to those provisions equivalent to reserves, and to the amount still to be appropriated to the reserves and provisions corresponding to the balance of the profit and loss account as at 31 December of the year prior



to the abrogation of the derogation. The sum to be contributed shall be determined by multiplying the amount of the reserves, as defined above and as stated in the approved balance sheet of the ECB, by the ratio between the number of shares subscribed by the central bank concerned and the number of shares already paid up by the other central banks.

### *Article 50*

#### **Initial appointment of the members of the Executive Board**

When the Executive Board of the ECB is being established, the President, the Vice-President and the other members of the Executive Board shall be appointed by common accord of the governments of the Member States at the level of Heads of State or Government, on a recommendation from the Council and after consulting the European Parliament and the Council of the EMI. The President of the Executive Board shall be appointed for eight years. By way of derogation from Article 11.2, the Vice-President shall be appointed for four years and the other members of the Executive Board for terms of office of between five and eight years. No term of office shall be renewable. The number of members of the Executive Board may be smaller than provided for in Article 11.1, but in no circumstance shall it be less than four.

### *Article 51*

#### **Derogation from Article 32**

51.1. If, after the start of the third stage, the Governing Council decides that the application of Article 32 results in significant changes in national central banks' relative income positions, the amount of income to be allocated pursuant to Article 32 shall be reduced by a uniform percentage which shall not exceed 60 % in the first financial year after the start of the third stage and which shall decrease by at least 12 percentage points in each subsequent financial year.

51.2. Article 51.1 shall be applicable for not more than five financial years after the start of the third stage.

### *Article 52*

#### **Exchange of banknotes in Community currencies**

Following the irrevocable fixing of exchange rates, the Governing Council shall take the necessary measures to ensure that banknotes denominated in currencies with irrevocably fixed exchange rates are exchanged by the national central banks at their respective par values.

### *Article 53*

#### **Applicability of the transitional provisions**

If and as long as there are Member States with a derogation Articles 43 to 48 shall be applicable.

## Protocol on the excessive deficit procedure

THE HIGH CONTRACTING PARTIES,

DESIRING to lay down the details of the excessive deficit procedure referred to in Article 104 of the Treaty establishing the European Community,

HAVE AGREED upon the following provisions which shall be annexed to the Treaty establishing the European Community.

### *Article 1*

The reference values referred to in Article 104(2) of this Treaty are:

- 3 % for the ratio of the planned or actual government deficit to gross domestic product at market prices;
- 60 % for the ratio of government debt to gross domestic product at market prices.

### *Article 2*

In Article 104 of this Treaty and in this Protocol:

- government means general government, that is central government, regional or local government and social security funds, to the exclusion of commercial operations, as defined in the European System of Integrated Economic Accounts;

— deficit means net borrowing as defined in the European System of Integrated Economic Accounts;

— investment means gross fixed capital formation as defined in the European System of Integrated Economic Accounts;

— debt means total gross debt at nominal value outstanding at the end of the year and consolidated between and within the sectors of general government as defined in the first indent.

### *Article 3*

In order to ensure the effectiveness of the excessive deficit procedure, the governments of the Member States shall be responsible under this procedure for the deficits of general government as defined in the first indent of Article 2. The Member States shall ensure that national procedures in the budgetary area enable them to meet their obligations in this area deriving from this Treaty. The Member States shall report their planned and actual deficits and the levels of their debt promptly and regularly to the Commission.

### *Article 4*

The statistical data to be used for the application of this Protocol shall be provided by the Commission.

**Protocol**  
**on the convergence criteria referred to in Article 121 (ex Article 109j)**  
**of the Treaty establishing the European Community**

THE HIGH CONTRACTING PARTIES,

DESIRING to lay down the details of the convergence criteria which shall guide the Community in taking decisions on the passage to the third stage of economic and monetary union, referred to in Article 121(1) of this Treaty,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty establishing the European Community.

*Article 1*

The criterion on price stability referred to in the first indent of Article 121(1) of this Treaty shall mean that a Member State has a price performance that is sustainable and an average rate of inflation, observed over a period of one year before the examination, that does not exceed by more than one percentage point that of, at most, the three best performing Member States in terms of price stability. Inflation shall be measured by means of the consumer price index on a comparable basis, taking into account differences in national definitions.

*Article 2*

The criterion on the government budgetary position referred to in the second indent of Article 121(1) of this Treaty shall mean that at the time of the examination the Member State is not the subject of a Council decision under Article 104(6) of this Treaty that an excessive deficit exists.

*Article 3*

The criterion on participation in the exchange rate mechanism of the European Monetary System referred to in the third indent of Article 121(1) of this Treaty shall mean that a Member State has respected the normal fluctuation margins provided for by the exchange rate mechanism on the European Monetary System without severe tensions for at least the last two years before the examination. In particular, the Member State shall not have devalued its currency's bilateral central rate against any other Member State's currency on its own initiative for the same period.

*Article 4*

The criterion on the convergence of interest rates referred to in the fourth indent of Article 121(1) of this Treaty shall mean that, observed over a period of one year before the examination, a Member State has had an average nominal long-term interest rate that does not exceed by more than two percentage points that of, at most, the three best performing Member States in terms of price stability. Interest rates shall be measured on the basis of long-term government bonds or comparable securities, taking into account differences in national definitions.

*Article 5*

The statistical data to be used for the application of this Protocol shall be provided by the Commission.

*Article 6*

The Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, the EMI or the ECB as the case may be, and the

Committee referred to in Article 114, adopt appropriate provisions to lay down the details of the convergence criteria referred to in Article 121 of this Treaty, which shall then replace this Protocol.

**Protocol**  
**amending the Protocol on the privileges and immunities of the**  
**European Communities**

THE HIGH CONTRACTING PARTIES,

CONSIDERING that, in accordance with Article 40 of the Statute of the European System of Central Banks and of the European Central Bank and Article 21 of the Statute of the European Monetary Institute, the European Central Bank and the European Monetary Institute shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty establishing the European Community.

*Sole Article*

The Protocol on the privileges and immunities of the European Communities, annexed to the Treaty establishing a Single Council and a Single Commission of the European Communities, shall be supplemented by the following provisions:

'Article 23

This Protocol shall also apply to the European Central Bank, to the members of its organs and to its staff, without prejudice to the provisions of the Protocol on the Statute of the European System of Central Banks and the European Central Bank.

The European Central Bank shall, in addition, be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the bank has its seat. The activities of the Bank and of its organs carried on in accordance with the Statute of the European System of Central Banks and of the European Central Bank shall not be subject to any turnover tax.

The above provisions shall also apply to the European Monetary Institute. Its dissolution or liquidation shall not give rise to any imposition.'

**Protocol  
on Denmark**

THE HIGH CONTRACTING PARTIES,

DESIRING to settle certain particular problems relating to Denmark,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty establishing the European Community:

The provisions of Article 14 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank shall not affect the right of the National Bank of Denmark to carry out its existing tasks concerning those parts of the Kingdom of Denmark which are not part of the Community.

## **Protocol on Portugal**

THE HIGH CONTRACTING PARTIES,

DESIRING to settle certain particular problems relating to Portugal,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty establishing the European Community:

1. Portugal is hereby authorised to maintain the facility afforded to the autonomous regions of Azores and Madeira to benefit from an interest free credit facility with the Banco de Portugal under the terms established by existing Portuguese law.
2. Portugal commits itself to pursue its best endeavours in order to put an end to the abovementioned facility as soon as possible.

**Protocol  
on the transition to the third stage of economic and monetary union**

THE HIGH CONTRACTING PARTIES

Declare the irreversible character of the Community's movement to the third stage of economic and monetary union by signing the new Treaty provisions on economic and monetary union.

Therefore all Member States shall, whether they fulfil the necessary conditions for the adoption of a single currency or not, respect the will for the Community to enter swiftly into the third stage, and therefore no Member State shall prevent the entering into the third stage.

If by the end of 1997 the date of the beginning of the third stage has not been set, the Member States concerned, the Community institutions and other bodies involved shall expedite all preparatory work during 1998, in order to enable the Community to enter the third stage irrevocably on 1 January 1999 and to enable the ECB and the ESCB to start their full functioning from this date.

This Protocol shall be annexed to the Treaty establishing the European Community.



**Protocol  
on certain provisions relating to the United Kingdom of Great Britain  
and Northern Ireland**

THE HIGH CONTRACTING PARTIES,

RECOGNISING that the United Kingdom shall not be obliged or committed to move to the third stage of economic and monetary union without a separate decision to do so by its government and parliament,

NOTING the practice of the Government of the United Kingdom to fund its borrowing requirement by the sale of debt to the private sector,

HAVE AGREED the following provisions, which shall be annexed to the Treaty establishing the European Community:

1. The United Kingdom shall notify the Council whether it intends to move to the third stage before the Council makes its assessment under Article 121(2) of this Treaty.

Unless the United Kingdom notifies the Council that it intends to move to the third stage, it shall be under no obligation to do so.

If no date is set for the beginning of the third stage under Article 121(3) of this Treaty, the United Kingdom may notify its intention to move to the third stage before 1 January 1998.

2. Paragraphs 3 to 9 shall have effect if the United Kingdom notifies the Council that it does not intend to move to the third stage.

3. The United Kingdom shall not be included among the majority of Member States which fulfil the necessary conditions re-

ferred to in the second indent of Article 121(2) and the first indent of Article 121(3) of this Treaty.

4. The United Kingdom shall retain its powers in the field of monetary policy according to national law.

5. Articles 4(2), 104(1), (9) and (11), 105(1) to (5), 106, 108, 109, 110, 111, 112(1) and (2)(b) and 123(4) and (5) of this Treaty shall not apply to the United Kingdom. In these provisions references to the Community or the Member States shall not include the United Kingdom and references to national central banks shall not include the Bank of England.

6. Articles 116(4), 119 and 120 of this Treaty shall continue to apply to the United Kingdom. Articles 114(4) and 124 shall apply to the United Kingdom as if it had a derogation.

7. The voting rights of the United Kingdom shall be suspended in respect of acts of the Council referred to in the articles listed in paragraph 5. For this purpose the weighted votes of the United Kingdom shall be excluded from any calculation of a qualified majority under Article 122(5) of this Treaty.

The United Kingdom shall also have no right to participate in the appointment of the President, the Vice-President and the other members of the Executive Board of the ECB under Articles 112(2)(b) and 123(1) of this Treaty.

8. Articles 3, 4, 6, 7, 9.2, 10.1, 10.3, 11.2, 12.1, 14, 16, 18 to 20, 22, 23, 26, 27, 30 to

34, 50 and 52 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank ('the Statute') shall not apply to the United Kingdom.

In those articles, references to the Community or the Member States shall not include the United Kingdom and references to national central banks or shareholders shall not include the Bank of England.

References in Articles 10.3 and 30.2 of the Statute to 'subscribed capital of the ECB' shall not include capital subscribed by the Bank of England.

9. Article 123(3) of this Treaty and Articles 44 to 48 of the Statute shall have effect, whether or not there is any Member State with a derogation, subject to the following amendments:
- (a) References in Article 44 to the tasks of the ECB and the EMI shall include those tasks that still need to be performed in the third stage owing to any decision of the United Kingdom not to move to that stage.
  - (b) In addition to the tasks referred to in Article 47 the ECB shall also give advice in relation to and contribute to the preparation of any decision of the Council with regard to the United Kingdom taken in accordance with paragraphs 10(a) and 10(c).
  - (c) The Bank of England shall pay up its subscription to the capital of the ECB as a contribution to its operational costs on the same basis as national central banks of Member States with a derogation.
10. If the United Kingdom does not move to the third stage, it may change its notification at any time after the beginning of that stage. In that event:
- (a) The United Kingdom shall have the right to move to the third stage provided only that it satisfies the necessary conditions. The Council, acting at the request of the United Kingdom and under the conditions and in accordance with the procedure laid down in Article 122(2) of this Treaty, shall decide whether it fulfils the necessary conditions.
  - (b) The Bank of England shall pay up its subscribed capital, transfer to the ECB foreign reserve assets and contribute to its reserves on the same basis as the national central bank of a Member State whose derogation has been abrogated.
  - (c) The Council, acting under the conditions and in accordance with the procedure laid down in Article 123(5) of this Treaty, shall take all other necessary decisions to enable the United Kingdom to move to the third stage.
- If the United Kingdom moves to the third stage pursuant to the provisions of this Protocol, paragraphs 3 to 9 shall cease to have effect.
11. Notwithstanding Articles 101 and 116(3) of this Treaty and Article 21.1 of the Statute, the Government of the United Kingdom may maintain its ways and means' facility with the Bank of England if and so long as the United Kingdom does not move to the third stage.

**Protocol  
on certain provisions relating to Denmark**

THE HIGH CONTRACTING PARTIES,

DESIRING to settle, in accordance with the general objectives of the Treaty establishing the European Community, certain particular problems existing at the present time,

TAKING INTO ACCOUNT that the Danish Constitution contains provisions which may imply a referendum in Denmark prior to Danish participation in the third stage of economic and monetary union,

HAVE AGREED on the following provisions, which shall be annexed to the Treaty establishing the European Community:

1. The Danish Government shall notify the Council of its position concerning participation in the third stage before the Council makes its assessment under Article 121(2) of this Treaty.
2. In the event of a notification that Denmark will not participate in the third stage, Denmark shall have an exemption. The effect of the exemption shall be that all articles and provisions of this Treaty and the Statute of the ESCB referring to a derogation shall be applicable to Denmark.
3. In such case, Denmark shall not be included among the majority of Member States which fulfil the necessary conditions referred to in the second indent of Article 121(2) and the first indent of Article 121(3) of this Treaty.
4. As for the abrogation of the exemption, the procedure referred to in Article 122(2) shall only be initiated at the request of Denmark.
5. In the event of abrogation of the exemption status, the provisions of this Protocol shall cease to apply.

*A 12*

**Protocol  
on France**

THE HIGH CONTRACTING PARTIES,

DESIRING to take into account a particular point relating to France,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty establishing the European Community:

France will keep the privilege of monetary emission in its overseas territories under the terms established by its national laws, and will be solely entitled to determine the parity of the CFP franc.

## **Declarations**

### **Declaration on Part Three, Titles III and VII (ex Title VI), of the Treaty establishing the European Community**

The conference affirms that, for the purposes of applying the provisions set out in Part Three, Title III, Chapter 4 on capital and payments, and Title VII on economic and monetary policy, of this Treaty, the usual practice, according to which the Council meets in the composition of Economic and Finance Ministers, shall be continued, without prejudice to Article 121(2) to (4) and Article 122(2).

### **Declaration on Part Three, Title VII (ex Title VI), of the Treaty establishing the European Community**

The conference affirms that the President of the European Council shall invite the Economic and Finance Ministers to participate in European Council meetings when the European Council is discussing matters relating to economic and monetary union.

### **Declaration on monetary cooperation with non- Community countries**

The conference affirms that the Community shall aim to contribute to stable international monetary relations. To this end the Community shall be prepared to cooperate with other European countries and with those non-European countries with which the Community has close economic ties.

### **Declaration on monetary relations with the Republic of San Marino, the Vatican City and the Principality of Monaco**

The conference agrees that the existing monetary relations between Italy and San Marino and the Vatican City and between France and Monaco remain unaffected by the Treaty establishing the European Community until the introduction of the ecu as the single currency of the Community.

The Community undertakes to facilitate such renegotiations of existing arrangements as might become necessary as a result of the introduction of the ecu as a single currency.

### **Declaration on Article 111 (ex Article 109) of the Treaty establishing the European Community**

The conference emphasises that use of the term 'formal agreements' in Article 111(1) is not intended to create a new category of international agreement within the meaning of Community law.

### **Declaration on Articles 111 (ex Article 109), 174 (ex Article 130r) and 181 (ex Article 130y) of the Treaty establishing the European Community**

The conference considers that the provisions of Article 111(5), Article 174(4), second subparagraph, and Article 181 do not affect the principles resulting from the judgment handed down by the Court of Justice in the AETR case.

**Declaration  
on disputes between the ECB and the  
EMI and their servants**

The conference considers it proper that the Court of First Instance should hear this class of action in accordance with Article 225 of the Treaty establishing the European Community. The conference therefore invites the institutions to adapt the relevant rules accordingly.

*Part B*

# **The scenario for the changeover to the single currency**

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## **Presidency conclusions of the Madrid European Council of 15 and 16 December 1995 on the scenario for the changeover to the single currency**

1. The European Council confirms that 1 January 1999 will be the starting date for stage three of economic and monetary union, in accordance with the convergence criteria, timetable, protocols and procedures laid down in the Treaty.
3. As a decisive step in the clarification of the process of introduction of the single currency, the European Council adopts the changeover scenario attached in Annex 1 which is based on the scenario elaborated at its request by the Council, in consultation with the Commission and the European Monetary Institute. It notes with satisfaction that the scenario is fully compatible with the EMI report on the changeover.

The European Council confirms that a high degree of economic convergence is a precondition for the Treaty objective to create a stable single currency.

2. The name of the new currency is an important element in the preparation of the transition to the single currency, since it partly determines the public acceptability of economic and monetary union. The European Council considers that the name of the single currency must be the same in all the official languages of the European Union, taking into account the existence of different alphabets; it must be simple and symbolise Europe.
4. The scenario provides for transparency and acceptability, strengthens credibility and underlines the irreversibility of the process. It is technically feasible and aims to provide for the necessary legal certainty, to minimise adjustment costs and to avoid competitive distortions. Under the scenario, the Council, in the composition of Heads of State or Government, will confirm as early as possible in 1998 which Member States fulfil the necessary conditions for the adoption of the single currency. The European Central Bank (ECB) will have to be created early enough so as to allow preparations to be completed and full operation to start on 1 January 1999.

The European Council therefore decides that, as of the start of stage three, the name given to the European currency shall be 'euro'. This name is meant as a full name, not as a prefix to be attached to the national currency names.

The specific name euro will be used instead of the generic term 'ecu' used by the Treaty to refer to the European currency unit.

The governments of the 15 Member States have achieved the common agreement that this decision is the agreed and definitive interpretation of the relevant Treaty provisions.

5. Stage three will begin on 1 January 1999 with the irrevocable fixing of conversion rates among the currencies of participating countries and against the euro. From that date, monetary policy and the foreign exchange rate policy will be conducted in euro, the use of the euro will be encouraged in foreign exchange markets and new tradeable public debt will be issued in euro by the participating Member States.

6. A Council regulation, whose technical preparatory work shall be completed at the latest by the end of 1996, will enter into force on 1 January 1999 and provide the legal framework for the use of the euro, which, from this date, will become a currency in its own right, and the official ecu basket will cease to exist. This regulation will establish, as long as different monetary units still exist, a legally enforceable equivalence between the euro and the national units. The substitution of the euro for national currencies should not of itself alter the continuity of contracts, unless otherwise provided in the contract. In the case of contracts denominated by reference to the official ecu basket of the European Community, in accordance with the Treaty, substitution by the euro will be at the rate of one to one, unless otherwise provided in the contract.
7. By 1 January 2002 at the latest, euro banknotes and coins will start to circulate alongside national notes and coins. At most six months later, the national currencies will have been completely replaced by the euro in all participating Member States, and the changeover will be complete. Thereafter, national banknotes and coins may still be exchanged at the national central banks.
8. The European Council calls on the Ecofin Council to speed up all the additional technical work necessary to implement the changeover scenario adopted today. The labelling of euro banknotes and coins in the different alphabets of the Union will also be defined.

## Annex I to the conclusions of the European Council held at Madrid on 15 and 16 December 1995 (\*)

1. At its meeting in Cannes on 27 June 1995, the European Council requested the Ecofin Council to define, in consultation with the Commission and the European Monetary Institute (EMI), a reference scenario for the changeover to the single currency and to report back to the European Council at its meeting in December 1995 in Madrid with a view to its adoption.

2. Since the entry into force of the Treaty on European Union ('Maastricht Treaty'), particularly since the start of Stage 2 of the process of moving to an economic and monetary union, the Member States, the European bodies and representatives of many private organizations have been studying the different aspects of the changeover. Preparations have now reached a level which allows the presentation of a reference changeover scenario containing clearly defined measures to be implemented within pre-set dates or deadlines.

3. The preparations under way are guided by the overriding Treaty objective to create a stable single currency. One precondition for this is to achieve a high degree of convergence of economic performance before locking exchange rates irrevocably. A strict application of the convergence criteria in assessing which Member States fulfil the necessary conditions for the adoption of a single currency will establish confidence in the new currency and convince the public at large as well as markets that it will be strong and stable. After moving to Stage 3 of economic and monetary union, convergence will have to be maintained. In particular public finances must be kept on a sound track in line

with Treaty obligations. Therefore work has to be done on ways to secure budgetary discipline among participants in the euro area in accordance with the procedures and the principles of the Treaty. In addition, the future relationship between the Member States participating in the euro area and the others will need to be defined prior to the move to Stage 3 with a view, *inter alia*, to safeguarding monetary stability within the single market.

4. The removal of uncertainties requires careful technical preparation of the move to Stage 3. This preparation will also contribute to public acceptability of the new currency. The changeover scenario presented below has been defined in consultation with the Commission and the EMI and has benefited from the Commission's Green Paper and the EMI report on the changeover to the single currency. It is in line with the timetable, procedures and criteria laid down in the Treaty. It provides for transparency, strengthens credibility and underlines the irreversibility of the process. It is technically feasible and aims to provide for the necessary legal certainty, to minimize adjustment costs and to avoid competitive distortions. The changeover scenario, by announcing concrete measures to be taken within a clear timetable, offers the users of money the information necessary for them to adapt to the introduction of the single currency. The scenario is compatible with the EMI report on the changeover.

5. This changeover scenario is based on 1 January 1999 as the starting date for the third stage. The steps to be taken during the different stages of the changeover process are

(\*) OJ C 22, 26.1.1996, pp. 2-5.

presented below and summarized in the annexed tables which set out the timing and the various dates and deadlines for the participating Member States.

6. The Council in the composition of Heads of State or Government will confirm which Member States fulfil the necessary conditions for the adoption of the single currency. The date of this decision marks the beginning of an interim period prior to the entry into Stage 3, during which decisions are to be taken to complete the preparations. On the one hand, the magnitude of the workload would suggest that this interim period lasts for about one year; but, on the other, the Heads of State or Government should base their decision on participating Member States on the most recent and reliable actual data for 1997. Thus, special efforts will be made so that the Heads of State or Government make their decision as soon as possible in 1998. Advance preparation will help to ensure that all the necessary measures will be in place for the start of Stage 3 of economic and monetary union. Several of these measures fall within the competence of the European Central Bank (ECB).

7. The ECB will have to be created early enough so as to allow preparations to be completed and full operation to start on 1 January 1999. Therefore, as early as possible in this interim period, the Council and the participating Member States will have to adopt a number of legal provisions and to appoint the executive board of the European Central Bank (ECB). As soon as the executive board of the ECB is appointed, the ECB and the European system of central banks (ESCB) will be established. The decision-making bodies of the ECB will decide on, implement and test the framework needed for the ESCB/ECB to perform its task in Stage 3.

8. Stage 3 of economic and monetary union will start on 1 January 1999, with the irrevocable fixing of conversion rates among currencies of participating countries and against

the euro and with the single monetary policy which will be defined and implemented by the ESCB in euro. The ESCB will encourage the use of the euro in the foreign exchange markets; its operations in these markets will be effected and settled in euro. The payment system's infrastructure needs to be in place so as to ensure the smooth functioning of an area-wide money market based on the euro. National central banks could provide conversion facilities for those financial institutions which have not been able to equip themselves with such facilities to translate amounts from euro into national monetary units and vice versa.

9. A Council Regulation entering into force on 1 January 1999 will provide the legal framework for the use of the euro. From that date, the euro will be 'a currency in its own right' and the official ecu basket will cease to exist. This Regulation will have the effect that the national currencies and the euro will become different expressions of what is economically the same currency. As long as different national monetary units still exist, the Council Regulation will establish a legally enforceable equivalence between the euro and the national currency units ('legally enforceable equivalence' means that each monetary amount is assigned, in a legally enforceable way, an unchangeable countervalue in terms of the euro unit at the official conversion rate and vice versa). For the period before the deadline set for the completion of the changeover, the Regulation will ensure that private economic agents will be free to use the euro; at the same time they should not be obliged to do so. As far as possible, they should be allowed to develop their own mechanisms of adjustment to the changeover; however, the implementation of these principles should take into account market practices in terms of standardization. The Regulation will also provide that national banknotes will continue to remain legal tender within the boundaries of the respective national territories until the completion of the changeover to the single currency. The technical

preparatory work for this Regulation shall be completed at the latest by the end of 1996.

10. The substitution of the euro for national currencies should not of itself alter the continuity of contracts; amounts expressed in national currency will be converted into euro at the rate of conversion laid down by the Council. In the case of fixed interest rate securities and loans, this substitution will not of itself alter the nominal interest rate payable by the debtor unless otherwise provided in the contract. In these case of contracts denominated by reference to the official ecu basket of the European Community, in accordance with the Treaty, substitution by the euro will be at the 1:1 rate, subject to the particular terms of individual contracts.

11. New tradable public debt will be issued in euro by the participating Member States as from 1 January 1999. By 1 July 2002 at the latest, public debt denominated in the former national currencies will be redeemable only in the single currency.

12. The generalization of the use of the euro for public sector operations will occur in all

participating Member States at the latest when the euro banknotes and coins are fully introduced. The time-frame will be laid down in Community legislation and might leave some freedom to individual Member States.

13. The public authorities are invited to set in hand the arrangements for planning the adaptation of their administration to the euro.

14. By 1 January 2002 at the latest, euro banknotes and coins will start to circulate alongside national notes and coins. Euro notes and coins will have legal tender status. In line with the increasing circulation of euro notes and coins, national notes and coins will be withdrawn. Member States should endeavour to keep this period of dual circulation of national and euro notes and coins to the minimum. In any event, national notes and coins will cease to be legal tender at the latest six months after the introduction of euro notes and coins. By that deadline, the changeover will be complete. Thereafter, national banknotes and coins may still be exchanged free of charge at the national central banks.

## ANNEX

### THE CHANGEOVER TO THE SINGLE CURRENCY CHRONOLOGICAL SEQUENCE OF EVENTS

DECEMBER 1995 UP TO THE DECISION ON PARTICIPATING MEMBER STATES		
TIMING	ACTIONS TO BE TAKEN	RESPONSIBILITY
December 1995	Adoption of the changeover scenario, including announcement of the deadline for the completion of the changeover (1 July 2002) and the name for the new currency	European Council
31 December 1996	Specification of the regulatory, organizational and logistical framework for the ECB/ESCB to perform its tasks in Stage 3 Preparation of legislation related to the ECB/ESCB and to the introduction of the single currency	EMI Commission, EMI, Council
Before the decision on participating Member States	Conformity of national legislation <sup>(1)</sup>	Member States
<p><sup>(1)</sup> The Commission and EMI reports under Article 109j (1) shall include an examination of the compatibility between each Member State's national legislation, including the statutes of each national central bank, and Articles 107 and 108 of the Treaty and the Statute of the ESCB (Article 108 provides that national legislations must be compatible with the Treaty and the Statute of the ESCB at the latest at the date of the establishment of the ESCB).</p>		
FROM THE DECISION ON PARTICIPATING MEMBER STATES TO 1 JANUARY 1999		
TIMING	ACTIONS TO BE TAKEN	RESPONSIBILITY
As soon as possible in 1998	Decision on participating Member States	Council <sup>(1)</sup>
As soon as possible after the decision on participating Member States	(i) Appointment of executive board of the ECB	Member States <sup>(2)</sup>
	(ii) Set the day for the introduction of euro banknotes and coins	ECB; Council <sup>(3)</sup>
	(iii) Start production of euro banknotes	ESCB
	(iv) Start production of euro coins	Council and Member States <sup>(3)</sup>
Up to 1 January 1999	Final preparation of the ECB/ESCB (i) Adoption of secondary legislation, including: — key for capital subscription; — collection of statistical information; — minimum reserves; — consultation of ECB; — fines and penalties on undertakings; (ii) Rendering the ECB/ESCB operational (setting up the ECB; adoption of regulatory framework; testing monetary policy framework, etc.)	Council ECB/ESCB
<p><sup>(1)</sup> In the composition of Heads of State or Government (Article 109j (4)).  <sup>(2)</sup> Governments of participating Member States at the level of Heads of State or Government by common accord (Article 109l (1)).  <sup>(3)</sup> Participating Member States (Article 105a (2) and 109k (4)).</p>		

1 JANUARY 1999 TO 1 JANUARY 2002 AT THE LATEST from start of Stage 3 to introduction of euro banknotes and coins		
TIMING	ACTIONS TO BE TAKEN	RESPONSIBILITY
1 January 1999	Irrevocable fixing of conversion rates and entry into force of legislation related to the introduction of the euro (legal status, continuity of contracts, rounding, etc.)	Council <sup>(1)</sup>
From 1 January 1999	(i) Definition and execution of the single monetary policy in euro (ii) Conduct of foreign exchange operations in the euro (iii) Operation of Target payment system (iv) Issue new public debt in euro	ESCB ESCB ESCB Member States
1 January 1999 to 1 January 2002 at the latest	(i) Exchange at par value of currencies with irrevocably fixed conversion rates (ii) Monitor changeover developments in the banking and finance industry (iii) Assist the whole of the economy in an orderly changeover	ESCB ESCB and public authorities in Member States and the Community ESCB and public authorities in Member States and the Community

<sup>(1)</sup> The Council shall act with the unanimity of the participating Member States.

1 JANUARY 2002 TO 1 JULY 2002 AT THE LATEST completion of the changeover		
TIMING	ACTIONS TO BE TAKEN	RESPONSIBILITY
1 January 2002 at the latest	(i) Start circulation of euro banknotes and withdrawal of national banknotes (ii) Start circulation of euro coins and withdrawal of national coins	ESCB Member States <sup>(1)</sup>
1 July 2002 at the latest	(i) Complete changeover in the public administration (ii) Cancel the legal tender status of national banknotes and coins	Council; Member States <sup>(1)</sup> ; ESCB

<sup>(1)</sup> Participating Member States.

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*Part C*

# **Decisions on Member States adopting the euro**

**Council decision  
of 3 May 1998  
in accordance with Article 109j(4) of the Treaty  
(98/317/EC) (\*)**

THE COUNCIL OF THE EUROPEAN UNION, meeting in the composition of Heads of State or Government,

Having regard to the Treaty establishing the European Community, and in particular Article 109j(4) thereof,

Having regard to the report from the Commission,

Having regard to the report from the European Monetary Institute,

Having regard to the recommendations from the Council of 1 May 1998,

Having regard to the opinion of the European Parliament<sup>(1)</sup>,

(1) Whereas, in accordance with Article 109j(4) of the Treaty, the third stage of economic and monetary union (EMU) shall start on 1 January 1999;

(2) Whereas, in accordance with Article 109j(2) of the Treaty, on the basis of reports presented by the Commission and the European Monetary Institute on the progress made in the fulfilment by the Member States of their obligations regarding the achievement of EMU, the Council has assessed on 1 May 1998, for each Member State, whether it fulfils the necessary conditions for the adoption of the single currency and has recommended to the Council, meeting in the composition of the Heads of State or Government, the following findings:

(\*) OJ L 139, 11.5.1998, pp. 30-35.

(1) Opinion delivered on 2 May 1998 (not yet published in the Official Journal).

**BELGIUM**

In Belgium, national legislation, including the statute of the national central bank, is compatible with Articles 107 and 108 of the Treaty and the Statute of the European System of Central Banks (ESCB).

Regarding the fulfilment of the convergence criteria mentioned in the four indents of Article 109j(1) of the Treaty:

- the average inflation rate in Belgium in the year ending in January 1998 stood at 1,4 %, which is below the reference value,
- Belgium is not the subject of a Council decision on the existence of an excessive government deficit,
- Belgium has been a member of the exchange-rate mechanism (ERM) for the last two years; in that period, the Belgian franc (BEF) has not been subject to severe tensions and Belgium has not devalued, on its own initiative, the BEF bilateral central rate against any other Member State's currency,
- in the year ending in January 1998, the long-term interest rate in Belgium was, on average, 5,7 %, which is below the reference value.

Belgium has achieved a high degree of sustainable convergence by reference to all four criteria.

Consequently, Belgium fulfils the necessary conditions for the adoption of the single currency.

## GERMANY

In Germany, national legislation, including the statute of the national central bank, is compatible with Articles 107 and 108 of the Treaty and the Statute of the ESCB.

Regarding the fulfilment of the convergence criteria mentioned in the four indents of Article 109j(1) of the Treaty:

- the average inflation rate in Germany in the year ending in January 1998 stood at 1,4 %, which is below the reference value,
- Germany is not the subject of a Council decision on the existence of an excessive government deficit,
- Germany has been a member of the ERM for the last two years; in that period, the German mark (DEM) has not been subject to severe tensions and Germany has not devalued, on its own initiative, the DEM bilateral central rate against any other Member State's currency,
- in the year ending in January 1998, the long-term interest rate in Germany was, on average, 5,6 %, which is below the reference value.

Germany has achieved a high degree of sustainable convergence by reference to all four criteria.

Consequently, Germany fulfils the necessary conditions for the adoption of the single currency.

## GREECE

In Greece, national legislation, including the statute of the national central bank, is compatible with Articles 107 and 108 of the Treaty and the Statute of the ESCB.

Regarding the fulfilment of the convergence criteria mentioned in the four indents of Article 109j(1) of the Treaty:

- the average inflation rate in Greece in the year ending in January 1998 stood at 5,2 %, which is above the reference value,
- the Council decided on 26 September 1994 that an excessive government deficit exists in Greece and this Decision has not been abrogated,
- the currency of Greece did not participate in the ERM in the two years ending in February 1998; during this period, the Greek drachma (GRD) has been relatively stable against the ERM currencies but it has experienced, at times, tensions which have been counteracted by temporary increases in domestic interest rates and by foreign exchange intervention. The GRD joined the ERM in March 1998,
- in the year ending in January 1998, the long-term interest rate in Greece was, on average, 9,8 %, which is above the reference value.

Greece does not fulfil any of the convergence criteria mentioned in the four indents of Article 109j(1).

Consequently, Greece does not fulfil the necessary conditions for the adoption of the single currency.

## SPAIN

In Spain, national legislation, including the statute of the national central bank, is compatible with Articles 107 and 108 of the Treaty and the Statute of the ESCB.

Regarding the fulfilment of the convergence criteria mentioned in the four indents of Article 109j(1) of the Treaty:

- the average inflation rate in Spain in the year ending in January 1998 stood at 1,8 %, which is below the reference value,
- Spain is not the subject of a Council decision on the existence of an excessive government deficit,
- Spain has been a member of the ERM for the last two years; in that period, the Spanish peseta (ESP) has not been subject to severe tensions and Spain has not devalued, on its own initiative, the ESP bilateral central rate against any other Member State's currency,
- in the year ending in January 1998, the long-term interest rate in Spain was, on average, 6,3 %, which is below the reference value.

Spain has achieved a high degree of sustainable convergence by reference to all four criteria.

Consequently, Spain fulfils the necessary conditions for the adoption of the single currency.

### FRANCE

France has taken all the necessary steps to make its national legislation, including the statute of the national central bank, compatible with Articles 107 and 108 of the Treaty and the Statute of the ESCB.

Regarding the fulfilment of the convergence criteria mentioned in the four indents of Article 109j(1) of the Treaty:

- the average inflation rate in France in the year ending in January 1998 stood at 1,2 %, which is below the reference value,
- France is not the subject of a Council decision on the existence of an excessive government deficit,

- France has been a member of the ERM for the last two years; in that period, the French franc (FRF) has not been subject to severe tensions and France has not devalued, on its own initiative, the FRF bilateral central rate against any other Member State's currency,
- in the year ending in January 1998, the long-term interest rate in France was, on average, 5,5 %, which is below the reference value.

France has achieved a high degree of sustainable convergence by reference to all four criteria.

Consequently, France fulfils the necessary conditions for the adoption of the single currency.

### IRELAND

In Ireland, national legislation, including the statute of the national central bank, is compatible with Articles 107 and 108 of the Treaty and the Statute of the ESCB.

Regarding the fulfilment of the convergence criteria mentioned in the four indents of Article 109j(1) of the Treaty:

- the average inflation rate in Ireland in the year ending in January 1998 stood at 1,2 %, which is below the reference value,
- during the second stage of EMU, Ireland was not the subject of a Council decision on the existence of an excessive government deficit,
- Ireland has been a member of the ERM for the last two years; in that period, the Irish pound (IEP) has not been subject to severe tensions and the IEP bilateral central rate has not been devalued against any other Member State's currency; on 16 March 1998, at a request

of the Irish authorities, the bilateral central rates of the IEP against all other ERM currencies were revalued by 3 %,

- in the year ending in January 1998, the long-term interest rate in Ireland was, on average, 6,2 %, which is below the reference value.

Ireland has achieved a high degree of sustainable convergence by reference to all four criteria.

Consequently, Ireland fulfils the necessary conditions for the adoption of the single currency.

### ITALY

In Italy, national legislation, including the statute of the national central bank, is compatible with Articles 107 and 108 of the Treaty and the Statute of the ESCB.

Regarding the fulfilment of the convergence criteria mentioned in the four indents of Article 109j(1) of the Treaty:

- the average inflation rate in Italy in the year ending in January 1998 stood at 1,8 %, which is below the reference value,
- Italy is not the subject of a Council decision on the existence of an excessive government deficit,
- Italy rejoined the ERM in November 1996; in the period from March 1996 to November 1996, the Italian lira (ITL) appreciated vis-à-vis the ERM currencies; since it re-entered the ERM, the ITL has not been subject to severe tensions and Italy has not devalued, on its own initiative, the ITL bilateral central rate against any other Member State's currency,
- in the year ending in January 1998, the long-term interest rate in Italy was, on

average, 6,7 %, which is below the reference value.

Italy fulfils the convergence criteria mentioned in the first, second and fourth indents of Article 109j(1); as regards the criterion mentioned in the third indent of Article 109j(1), the ITL, although having rejoined the ERM only in November 1996, has displayed sufficient stability in the last two years. For these reasons, Italy has achieved a high degree of sustainable convergence.

Consequently, Italy fulfils the necessary conditions for the adoption of the single currency.

### LUXEMBOURG

Luxembourg has taken all the necessary steps to make its national legislation, including the statute of the national central bank, compatible with Articles 107 and 108 of the Treaty and the Statute of the ESCB.

Regarding the fulfilment of the convergence criteria mentioned in the four indents of Article 109j(1) of the Treaty:

- the average inflation rate in Luxembourg in the year ending in January 1998 stood at 1,4 %, which is below the reference value,
- during the second stage of EMU, Luxembourg was not the subject of a Council decision on the existence of an excessive government deficit,
- Luxembourg has been a member of the ERM for the last two years; in that period, the Luxembourg franc (LUF) has not been subject to severe tensions and Luxembourg has not devalued, on its own initiative, the LUF bilateral central rate against any other Member State's currency,

- in the year ending in January 1998, the long-term interest rate in Luxembourg was, on average, 5,6 %, which is below the reference value.

Luxembourg has achieved a high degree of sustainable convergence by reference to all four criteria.

Consequently, Luxembourg fulfils the necessary conditions for the adoption of the single currency.

### THE NETHERLANDS

In the Netherlands, national legislation, including the statute of the national central bank, is compatible with Articles 107 and 108 of the Treaty and the Statute of the ESCB.

Regarding the fulfilment of the convergence criteria mentioned in the four indents of Article 109j(1) of the Treaty:

- the average inflation rate in the Netherlands in the year ending in January 1998 stood at 1,8 %, which is below the reference value,
- the Netherlands is not the subject of a Council decision on the existence of an excessive government deficit,
- the Netherlands has been a member of the ERM for the last two years; in that period, the Dutch guilder (NLG) has not been subject to severe tensions and the Netherlands has not devalued, on its own initiative, the NLG bilateral central rate against any other Member State's currency,
- in the year ending in January 1998, the long-term interest rate in the Netherlands was, on average, 5,5 %, which is below the reference value.

The Netherlands has achieved a high degree of sustainable convergence by reference to all four criteria.

Consequently, the Netherlands fulfils the necessary conditions for the adoption of the single currency.

### AUSTRIA

In Austria, national legislation, including the statute of the national central bank, is compatible with Articles 107 and 108 of the Treaty and the Statute of the ESCB.

Regarding the fulfilment of the convergence criteria mentioned in the four indents of Article 109j(1) of the Treaty:

- the average inflation rate in Austria in the year ending in January 1998 stood at 1,1 %, which is below the reference value,
- Austria is not the subject of a Council decision on the existence of an excessive government deficit,
- Austria has been a member of the ERM for the last two years; in that period, the Austrian schilling (ATS) has not been subject to severe tensions and Austria has not devalued, on its own initiative, the ATS bilateral central rate against any other Member State's currency,
- in the year ending in January 1998, the long-term interest rate in Austria was, on average, 5,6 %, which is below the reference value.

Austria has achieved a high degree of sustainable convergence by reference to all four criteria.

Consequently, Austria fulfils the necessary conditions for the adoption of the single currency.

## PORTUGAL

In Portugal, national legislation, including the statute of the national central bank, is compatible with Articles 107 and 108 of the Treaty and the Statute of the ESCB.

Regarding the fulfilment of the convergence criteria mentioned in the four indents of Article 109j(1) of the Treaty:

- the average inflation rate in Portugal in the year ending in January 1998 stood at 1,8 %, which is below the reference value,
- Portugal is not the subject of a Council decision on the existence of an excessive government deficit,
- Portugal has been a member of the ERM for the last two years; in that period, the Portuguese escudo (PTE) has not been subject to severe tensions and Portugal has not devalued, on its own initiative, the PTE bilateral central rate against any other Member State's currency,
- in the year ending in January 1998, the long-term interest rate in Portugal was, on average, 6,2 %, which is below the reference value.

Portugal has achieved a high degree of sustainable convergence by reference to all four criteria.

Consequently, Portugal fulfils the necessary conditions for the adoption of the single currency.

## FINLAND

In Finland, national legislation, including the statute of the national central bank, is compatible with Articles 107 and 108 of the Treaty and the Statute of the ESCB.

Regarding the fulfilment of the convergence criteria mentioned in the four indents of Article 109j(1) of the Treaty:

- the average inflation rate in Finland in the year ending in January 1998 stood at 1,3 %, which is below the reference value,
- Finland is not the subject of a Council decision on the existence of an excessive government deficit,
- Finland has been a member of the ERM since October 1996; in the period from March 1996 to October 1996, the Finnish markka (FIM) appreciated vis-à-vis the ERM currencies; since it entered the ERM, the FIM has not been subject to severe tensions and Finland has not devalued, on its own initiative, the FIM bilateral central rate against any other Member State's currency,
- in the year ending in January 1998, the long-term interest rate in Finland was, on average, 5,9 %, which is below the reference value.

Finland fulfils the convergence criteria mentioned in the first, second and fourth indents of Article 109j(1); as regards the convergence criterion mentioned in the third indent of Article 109j(1), the FIM, although having entered the ERM only in October 1996, has displayed sufficient stability in the last two years. For these reasons, Finland has achieved a high degree of sustainable convergence.

Consequently, Finland fulfils the necessary conditions for the adoption of the single currency.

## SWEDEN

In Sweden, national legislation, including the statute of the national central bank, is

not compatible with Articles 107 and 108 of the Treaty and the Statute of the ESCB.

Regarding the fulfilment of the convergence criteria mentioned in the four indents of Article 109j(1) of the Treaty:

- the average inflation rate in Sweden in the year ending in January 1998 stood at 1,9 %, which is below the reference value,
- Sweden is not the subject of a Council decision on the existence of an excessive government deficit,
- the currency of Sweden has never participated in the ERM; in the two years under review, the Swedish crown (SEK) fluctuated against the ERM currencies reflecting among others the absence of an exchange rate target,
- in the year ending in January 1998, the long-term interest rate in Sweden was, on average, 6,5 %, which is below the reference value.

Sweden fulfils the convergence criteria mentioned in the first, second and fourth indents of Article 109j(1) but does not fulfil the convergence criterion mentioned in the third indent thereof.

Consequently, Sweden does not fulfil the necessary conditions for the adoption of the single currency;

- (3) Whereas the Council, meeting in the composition of Heads of State or Government, after having made an overall evaluation for each Member State, taking into account the above reports of the Commission and the European Monetary Institute, the opinion of the European Parliament and the Council's recommendations of 1 May 1998, considers that Belgium, Germany, Spain, France, Ireland, Italy, Luxembourg, the Netherlands, Austria, Portugal

and Finland fulfil the necessary conditions for the adoption of the single currency;

- (4) Whereas Greece and Sweden do not at this stage fulfil the necessary conditions for the adoption of the single currency; whereas Greece and Sweden will consequently have a derogation as defined in Article 109k of the Treaty;
- (5) Whereas, in accordance with paragraph 1 of Protocol 11 of the Treaty, the United Kingdom has notified the Council that it does not intend to move to the third stage of EMU on 1 January 1999; whereas, by virtue of this notification, paragraphs 4 to 9 of Protocol 11 lay down the provisions applicable to the United Kingdom if and so long as the United Kingdom has not moved to the third stage;
- (6) Whereas, in accordance with paragraph 1 of Protocol 12 of the Treaty and the Decision taken by the Heads of State or Government in Edinburgh in December 1992, Denmark has notified the Council that it will not participate in the third stage of EMU; whereas, by virtue of this notification, all Articles and provisions of the Treaty and the Statute of the ESCB referring to a derogation shall be applicable to Denmark;
- (7) Whereas, by virtue of the above notifications it was not necessary for the Council to make an assessment under Article 109j(2) concerning the United Kingdom and Denmark,

HAS ADOPTED THIS DECISION:

### *Article 1*

Belgium, Germany, Spain, France, Ireland, Italy, Luxembourg, the Netherlands, Austria, Portugal and Finland fulfil the necessary conditions for the adoption of the single currency on 1 January 1999.



*Article 2*

This Decision is addressed to the Member States.

*Article 3*

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Brussels, 3 May 1998.

*For the Council*

*The President*

T. BLAIR

**Council Regulation (EC) No 2866/98  
of 31 December 1998  
on the conversion rates between the euro and the currencies of the  
Member States adopting the euro (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 109l(4), first sentence thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Central Bank<sup>(1)</sup>,

(1) Whereas according to Article 109j(4) of the Treaty, the third stage of Economic and Monetary Union shall start on 1 January 1999; whereas the Council, meeting in the composition of Heads of State or Government, has confirmed on 3 May 1998 that Belgium, Germany, Spain, France, Ireland, Italy, Luxembourg, the Netherlands, Austria, Portugal and Finland fulfil the necessary conditions for the adoption of a single currency on 1 January 1999<sup>(2)</sup>;

(2) Whereas according to Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro<sup>(3)</sup>, the euro shall be the currency of the Member States which adopt the single currency as from 1 January 1999; whereas the introduction of the euro requires the adoption of the conversion rates at which the euro will be substituted for the national currencies and at which rates the euro will be divided into national

currency units; whereas the conversion rates in Article 1 are the conversion rates referred to in the third indent of Article 1 of Regulation (EC) No 974/98;

(3) Whereas according to Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro<sup>(4)</sup>, every reference to the ECU in a legal instrument shall be replaced by a reference to the euro at a rate of one euro to one ECU; whereas Article 109l(4), second sentence, of the Treaty, provides that the adoption of the conversion rates shall by itself not modify the external value of the ECU; whereas this is ensured by adopting as the conversion rates, the exchange rates against the ECU of the currencies of the Member States adopting the euro, as calculated by the Commission on 31 December 1998 according to the established procedure for the calculation of the daily official ECU rates;

(4) Whereas the Ministers of the Member States adopting the euro as their single currency, the Governors of the Central Banks of these Member States, the Commission and the European Monetary Institute/the European Central Bank, have issued two Communiqués on the determination and on the adoption of the irrevocable conversion rates for the euro dated 3 May 1998<sup>(5)</sup> and 26 September 1998, respectively;

(\*) OJ L 359, 31.12.1998, pp. 1 and 2.

(1) OJ C 412, 31.12.1998, p. 1.

(2) Council Decision 98/317/EC of 3 May 1998 in accordance with Article 109j(4) of the Treaty (OJ L 139, 11.5.1998, p. 30).

(3) OJ L 139, 11.5.1998, p. 1.

(4) OJ L 162, 19.6.1997, p. 1.

(5) OJ C 160, 27.5.1998, p. 1.

(5) Whereas Regulation (EC) No 1103/97 stipulates that the conversion rates shall be adopted as one euro expressed in terms of each of the national currencies of the Member States adopting the euro; whereas in order to ensure a high degree of accuracy, these rates will be adopted with six significant figures and no inverse rates nor bilateral rates between the currencies of the Member States adopting the euro will be defined,

HAS ADOPTED THIS REGULATION:

### *Article 1*

The irrevocably fixed conversion rates between the euro and the currencies of the Member States adopting the euro are:

1 euro =	40,3399	Belgian francs
=	1,95583	German marks
=	166,386	Spanish pesetas
=	6,55957	French francs
=	0,787564	Irish pounds
=	1936,27	Italian lire
=	40,3399	Luxembourg francs
=	2,20371	Dutch guilders
=	13,7603	Austrian schillings
=	200,482	Portuguese escudos
=	5,94573	Finnish marks.

### *Article 2*

This Regulation shall enter into force on 1 January 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 31 December 1998.

*For the Council*

*The President*

R. EDLINGER

*Part D*

# **Legal framework for the euro**

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**Council Regulation (EC) No 1103/97  
of 17 June 1997  
on certain provisions relating to the introduction of the euro (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 235 thereof,

Having regard to the proposal of the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the European Monetary Institute <sup>(3)</sup>,

(1) Whereas, at its meeting held in Madrid on 15 and 16 December 1995, the European Council confirmed that the third stage of Economic and Monetary Union will start on 1 January 1999 as laid down in Article 109j (4) of the Treaty; whereas the Member States which will adopt the euro as the single currency in accordance with the Treaty will be defined for the purposes of this Regulation as the 'participating Member States';

(2) Whereas, at the meeting of the European Council in Madrid, the decision was taken that the term 'ECU' used by the Treaty to refer to the European currency unit is a generic term; whereas the Governments of the fifteen Member States have achieved the common agreement that this decision is the agreed and definitive interpretation of the relevant Treaty provisions; whereas

the name given to the European currency shall be the 'euro'; whereas the euro as the currency of the participating Member States will be divided into one hundred sub-units with the name 'cent'; whereas the European Council furthermore considered that the name of the single currency must be the same in all the official languages of the European Union, taking into account the existence of different alphabets;

(3) Whereas a Regulation on the introduction of the euro will be adopted by the Council on the basis of the third sentence of Article 109l (4) of the Treaty as soon as the participating Member States are known in order to define the legal framework of the euro; whereas the Council, when acting at the starting date of the third stage in accordance with the first sentence of Article 109l (4) of the Treaty, shall adopt the irrevocably fixed conversion rates;

(4) Whereas it is necessary, in the course of the operation of the common market and for the changeover to the single currency, to provide legal certainty for citizens and firms in all Member States on certain provisions relating to the introduction of the euro well before the entry into the third stage; whereas this legal certainty at an early stage will allow preparations by citizens and firms to proceed under good conditions;

(5) Whereas the third sentence of Article 109l (4) of the Treaty, which allows the Council, acting with the unanimity of participating Member States, to take other

(\*) OJ L 162, 19.6.1997, pp. 1-3.

(1) OJ C 369, 7.12.1996, p. 8.

(2) OJ C 380, 16.12.1996, p. 49.

(3) Opinion delivered on 29 November 1996.

measures necessary for the rapid introduction of the single currency is available as a legal basis only when it has been confirmed, in accordance with Article 109j (4) of the Treaty, which Member States fulfil the necessary conditions for the adoption of a single currency; whereas it is therefore necessary to have recourse to Article 235 of the Treaty as a legal basis for those provisions where there is an urgent need for legal certainty; whereas therefore this Regulation and the aforesaid Regulation on the introduction of the euro will together provide the legal framework for the euro, the principles of which legal framework were agreed by the European Council in Madrid; whereas the introduction of the euro concerns day-to-day operations of the whole population in participating Member States; whereas measures other than those in this Regulation and in the Regulation which will be adopted under the third sentence of Article 109l (4) of the Treaty should be examined to ensure a balanced changeover, in particular for consumers;

- (6) Whereas the ECU as referred to in Article 109g of the Treaty and as defined in Council Regulation (EC) No 3320/94 of 22 December 1994 on the consolidation of the existing Community legislation on the definition of the ECU following the entry into force of the Treaty on European Union<sup>(1)</sup> will cease to be defined as a basket of component currencies on 1 January 1999 and the euro will become a currency in its own right; whereas the decision of the Council regarding the adoption of the conversion rates shall not in itself modify the external value of the ECU; whereas this means that one ECU in its composition as a basket of component currencies will become one euro; whereas Regulation (EC) No 3320/

94 therefore becomes obsolete and should be repealed; whereas for references in legal instruments to the ECU, parties shall be presumed to have agreed to refer to the ECU as referred to in Article 109g of the Treaty and as defined in the aforesaid Regulation; whereas such presumption should be rebuttable taking into account the intentions of the parties;

- (7) Whereas it is a generally accepted principle of law that the continuity of contracts and other legal instruments is not affected by the introduction of a new currency; whereas the principle of freedom of contract has to be respected; whereas the principle of continuity should be compatible with anything which parties might have agreed with reference to the introduction of the euro; whereas, in order to reinforce legal certainty and clarity, it is appropriate explicitly to confirm that the principle of continuity of contracts and other legal instruments shall apply between the former national currencies and the euro and between the ECU as referred to in Article 109g of the Treaty and as defined in Regulation (EC) No 3320/94 and the euro; whereas this implies, in particular, that in the case of fixed interest rate instruments the introduction of the euro does not alter the nominal interest rate payable by the debtor; whereas the provisions on continuity can fulfil their objective to provide legal certainty and transparency to economic agents, in particular for consumers, only if they enter into force as soon as possible;
- (8) Whereas the introduction of the euro constitutes a change in the monetary law of each participating Member State; whereas the recognition of the monetary law of a State is a universally accepted principle; whereas the explicit confirmation of the principle of continuity should lead to the recognition of continuity of

<sup>(1)</sup> OJ L 350, 31.12.1994, p. 27.

contracts and other legal instruments in the jurisdictions of third countries;

- (9) Whereas the term ‘contract’ used for the definition of legal instruments is meant to include all types of contracts, irrespective of the way in which they are concluded;
- (10) Whereas the Council, when acting in accordance with the first sentence of Article 109l (4) of the Treaty, shall define the conversion rates of the euro in terms of each of the national currencies of the participating Member States; whereas these conversion rates should be used for any conversion between the euro and the national currency units or between the national currency units; whereas for any conversion between national currency units, a fixed algorithm should define the result; whereas the use of inverse rates for conversion would imply rounding of rates and could result in significant inaccuracies, notably if large amounts are involved;
- (11) Whereas the introduction of the euro requires the rounding of monetary amounts; whereas an early indication of rules for rounding is necessary in the course of the operation of the common market and to allow a timely preparation and a smooth transition to Economic and Monetary Union; whereas these rules do not affect any rounding practice, convention or national provisions providing a higher degree of accuracy for intermediate computations;
- (12) Whereas, in order to achieve a high degree of accuracy in conversion operations, the conversion rates should be defined with six significant figures; whereas a rate with six significant figures means a rate which, counted from the left and starting by the first non-zero figure, has six figures,

HAS ADOPTED THIS REGULATION:

### *Article 1*

For the purpose of this Regulation:

- ‘legal instruments’ shall mean legislative and statutory provisions, acts of administration, judicial decisions, contracts, unilateral legal acts, payment instruments other than banknotes and coins, and other instruments with legal effect,
- ‘participating Member States’ shall mean those Member States which adopt the single currency in accordance with the Treaty,
- ‘conversion rates’ shall mean the irrevocably fixed conversion rates which the Council adopts in accordance with the first sentence of Article 109l (4) of the Treaty,
- ‘national currency units’ shall mean the units of the currencies of participating Member States, as those units are defined on the day before the start of the third stage of Economic and Monetary Union,
- ‘euro unit’ shall mean the unit of the single currency as defined in the Regulation on the introduction of the euro which will enter into force at the starting date of the third stage of Economic and Monetary Union.

### *Article 2*

1. Every reference in a legal instrument to the ECU, as referred to in Article 109g of the Treaty and as defined in Regulation (EC) No 3320/94, shall be replaced by a reference to the euro at a rate of one euro to one ECU. References in a legal instrument to the ECU without such a definition shall be presumed, such presumption being rebuttable taking into account the intentions of the parties, to be references to the ECU as referred to in Article 109g of the Treaty and as defined in Regulation (EC) No 3320/94.



2. Regulation (EC) No 3320/94 is hereby repealed.

3. This Article shall apply as from 1 January 1999 in accordance with the decision pursuant to Article 109j (4) of the Treaty.

### *Article 3*

The introduction of the euro shall not have the effect of altering any term of a legal instrument or of discharging or excusing performance under any legal instrument, nor give a party the right unilaterally to alter or terminate such an instrument. This provision is subject to anything which parties may have agreed.

### *Article 4*

1. The conversion rates shall be adopted as one euro expressed in terms of each of the national currencies of the participating Member States. They shall be adopted with six significant figures.

2. The conversion rates shall not be rounded or truncated when making conversions.

3. The conversion rates shall be used for conversions either way between the euro unit and the national currency units. Inverse rates derived from the conversion rates shall not be used.

4. Monetary amounts to be converted from one national currency unit into another shall first be converted into a monetary amount expressed in the euro unit, which amount may be rounded to not less than three decimals and shall then be converted into the other national currency unit. No alternative method of

calculation may be used unless it produces the same results.

### *Article 5*

Monetary amounts to be paid or accounted for when a rounding takes place after a conversion into the euro unit pursuant to Article 4 shall be rounded up or down to the nearest cent. Monetary amounts to be paid or accounted for which are converted into a national currency unit shall be rounded up or down to the nearest sub-unit or in the absence of a sub-unit to the nearest unit, or according to national law or practice to a multiple or fraction of the sub-unit or unit of the national currency unit. If the application of the conversion rate gives a result which is exactly half-way, the sum shall be rounded up.

### *Article 6*

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 17 June 1997.

*For the Council*

*The President*

A. JORRITSMA-LEBBINK

**Council Regulation (EC) No 974/98  
of 3 May 1998  
on the introduction of the euro (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 109l(4), third sentence thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Monetary Institute <sup>(2)</sup>,

Having regard to the opinion of the European Parliament <sup>(3)</sup>,

(1) Whereas this Regulation defines monetary law provisions of the Member States which have adopted the euro; whereas provisions on continuity of contracts, the replacement of references to the ecu in legal instruments by references to the euro and rounding have already been laid down in Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro <sup>(4)</sup>; whereas the introduction of the euro concerns day-to-day operations of the whole population in participating Member States; whereas measures other than those in this Regulation and in Regulation (EC) No 1103/97 should be examined to ensure a balanced changeover, in particular for consumers;

(\*) OJ L 139, 11.5.1998, pp. 1-5.

(1) OJ C 369, 7.12.1996, p. 10.

(2) OJ C 205, 5.7.1997, p. 18.

(3) OJ C 380, 16.12.1996, p. 50.

(4) OJ L 162, 19.6.1997, p. 1.

(2) Whereas, at the meeting of the European Council in Madrid on 15 and 16 December 1995, the decision was taken that the term 'ecu' used by the Treaty to refer to the European currency unit is a generic term; whereas the Governments of the 15 Member States have reached the common agreement that this decision is the agreed and definitive interpretation of the relevant Treaty provisions; whereas the name given to the European currency shall be the 'euro'; whereas the euro as the currency of the participating Member States shall be divided into one hundred sub-units with the name 'cent'; whereas the definition of the name 'cent' does not prevent the use of variants of this term in common usage in the Member States; whereas the European Council furthermore considered that the name of the single currency must be the same in all the official languages of the European Union, taking into account the existence of different alphabets;

(3) Whereas the Council when acting in accordance with the third sentence of Article 109l(4) of the Treaty shall take the measures necessary for the rapid introduction of the euro other than the adoption of the conversion rates;

(4) Whereas whenever under Article 109k(2) of the Treaty a Member State becomes a participating Member State, the Council shall according to Article 109l(5) of the Treaty take the other measures necessary for the rapid introduction of the euro as the single currency of this Member State;

- (5) Whereas according to the first sentence of Article 109l(4) of the Treaty the Council shall at the starting date of the third stage adopt the conversion rates at which the currencies of the participating Member States shall be irrevocably fixed and at which irrevocably fixed rate the euro shall be substituted for these currencies;
- (6) Whereas given the absence of exchange rate risk either between the euro unit and the national currency units or between these national currency units, legislative provisions should be interpreted accordingly;
- (7) Whereas the term 'contract' used for the definition of legal instruments is meant to include all types of contracts, irrespective of the way in which they are concluded;
- (8) Whereas in order to prepare a smooth changeover to the euro a transitional period is needed between the substitution of the euro for the currencies of the participating Member States and the introduction of euro banknotes and coins; whereas during this period the national currency units will be defined as subdivisions of the euro; whereas thereby a legal equivalence is established between the euro unit and the national currency units;
- (9) Whereas in accordance with Article 109g of the Treaty and with Regulation (EC) No 1103/97, the euro will replace the ECU as from 1 January 1999 as the unit of account of the institutions of the European Communities; whereas the euro should also be the unit of account of the European Central Bank (ECB) and of the central banks of the participating Member States; whereas, in line with the Madrid conclusions, monetary policy operations will be carried out in the euro unit by the European System of Central Banks (ESCB); whereas this does not prevent national central banks from keeping accounts in their national currency unit during the transitional period, in particular for their staff and for public administrations;
- (10) Whereas each participating Member State may allow the full use of the euro unit in its territory during the transitional period;
- (11) Whereas during the transitional period contracts, national laws and other legal instruments can be drawn up validly in the euro unit or in the national currency unit; whereas during this period, nothing in this Regulation should affect the validity of any reference to a national currency unit in any legal instrument;
- (12) Whereas, unless agreed otherwise, economic agents have to respect the denomination of a legal instrument in the performance of all acts to be carried out under that instrument;
- (13) Whereas the euro unit and the national currency units are units of the same currency; whereas it should be ensured that payments inside a participating Member State by crediting an account can be made either in the euro unit or the respective national currency unit; whereas the provisions on payments by crediting an account should also apply to those cross-border payments, which are denominated in the euro unit or the national currency unit of the account of the creditor; whereas it is necessary to ensure the smooth functioning of payment systems by laying down provisions dealing with the crediting of accounts by payment instruments credited through those systems; whereas the provisions on payments by crediting an account should not imply that financial intermediaries are obliged to make available either other payment facilities or products denominated in any particular unit of the euro; whereas the

provisions on payments by crediting an account do not prohibit financial intermediaries from coordinating the introduction of payment facilities denominated in the euro unit which rely on a common technical infrastructure during the transitional period;

- (14) Whereas in accordance with the conclusions reached by the European Council at its meeting held in Madrid, new tradeable public debt will be issued in the euro unit by the participating Member States as from 1 January 1999; whereas it is desirable to allow issuers of debt to redenominate outstanding debt in the euro unit; whereas the provisions on redenomination should be such that they can also be applied in the jurisdictions of third countries; whereas issuers should be enabled to redenominate outstanding debt if the debt is denominated in a national currency unit of a Member State which has redenominated part or all of the outstanding debt of its general government; whereas these provisions do not address the introduction of additional measures to amend the terms of outstanding debt to alter, among other things, the nominal amount of outstanding debt, these being matters subject to relevant national law; whereas it is desirable to allow Member States to take appropriate measures for changing the unit of account of the operating procedures of organised markets;
  - (15) Whereas further action at the Community level may also be necessary to clarify the effect of the introduction of the euro on the application of existing provisions of Community law, in particular concerning netting, set-off and techniques of similar effect;
  - (16) Whereas any obligation to use the euro unit can only be imposed on the basis of Community legislation; whereas in trans-
- actions with the public sector participating Member States may allow the use of the euro unit; whereas in accordance with the reference scenario decided by the European Council at its meeting held in Madrid, the Community legislation laying down the time frame for the generalisation of the use of the euro unit might leave some freedom to individual Member States;
- (17) Whereas in accordance with Article 105a of the Treaty the Council may adopt measures to harmonise the denominations and technical specifications of all coins;
  - (18) Whereas banknotes and coins need adequate protection against counterfeiting;
  - (19) Whereas banknotes and coins denominated in the national currency units lose their status of legal tender at the latest six months after the end of the transitional period; whereas limitations on payments in notes and coins, established by Member States for public reasons, are not incompatible with the status of legal tender of euro banknotes and coins, provided that other lawful means for the settlement of monetary debts are available;
  - (20) Whereas as from the end of the transitional period references in legal instruments existing at the end of the transitional period will have to be read as references to the euro unit according to the respective conversion rates; whereas a physical redenomination of existing legal instruments is therefore not necessary to achieve this result; whereas the rounding rules defined in Regulation (EC) No 1103/97 shall also apply to the conversions to be made at the end of the transitional period or after the transitional period; whereas for reasons of clarity it may be desirable that the physical redenomination will take place as soon as appropriate;

- (21) Whereas paragraph 2 of Protocol 11 on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland stipulates that, *inter alia*, paragraph 5 of that Protocol shall have effect if the United Kingdom notifies the Council that it does not intend to move to the third stage; whereas the United Kingdom gave notice to the Council on 30 October 1997 that it does not intend to move to the third stage; whereas paragraph 5 stipulates that, *inter alia*, Article 109l(4) of the Treaty shall not apply to the United Kingdom;
- (22) Whereas Denmark, referring to paragraph 1 of Protocol 12 on certain provisions relating to Denmark has notified, in the context of the Edinburgh decision of 12 December 1992, that it will not participate in the third stage; whereas, therefore, in accordance with paragraph 2 of the said Protocol, all Articles and provisions of the Treaty and the Statute of the ESCB referring to a derogation shall be applicable to Denmark;
- (23) Whereas, in accordance with Article 109l(4) of the Treaty, the single currency will be introduced only in the Member States without a derogation;
- (24) Whereas this Regulation, therefore, shall be applicable pursuant to Article 189 of the Treaty, subject to Protocols 11 and 12 and Article 109k(1),

HAS ADOPTED THIS REGULATION:

## PART I

### DEFINITIONS

#### *Article 1*

For the purpose of this Regulation:

- ‘participating Member States’ shall mean Belgium, Germany, Spain, France, Ireland, Italy, Luxembourg, Netherlands, Austria, Portugal and Finland,
- ‘legal instruments’ shall mean legislative and statutory provisions, acts of administration, judicial decisions, contracts, unilateral legal acts, payment instruments other than bank-notes and coins, and other instruments with legal effect,
- ‘conversion rate’ shall mean the irrevocably fixed conversion rate adopted for the currency of each participating Member State by the Council according to the first sentence of Article 109l(4) of the Treaty,
- ‘euro unit’ shall mean the currency unit as referred to in the second sentence of Article 2,
- ‘national currency units’ shall mean the units of the currencies of participating Member States, as those units are defined on the day before the start of the third stage of economic and monetary union,
- ‘transitional period’ shall mean the period beginning on 1 January 1999 and ending on 31 December 2001,
- ‘redenominate’ shall mean changing the unit in which the amount of outstanding debt is stated from a national currency unit to the euro unit, as defined in Article 2, but which does not have through the act of redenomination the effect of altering any other term of the debt, this being a matter subject to relevant national law.

## PART II

**SUBSTITUTION OF THE EURO FOR THE CURRENCIES OF THE PARTICIPATING MEMBER STATES***Article 2*

As from 1 January 1999 the currency of the participating Member States shall be the euro. The currency unit shall be one euro. One euro shall be divided into one hundred cent.

*Article 3*

The euro shall be substituted for the currency of each participating Member State at the conversion rate.

*Article 4*

The euro shall be the unit of account of the European Central Bank (ECB) and of the central banks of the participating Member States.

## PART III

**TRANSITIONAL PROVISIONS***Article 5*

Articles 6, 7, 8 and 9 shall apply during the transitional period.

*Article 6*

1. The euro shall also be divided into the national currency units according to the conversion rates. Any subdivision thereof shall be maintained. Subject to the provisions of this Regulation the monetary law of the participating Member States shall continue to apply.

2. Where in a legal instrument reference is made to a national currency unit, this reference shall be as valid as if reference were made to the euro unit according to the conversion rates.

*Article 7*

The substitution of the euro for the currency of each participating Member State shall not in itself have the effect of altering the denomination of legal instruments in existence on the date of substitution.

*Article 8*

1. Acts to be performed under legal instruments stipulating the use of or denominated in a national currency unit shall be performed in that national currency unit. Acts to be performed under legal instruments stipulating the use of or denominated in the euro unit shall be performed in that unit.

2. The provisions of paragraph 1 are subject to anything which parties may have agreed.

3. Notwithstanding the provisions of paragraph 1, any amount denominated either in the euro unit or in the national currency unit of a given participating Member State and payable within that Member State by crediting an account of the creditor, can be paid by the debtor either in the euro unit or in that national currency unit. The amount shall be credited to the account of the creditor in the denomination of his account, with any conversion being effected at the conversion rates.

4. Notwithstanding the provisions of paragraph 1, each participating Member State may take measures which may be necessary in order to:

— redenominate in the euro unit outstanding debt issued by that Member State's general government, as defined in the European system of integrated accounts, denominated in its national currency unit and issued under its own law. If a Member State has taken such a measure, issuers may redenominate in the euro unit debt denominated in that Member State's national currency unit unless redenomination is expressly excluded by the terms of the contract; this

provision shall apply to debt issued by the general government of a Member State as well as to bonds and other forms of securitised debt negotiable in the capital markets, and to money market instruments, issued by other debtors,

— enable the change of the unit of account of their operating procedures from a national currency unit to the euro unit by:

- (a) markets for the regular exchange, clearing and settlement of any instrument listed in section B of the Annex to Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field<sup>(1)</sup> and of commodities; and
- (b) systems for the regular exchange, clearing and settlement of payments.

5. Provisions other than those of paragraph 4 imposing the use of the euro unit may only be adopted by the participating Member States in accordance with any time-frame laid down by Community legislation.

6. National legal provisions of participating Member States which permit or impose netting, set-off or techniques with similar effects shall apply to monetary obligations, irrespective of their currency denomination, if that denomination is in the euro unit or in a national currency unit, with any conversion being effected at the conversion rates.

### *Article 9*

Banknotes and coins denominated in a national currency unit shall retain their status as legal tender within their territorial limits as of the day before the entry into force of this Regulation.

<sup>(1)</sup> OJ L 141, 11.6.1993, p. 27. Directive as amended by Directive 95/26/EC of the European Parliament and of the Council (OJ L 168, 18.7.1995, p. 7).

## PART IV

### **EURO BANKNOTES AND COINS**

#### *Article 10*

As from 1 January 2002, the ECB and the central banks of the participating Member States shall put into circulation banknotes denominated in euro. Without prejudice to Article 15, these banknotes denominated in euro shall be the only banknotes which have the status of legal tender in all these Member States.

#### *Article 11*

As from 1 January 2002, the participating Member States shall issue coins denominated in euro or in cent and complying with the denominations and technical specifications which the Council may lay down in accordance with the second sentence of Article 105a(2) of the Treaty. Without prejudice to Article 15, these coins shall be the only coins which have the status of legal tender in all these Member States. Except for the issuing authority and for those persons specifically designated by the national legislation of the issuing Member State, no party shall be obliged to accept more than 50 coins in any single payment.

#### *Article 12*

Participating Member States shall ensure adequate sanctions against counterfeiting and falsification of euro banknotes and coins.

## PART V

### **FINAL PROVISIONS**

#### *Article 13*

Articles 14, 15 and 16 shall apply as from the end of the transitional period.

*Article 14*

Where in legal instruments existing at the end of the transitional period reference is made to the national currency units, these references shall be read as references to the euro unit according to the respective conversion rates. The rounding rules laid down in Regulation (EC) No 1103/97 shall apply.

*Article 15*

1. Banknotes and coins denominated in a national currency unit as referred to in Article 6(1) shall remain legal tender within their territorial limits until six months after the end of the transitional period at the latest; this period may be shortened by national law.

2. Each participating Member State may, for a period of up to six months after the end of the transitional period, lay down rules for the use of the banknotes and coins denominated in its national currency unit as referred to in Article 6(1) and take any measures necessary to facilitate their withdrawal.

*Article 16*

In accordance with the laws or practices of participating Member States, the respective issuers of banknotes and coins shall continue to accept, against euro at the conversion rate, the banknotes and coins previously issued by them.

## PART VI

**ENTRY INTO FORCE***Article 17*

This Regulation shall enter into force on 1 January 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States, in accordance with the Treaty, subject to Protocols 11 and 12 and Article 109k(1).

Done at Brussels, 3 May 1998.

*For the Council*

*The President*

G. BROWN



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*Part E*

# **Economic policy coordination**

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**Resolution of the European Council  
of 13 December 1997  
on economic policy coordination in stage 3 of EMU and on Treaty  
Articles 109 and 109b of the EC Treaty (\*)**

THE EUROPEAN COUNCIL, meeting in Luxembourg on 13 December 1997,

Having regard to the Treaty establishing the European Community,

Recalling the conclusions of the Amsterdam European Council, notably on improving economic coordination and on effective ways on implementing Articles 109 and 109b of the Treaty,

Recalling the Amsterdam European Council Resolution on the Stability and Growth Pact,

Recalling the Amsterdam European Council Resolution on Growth and Employment, and

Taking note of the report of the Council of 1 December 1997,

HAS RESOLVED AS FOLLOWS:

**I. COORDINATION OF ECONOMIC POLICIES IN STAGE 3 OF ECONOMIC AND MONETARY UNION (EMU)**

1. EMU will link the economies of the euro-area Member States more closely together. They will share a single monetary policy and a single exchange rate. Cyclical developments are likely to converge further. Economic policies, and wage determination, however, remain a national responsibility, subject to the provisions of Article 104c of the Treaty and the Stability and Growth Pact. To the extent that national economic developments have an

impact on inflation prospects in the euro-area, they will influence monetary conditions in that area. It is for this basic reason that the move to a single currency will require closer Community surveillance and coordination of economic policies among euro-area Member States.

2. Economic and monetary interdependence with non-participating Member States will also be strong; they all participate in the single market. The need to ensure further convergence and a smooth functioning of the single market therefore requires all Member States to be included in the coordination of economic policies. Moreover, interdependence will be especially strong if non euro-area Member States participate in the new exchange rate mechanism, as countries with a derogation are expected to.
3. Enhanced economic policy coordination should give full attention to national economic developments and policies which have the potential to influence monetary and financial conditions throughout the euro area or the smooth functioning of the internal market. This includes:
  - close monitoring of macroeconomic developments in Member States to ensure sustained convergence, and of exchange-rate developments of the euro,
  - surveillance of budgetary positions and policies in accordance with the Treaty and the Stability and Growth Pact,

(\*) OJ C 35, 2.2.1998, pp. 1-4.

- monitoring of Member States' structural policies in labour, product and services markets, as well as of cost and price trends, particularly insofar as they affect the chances of achieving sustained non-inflationary growth and job creation, and
- the fostering of tax reform to raise efficiency and the discouragement of harmful tax competition.

Enhanced economic policy coordination must adhere to the Treaty principle of subsidiarity, respect the prerogatives of national governments in determining their structural and budgetary policies subject to the provisions of the Treaty and the Stability and Growth Pact, respect the independence of the European System of Central Banks (ESCB) in pursuing its primary objective of price stability and the role of the Ecofin Council as the central decision-making body for economic coordination, and respect national traditions and the competences and responsibilities of the social partners in the wage formation process.

4. To ensure the smooth functioning of EMU, the Council, the Commission and the Member States are called upon to apply the Treaty instruments for economic policy coordination fully and effectively.

To this end, the broad economic policy guidelines adopted in accordance with Article 103(2) of the Treaty should be developed into an effective instrument for ensuring sustained convergence of Member States. They should provide more concrete and country-specific guidelines and focus more on measures to improve Member States' growth potential, thus increasing employment. Therefore, more attention should henceforth be paid in them to

improving competitiveness, labour-, product- and services-market efficiency, education and training, and to making taxation and social protection systems more employment-friendly.

Enhanced coordination should be aimed at securing consistency of national economic policies and their implementation with the broad economic policy guidelines and the proper functioning of EMU. Economic policies and development in each Member State and in the Community should be monitored in the framework of multilateral surveillance according to Article 103(3) of the Treaty. Particular attention should be paid to giving early warning, not only of threatening budgetary situations in accordance with the Stability and Growth Pact, but also of other developments which, if allowed to persist, might threaten stability, competitiveness and future job creation. To this end, the Council is expected to be more ready to make the necessary recommendations in accordance with Article 103(4) of the Treaty to a Member State whenever its economic policies are not consistent with the broad economic policy guidelines. For its part, the Member State concerned should commit itself to take timely and efficient measures which it deems necessary to respond to the Council's recommendations. Moreover, the Member States should commit themselves to a comprehensive and speedy exchange of information on economic developments and policy intentions with a cross-border impact.

5. Monitoring of the economic situation and policy discussions should become a regular item on the agenda of informal Ecofin sessions. In order to stimulate an open and frank debate, the Ecofin Council should from time to time meet in restricted sessions (minister plus one), particularly when conducting multilateral surveillance.

6. Under the terms of the Treaty, the Ecofin Council <sup>(1)</sup> is the centre for the coordination of the Member States' economic policies and is empowered to act in the relevant areas. In particular, the Ecofin Council is the only body empowered to formulate and adopt the broad economic policy guidelines which constitute the main instrument of economic coordination.

The defining position of the Ecofin Council at the centre of the economic coordination and decision-making process affirms the unity and cohesion of the Community.

The Ministers of the States participating in the euro-area may meet informally among themselves to discuss issues connected with their shared specific responsibilities for the single currency. The Commission, and the European Central Bank (ECB) when appropriate, will be invited to take part in the meetings.

Whenever matters of common interest are concerned they will be discussed by Ministers of all Member States.

Decisions will in all cases be taken by the Ecofin Council in accordance with the procedures determined by the Treaty.

*[Part II of the resolution is reproduced as Part H 1 of this compilation.]*

### III. DIALOGUE BETWEEN THE COUNCIL AND THE ECB

11. In the light of the allocation of responsibilities laid down in the Treaty, the harmonious economic development of the Community in Stage 3 of EMU will call for continuous and fruitful dialogue between the Council and the ECB, involving the Commission and respecting all aspects of the independence of the ESCB.
12. The Council should therefore play its full part in exploiting the channels of communication provided by the Treaty. The President of the Council, using his position under Article 109b of the Treaty, should report to the Governing Council of the ECB on the Council's assessment of the economic situation of the Union and on economic policies of the Member States and could discuss with the ECB the views of the Council on exchange-rate developments and prospects. The Treaty provides in turn for the ECB President to attend Council meetings whenever the Council is discussing matters relating to the objectives and tasks of the ESCB, for instance when the broad economic policy guidelines are being developed. Importance also attaches to the annual reports which the ECB will make to the European Parliament, the Council and the Commission, as well as to the European Council.

The Economic and Financial Committee, which will bring together senior officials from the national central banks and the ECB as well as from finance ministries, will provide the framework within which the dialogue can be prepared and continued at the level of senior officials.

<sup>(1)</sup> Declaration No 3 to the Treaty to European Union affirms that for the purpose of applying the provisions set out in Title VI on economic and monetary policy of the Treaty establishing the European Community, the usual practice, according to which the Council meets in the composition of Economic and Finance Ministers, shall be continued, without prejudice in Article 109(2) to (4) and Article 109k(2) of the Treaty.

## **Declaration of 1 May 1998 by the Ecofin Council and the ministers meeting in that Council accompanying the Council's recommendation on Member States participating in EMU**

1. On 1 January 1999, the euro will be a reality, marking the end of a process culminating in the fulfilment of the economic conditions necessary for its successful launch. The Council (Ecofin) and the ministers meeting in that Council welcome the significant progress that has been made in all Member States in achieving price stability and sounder public finances. The convergence process has contributed to a high degree of exchange rate stability and historically low interest rates, and thus to the improved economic conditions in our economies.

2. The move to the single currency enhances further the conditions for strong, sustained and non-inflationary growth conducive to more jobs and rising living standards. It eliminates the exchange rate risk among participating Member States, reduces transaction costs, creates a broader and more efficient financial market, and increases price transparency and competition. It thus provides the decisive step for a truly single market.

3. We, the ministers, are strongly committed to the actions necessary to realise the full benefits of economic and monetary union and the single market in the interest of all our citizens. These actions include closer coordination of economic policies. We are confident that the full implementation of the conclusions of the Dublin, Amsterdam and Luxembourg European Councils provides a sound basis for a permanently high degree of financial stability and the smooth functioning of EMU.

4. For the coming years, strong, sustained and non-inflationary growth will continue to be based in all Member States on economic

convergence. Moreover, sound and sustainable public finances are prior conditions for growth and higher employment. The Stability and Growth Pact provides the means for securing this objective and for increasing the scope in national budgets to deal with future challenges.

5. In accordance with that pact, we will start to implement the regulation on 'the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies' <sup>(1)</sup> on 1 July 1998 in the following way:

— We are committed to ensure that the national budget objectives set for 1998 are fully met, if necessary by taking timely corrective action.

— The Council agrees to have an early consideration of Member States' budgetary intentions for 1999 in light of the framework and objectives of the Stability and Growth Pact.

— On these first two points, the ministers of the States participating in the euro area have decided to meet informally, in the course of the coming months, to start their monitoring work in accordance with the Luxembourg European Council resolution.

— If economic conditions develop better than expected, Member States will use the opportunity to reinforce budgetary consolidation so as to reach the medium-term objective of government financial positions close to balance or in surplus, as embodied

<sup>(1)</sup> Council Regulation (EC) No 1466/97 of 7 July 1997, OJ L 209.

in the commitments of the Stability and Growth Pact.

- The higher the debt-to-GDP ratios of participating Member States, the greater must be their efforts to reduce them rapidly. To that end, in addition to maintaining appropriate levels of primary surpluses in compliance with the commitments and the objectives of the Stability and Growth Pact, other measures to reduce gross debt should be put in place. Furthermore, debt management strategies should reduce budgets' vulnerability.
- Each of the ministers undertakes to submit, at the latest by the end of 1998, national stability or convergence programmes which will reflect these important elements.

6. The Council reiterates that the responsibility for budgetary consolidation lies and remains with the Member States and that, in accordance with the provisions of Article 104b (1) TEC, the Community in particular shall not be liable for or assume the commitments of Member States. Without prejudice to the objectives and provisions of the Treaty, it is agreed that economic and monetary union as such cannot be invoked to justify specific financial transfers.

7. Our work on budgetary consolidation will be complemented by increased efforts for improving the efficiency of our economies so as to enhance the favourable environment for growth, high employment and social cohesion. In this context, we look forward to our meeting shortly with the social partners on economic and monetary union. Together with the social partners and all other concerned parties, we will take all necessary initiatives to create the conditions for combating unemployment, particularly for young people, the long-term unemployed and the low skilled. In following up the conclusions of the Luxembourg meeting of the European Council, we commit ourselves

to play our part in implementing rapidly the national employment action plans drawn up in the light of the employment policy guidelines. The Council (Ecofin) will consider these plans in contributing to the preparation of the Cardiff European Council and subsequent European Councils.

8. We will attach particular importance to increasing the degree to which growth can be translated into additional employment. We will thus put emphasis, *inter alia*, on the following structural reforms:

- making product, labour and capital markets more efficient,
- improving the adaptability of labour markets in order to better reflect wage and productivity developments,
- ensuring that national education and training systems are effective and relevant to employment,
- seeking to encourage entrepreneurship, notably by attacking the administrative obstacles which it faces,
- enabling easier access to capital markets and to venture capital funds, particularly for small and medium-sized enterprises,
- increasing tax efficiency and avoiding harmful tax competition,
- addressing all aspects of social security systems in view of ageing populations.

9. The Council intends to establish a light procedure, fully respecting the subsidiarity principle, for monitoring progress on economic reform. From next year, the preparation of the broad economic policy guidelines will draw on short assessments of progress and plans by Member States and the Commission on product and capital markets, as well as on the employment action plans.



**Council decision  
of 21 December 1998  
on the detailed provisions concerning the composition of the  
Economic and Financial Committee (98/743/EC) (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 109c(3) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Central Bank <sup>(2)</sup>,

Having regard to the opinion of the Monetary Committee <sup>(3)</sup>,

- (1) Whereas the Treaty provides that an Economic and Financial Committee should be set up at the start of the third stage of economic and monetary union;
- (2) Whereas the Treaty requires the Council to adopt detailed provisions concerning the composition of the Economic and Financial Committee; whereas the Member States, the Commission and the European Central Bank are each to appoint no more than two members of the Committee;
- (3) Whereas the tasks of the Economic and Financial Committee are set out in Article 109c(2) of the Treaty; whereas as part of those tasks the Economic and Financial Committee is to keep under review the economic and financial situation of the Member States and of the Commu-

nity and to report regularly thereon to the Council and to the Commission in particular on financial relations with third countries and international institutions; whereas the Economic and Financial Committee is to contribute to the preparation of the work of the Council, *inter alia*, for recommendations required as part of multilateral surveillance and the broad economic guidelines set down in Article 103 of the Treaty, and for decisions required as part of the excessive deficit procedure set down in Article 104c of the Treaty; whereas given the nature and importance of those tasks, it is essential that members of the Committee and alternate members be selected from among experts possessing outstanding competence in the economic and financial field;

- (4) Whereas in its Resolution <sup>(4)</sup> on Economic Policy Coordination in stage 3 of EMU, the European Council of Luxembourg of 12 and 13 December 1997 concluded that the Economic and Financial Committee will provide the framework within which the dialogue between the Council and the European Central Bank can be prepared and continued at the level of senior officials; whereas those officials will come from the national central banks and the European Central Bank as well as from national administrations;
- (5) Whereas 'administration' refers to the services of the ministers attending the Council when meeting in the composition of Economic and Finance ministers;

(\*) OJ L 358, 31.12.1998, pp. 109 and 110.

(1) OJ C 125, 23.4.1998, p. 17.

(2) Opinion delivered on 26 November 1998 (not yet published in the Official Journal).

(3) Opinion delivered on 17 November 1998 (not yet published in the Official Journal).

(4) OJ C 35, 2.2.1998, p. 1.

(6) Whereas the membership of the Committee of officials from the European Central Bank and national central banks is to be without prejudice to Article 107 of the Treaty,

HAS DECIDED AS FOLLOWS:

*Article 1*

The Member States, the Commission and the European Central Bank shall each appoint two members of the Economic and Financial Committee. They may also appoint two alternate members of the Committee.

*Article 2*

The members of the Committee and the alternates shall be selected from among experts possessing outstanding competence in the economic and financial field.

*Article 3*

The two members appointed by the Member States shall be selected respectively from among senior officials from the administration and the national central bank. The alternates shall be selected under the same conditions.

*Article 4*

This Decision shall be published in the *Official Journal of the European Communities*.

It shall take effect as from 1 January 1999.

Done at Brussels, 21 December 1998.

*For the Council*

*The President*

M. BARTENSTEIN

**Council decision  
of 31 December 1998  
adopting the Statutes of the Economic and Financial Committee (\*)  
(1999/8/EC)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 153 thereof,

Having regard to the opinion of the Commission;

Whereas in accordance with Article 109c(2) of the Treaty an Economic and Financial Committee will be set up at the start of the third stage;

Whereas the Council adopted on 21 December 1998 a Decision on the composition of the Economic and Financial Committee<sup>(1)</sup>;

Recalling that on 16 June 1997 the European Council adopted a resolution on the establishment of an exchange-rate mechanism in the third stage of economic and monetary union<sup>(2)</sup>;

Recalling that on 13 December 1997 the European Council adopted a resolution on economic policy coordination in the third stage of economic and monetary union and on Articles 109 and 109b of the Treaty<sup>(3)</sup>;

Recalling that, in these resolutions, a certain role was foreseen for the Economic and Financial Committee;

Whereas, therefore, the Statutes of the Economic and Financial Committee should be adopted,

HAS DECIDED AS FOLLOWS:

*Article 1*

The Statutes of the Economic and Financial Committee are hereby adopted.

The text of the Statutes is set out in the Annex hereto.

*Article 2*

This Decision shall be published in the *Official Journal of the European Communities*.

It shall take effect as from 1 January 1999.

Done at Brussels, 31 December 1998.

*For the Council*

*The President*

R. EDLINGER

(\*) OJ L 5, 9.1.1999, pp. 71-73.

(1) OJ L 358, 31.12.1998, p. 109.

(2) OJ C 236, 2.8.1997, p. 5.

(3) OJ C 35, 2.2.1998, p. 1.

## ANNEX

**STATUTES OF THE ECONOMIC AND FINANCIAL COMMITTEE***Article 1*

The Economic and Financial Committee shall carry out the tasks described in Article 109c(2) and (4) of the Treaty establishing the European Community.

*Article 2*

The Economic and Financial Committee may, *inter alia*:

- be consulted in the procedure leading to decisions relating to the exchange-rate mechanism of the third stage of economic and monetary union (ERM II),
- without prejudice to Article 151 of the Treaty, prepare the Council's reviews of the development of the exchange-rate of the euro,
- provide the framework within which the dialogue between the Council and the European Central Bank (ECB) can be prepared and continued at the level of senior officials from ministries, national central banks, the Commission and the ECB.

*Article 3*

Members of the Committee and alternates shall be guided, in the performance of their duties, by the general interests of the Community.

*Article 4*

Opinions, reports or communications shall be adopted by a majority of the members if a vote is requested. Each member of the Committee shall have one vote. However, when advice or an opinion is given on questions on which the Council may subsequently take a decision, members from central banks and the Commis-

sion may participate fully in the discussions but shall not participate in a vote. The Committee shall also report on minority or dissenting views expressed in the course of the discussion.

*Article 5*

The Committee shall elect from among its members, by a majority of its members, a President for a period of two years. The two-year term shall be renewable. The President shall be elected from among members who are senior officials in the national administrations. The President shall delegate his/her voting right to his/her alternate.

*Article 6*

In the event of being prevented from fulfilling his/her duties, the President shall be replaced by the Vice-President of the Committee who shall be elected according to the same rules.

*Article 7*

Unless the Committee decides otherwise, alternates may attend meetings of the Committee. They shall not vote. Unless the Committee decides otherwise they shall not take part in the discussions.

A member who is unable to attend a meeting of the Committee may delegate his/her functions to one of the alternates. He/she may also delegate them to another member. The Chairman and the Secretary should be informed in writing before a meeting. In exceptional circumstances the President may agree to alternative arrangements.

*Article 8*

The Committee may entrust the study of specific questions to its alternate members, to sub-committees or to working parties. In these cases, the presidency shall be assumed by a member or an alternate member of the Committee, appointed by the Committee. The members of the Committee, its alternates, and its sub-committees or working parties may call upon experts to assist them.

*Article 9*

The Committee shall be convened by the President on his/her own initiative, or at the request of the Council, of the Commission or of at least two members of the Committee.

*Article 10*

As a rule the President represents the Committee; in particular the President may be authorised by the Committee to report on discussions and deliver oral comments on opinions and communications prepared by the Committee. The President of the Committee shall have the responsibility of maintaining

the Committee's relations with the European Parliament.

*Article 11*

The proceedings of the Committee shall be confidential. The same rule shall apply to the proceedings of its alternates, sub-committees or working parties.

*Article 12*

The Committee shall be assisted by a secretariat under the direction of a Secretary. The Secretary and the staff needed for the secretariat shall be supplied by the Commission. The Secretary shall be appointed by the Commission after consultation of the Committee. The Secretary and his/her staff shall act on the instructions of the Committee when carrying out their responsibilities to the Committee.

The expenses of the Committee shall be included in the estimates of the Commission.

*Article 13*

The Committee shall adopt its own procedural arrangements.

*Part F*

**Stability and Growth Pact,  
growth and employment**

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## Resolution of the European Council on the Stability and Growth Pact Amsterdam, 17 June 1997 (\*)

- I. Meeting in Madrid in December 1995, the European Council confirmed the crucial importance of securing budgetary discipline in stage three of Economic and Monetary Union (EMU). In Florence, six months later, the European Council reiterated this view and in Dublin, in December 1996, it reached an agreement on the main elements of the Stability and Growth Pact. In stage three of EMU, Member States shall avoid excessive general government deficits: this is a clear Treaty obligation <sup>(1)</sup>. The European Council underlines the importance of safeguarding sound government finances as a means to strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation. It is also necessary to ensure that national budgetary policies support stability oriented monetary policies. Adherence to the objective of sound budgetary positions close to balance or in surplus will allow all Member States to deal with normal cyclical fluctuations while keeping the government deficit within the reference value of 3 % of GDP.
- II. Meeting in Dublin in December 1996, the European Council requested the preparation of a Stability and Growth Pact to be achieved in accordance with the principles and procedures of the Treaty. This Stability and Growth Pact in no way changes the requirements for participation in stage three of EMU, either in the first group or at a later date. Member States remain responsible for their national budgetary policies, subject to the provisions of the Treaty; they will take the necessary measures in order to meet their responsibilities in accordance with those provisions.
- III. The Stability and Growth Pact, which provides both for prevention and deterrence, consists of this Resolution and two Council Regulations, one on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies and another on speeding up and clarifying the implementation of the excessive deficit procedure.
- IV. The European Council solemnly invites all parties, namely the Member States, the Council of the European Union and the Commission of the European Communities, to implement the Treaty and the Stability and Growth Pact in a strict and timely manner. This Resolution provides firm political guidance to the parties who will implement the Stability and Growth Pact. To this end, the European Council has agreed upon the following guidelines:

### THE MEMBER STATES

1. commit themselves to respect the medium-term budgetary objective of positions close to balance or in surplus set out in their stability or convergence programmes and to take the corrective budgetary action they deem necessary to meet the objectives of their stability or convergence programmes,

(\*) OJ C 236, 2.8.1997, pp. 1 and 2.

(1) Under Article 5 of Protocol 11, this obligation does not apply to the United Kingdom unless it moves to the third stage; the obligation under Article 109e (4) of the Treaty establishing the European Community to endeavour to avoid excessive deficits shall continue to apply to the United Kingdom.



- whenever they have information indicating actual or expected significant divergence from those objectives;
2. are invited to make public, on their own initiative, the Council recommendations made to them in accordance with Article 103 (4);
  3. commit themselves to take the corrective budgetary action they deem necessary to meet the objectives of their stability or convergence programmes once they receive an early warning in the form of a Council recommendation issued under Article 103 (4);
  4. will launch the corrective budgetary adjustments they deem necessary without delay on receiving information indicating the risk of an excessive deficit;
  5. will correct excessive deficits as quickly as possible after their emergence; this correction should be completed no later than the year following the identification of the excessive deficit, unless there are special circumstances;
  6. are invited to make public, on their own initiative, recommendations made in accordance with Article 104c (7);
  7. commit themselves not to invoke the benefit of Article 2 (3) of the Council Regulation on speeding up and clarifying the excessive deficit procedure unless they are in severe recession; in evaluating whether the economic downturn is severe, the Member States will, as a rule, take as a reference point an annual fall in real GDP of at least 0,75 %.
2. will present, without delay, the necessary reports, opinions and recommendations to enable the Council to adopt decisions under Article 103 and Article 104c; this will facilitate the effective functioning of the early warning system and the rapid launch and strict application of the excessive deficit procedure;
  3. commits itself to prepare a report under Article 104c (3) whenever there is the risk of an excessive deficit or whenever the planned or actual government deficit exceeds the reference value of 3 % of GDP, thereby triggering the procedure under Article 104c (3);
  4. commits itself, in the event that the Commission considers that a deficit exceeding 3 % of GDP is not excessive and this opinion differs from that of the Economic and Financial Committee, to present in writing to the Council the reasons for its position;
  5. commits itself, following a request from the Council under Article 109d, to make, as a rule, a recommendation for a Council decision on whether an excessive deficit exists under Article 104c (6).

#### THE COUNCIL

1. is committed to a rigorous and timely implementation of all elements of the Stability and Growth Pact in its competence; it will take the necessary decisions under Article 103 and Article 104c as is practicable;
2. is urged to regard the deadlines for the application of the excessive deficit procedure as upper limits; in particular, the Council, acting under Article 104c (7), shall recommend that excessive deficits be corrected as quickly as possible after their emergence, no later than the year following their identification, unless there are special circumstances;

#### THE COMMISSION

1. will exercise its right of initiative under the Treaty in a manner that facilitates the strict, timely and effective functioning of the Stability and Growth Pact;

3. is invited always to impose sanctions if a participating Member State fails to take the necessary steps to bring the excessive deficit situation to an end as recommended by the Council;
4. is urged always to require a non-interest bearing deposit, whenever the Council decides to impose sanctions on a participating Member State in accordance with Article 104c (11);
5. is urged always to convert a deposit into a fine after two years of the decision to impose sanctions in accordance with Article 104c (11), unless the excessive deficit has in the view of the Council been corrected;
6. is invited always to state in writing the reasons which justify a decision not to act if at any stage of the excessive deficit or surveillance of budgetary positions procedures the Council did not act on a Commission recommendation and, in such a case, to make public the votes cast by each Member State.

## **Resolution of the European Council on growth and employment Amsterdam, 16 June 1997 (\*)**

THE EUROPEAN COUNCIL,

RECALLING the conclusions of the Essen European Council, the Commission's initiative for 'Action on Employment: A Confidence Pact' and the Dublin Declaration on Employment,

HAS ADOPTED THE FOLLOWING GUIDELINES:

### **INTRODUCTION**

1. It is imperative to give a new impulse for keeping employment firmly at the top of the political agenda of the European Union. Economic and Monetary Union and the Stability and Growth Pact will enhance the internal market and will foster a non-inflationary macro-economic environment with low interest rates, thereby strengthening conditions for economic growth and employment opportunities. In addition, we will need to strengthen the links between a successful and sustainable Economic and Monetary Union, a well-functioning internal market and employment. To that end, it should be a priority aim to develop a skilled, trained and adaptable workforce and to make labour markets responsive to economic change. Structural reforms need to be comprehensive in scope, as opposed to limited or occasional measures, so as to address in a coherent manner the complex issue of incentives in creating and taking up a job.

Economic and social policies are mutually reinforcing. Social protection systems should be modernized so as to strengthen their functioning in order to contribute to competitiveness, employment and growth, establishing a durable basis for social cohesion.

This approach, coupled with stability based policies, provides the basis for an economy founded on principles of inclusion, solidarity, justice and a sustainable environment, and capable of benefiting all its citizens. Economic efficiency and social inclusion are complementary aspects of the more cohesive European society that we all seek.

Taking account of this statement of principles, the European Council calls upon all the social and economic agents, including the national, regional and local authorities and the social partners, to face fully their responsibilities within their respective sphere of activity.

### **DEVELOPING THE ECONOMIC PILLAR**

2. The Treaty establishing the European Community, in particular Articles 102a and 103, provides for close coordination of the Member States' economic policies referred to in Article 3a of the Treaty. While primary responsibility in the fight against unemployment rests with the Member States, we should recognize the need both to enhance the effectiveness and to broaden the content of this coordination, focusing in particular on policies for employment. To this end, several steps are necessary.

(\*) OJ C 236, 2.8.1997, pp. 3 and 4.

3. The broad guidelines of the economic policies will be enhanced and developed into an effective instrument for ensuring sustained convergence of the economic performances of the Member States. Within the framework of sound and sustainable macro-economic policies and on the basis of an evaluation of the economic situation in the European Union and in each Member State, more attention will be given to improving European competitiveness as a prerequisite for growth and employment, so as, among other objectives, to bring more jobs within the reach of the citizens of Europe. In this context, special attention should be given to labour and product market efficiency, technological innovation and the potential for small and medium-sized enterprises to create jobs. Full attention should also be given to training and education systems including life-long learning, work incentives in the tax and benefit systems and reducing non-wage labour costs, in order to increase employability.
4. Taxation and social protection systems should be made more employment friendly thus improving the functioning of labour markets. The European Council stresses the importance for the Member States of creating a tax environment that stimulates enterprise and the creation of jobs. These and other policies for employment will become an essential part of the broad guidelines, taking into account national employment policies and good practices arising from these policies.
5. The Council is therefore called upon to take the multiannual employment programmes, as envisaged in the Essen procedure, into account when formulating the broad guidelines, in order to strengthen their employment focus. The Council may make the necessary recommendations to the Member States, in accordance with Article 103 (4) of the Treaty.
6. This enhanced coordination of economic policies will complement the procedure as envisaged in the new Title on Employment in the Treaty, which provides for the creation of an Employment Committee, which is asked to work together closely with the Economic Policy Committee. The Council should seek to make those provisions immediately effective. In both procedures the European Council will play its integrating and guiding role, in accordance with the Treaty.
7. The European Union should complement national measures by systematically examining all relevant existing Community policies, including Trans-European Networks and Research and Development programmes, to ensure that they are geared towards job creation and economic growth, while respecting the Financial Perspectives and the Interinstitutional Agreement.
8. The European Council has agreed on concrete action for making maximum progress with the final completion of the internal market: making the rules more effective, dealing with the key remaining market distortions, avoiding harmful tax competition, removing the sectoral obstacles to market integration and delivering an internal market for the benefit of all citizens.
9. Whereas the task of the European Investment Bank, as stated in Article 198e of the Treaty, is to contribute, by having recourse to the capital market and utilizing its own resources, to the balanced and steady development of the common market in the interest of the Community, we recognize the important role of the European Investment Bank and the European Investment Fund in creating employment through investment opportunities in Europe. We urge the European Investment Bank to step up its activities in this respect, promoting investment projects consistent

with sound banking principles and practices, and more particular:

- to examine the establishment of a facility for the financing of high-technology projects of small and medium-sized enterprises in cooperation with the European Investment Fund, possibly making use of venture capital with involvement of the private banking sector,
  - to examine its scope of intervention in the areas of education, health, urban environment and environmental protection,
  - to step up its interventions in the area of large infrastructure networks by examining the possibility of granting very long-terms loans, primarily for the large priority projects adopted in Essen.
10. The Commission is invited to make the appropriate proposals in order to ensure that, upon expiration of the Treaty establishing the European Coal and Steel Community in 2002, the revenues of outstanding reserves are used for a research fund for sectors related to the coal and steel industry.
  11. This overall strategy will maximize our efforts to promote employment and social inclusion and to combat unemployment. In doing so, job promotion, worker protection and security will be combined with the

need for improving the functioning of labour markets. This also contributes to the good functioning of Economic and Monetary Union.

### RENEWED COMMITMENT

12. The European Council invites all parties, namely the Member States, the Council and the Commission, to implement these provisions with vigour and commitment.  
  
The possibilities offered to social partners by the Social Chapter, which has been integrated into the new Treaty, should serve to underpin the Council's work on employment. The European Council recommends social dialogue and the full use of present Community law concerning the consultation of social partners, including, where relevant, in processes of restructuring, and taking into account national practices.
13. Together, these policies allow the Member States to build on the strengths of the European construction to coordinate their economic policies effectively within the Council so as to create more jobs and pave the way for a successful and sustainable stage three of Economic and Monetary Union in accordance with the Treaty. The European Council asks social partners to fully face their responsibilities within their respective sphere of activity.

**Council Regulation (EC) No 1466/97  
of 7 July 1997**

**on the strengthening of the surveillance of budgetary positions and  
the surveillance and coordination of economic policies (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 103 (5) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Acting in accordance with the procedure referred to in Article 189c of the Treaty <sup>(2)</sup>,

- (1) Whereas the Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation;
- (2) Whereas the Stability and Growth Pact consists of this Regulation which aims to strengthen the surveillance of budgetary positions and the surveillance and coordination of economic policies, of Council Regulation (EC) No 1467/97 <sup>(3)</sup> which aims to speed up and to clarify the implementation of the excessive deficit procedure and of the Resolution of the European Council of 17 June 1997 on the Stability and Growth Pact <sup>(4)</sup>, in which, in accordance with Article D of the Treaty on

European Union, firm political guidelines are issued in order to implement the Stability and Growth Pact in a strict and timely manner and in particular to adhere to the medium term objective of budgetary positions of close to balance or in surplus, to which all Member States are committed, and to take the corrective budgetary action they deem necessary to meet the objectives of their stability and convergence programmes, whenever they have information indicating actual or expected significant divergence from the medium-term budgetary objective;

- (3) Whereas in stage three of Economic and Monetary Union (EMU) the Member States are, according to Article 104c of the Treaty, under a clear Treaty obligation to avoid excessive general government deficits; whereas under Article 5 of Protocol (No 11) on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland to the Treaty, Article 104c(1) does not apply to the United Kingdom unless it moves to the third stage; whereas the obligation under Article 109e(4) to endeavour to avoid excessive deficits will continue to apply to the United Kingdom;
- (4) Whereas adherence to the medium-term objective of budgetary positions close to balance or in surplus will allow Member States to deal with normal cyclical fluctuations while keeping the government deficit within the 3 % of GDP reference value;
- (5) Whereas it is appropriate to complement the multilateral surveillance procedure of

(\*) OJ L 209, 2.8.1997, pp. 1-5.

(1) OJ C 368, 6.12.1996, p. 9.

(2) Opinion of the European Parliament of 28 November 1996 (OJ C 380, 16.12.1996, p. 28), Council Common Position of 14 April 1997 (OJ C 146, 30.5.1997, p. 26) and Decision of the European Parliament of 29 May 1997 (OJ C 182, 16.6.1997).

(3) See p. 6 of this Official Journal [F 4 of this compendium].

(4) OJ C 236, 2.8.1997, p. 1.

- Article 103 (3) and (4) with an early warning system, under which the Council will alert a Member State at an early stage to the need to take the necessary budgetary corrective action in order to prevent a government deficit becoming excessive;
- (6) Whereas the multilateral surveillance procedure of Article 103 (3) and (4) should furthermore continue to monitor the full range of economic developments in each of the Member States and in the Community as well as the consistency of economic policies with the broad economic guidelines referred to in Article 103 (2); whereas for the monitoring of these developments, the presentation of information in the form of stability and convergence programmes is appropriate;
- (7) Whereas there is a need to build upon the useful experience gained during the first two stages of economic and monetary union with convergence programmes;
- (8) Whereas the Member States adopting the single currency, hereafter referred to as 'participating Member States', will, in accordance with Article 109j, have achieved a high degree of sustainable convergence and in particular a sustainable government financial position; whereas the maintenance of sound budgetary positions in these Member States will be necessary to support price stability and to strengthen the conditions for the sustained growth of output and employment; whereas it is necessary that participating Member States submit medium-term programmes, hereafter referred to as 'stability programmes'; whereas it is necessary to define the principal contents of such programmes;
- (9) Whereas the Member States not adopting the single currency, hereafter referred to as 'non-participating Member States', will need to pursue policies aimed at a high degree of sustainable convergence; whereas it is necessary that these Member States submit medium-term programmes, hereafter referred to as 'convergence programmes'; whereas it is necessary to define the principal contents of such convergence programmes;
- (10) Whereas in its Resolution of 16 June 1997 on the establishment of an exchange-rate mechanism in the third stage of Economic and Monetary Union, the European Council issued firm political guidelines in accordance with which an exchange-rate mechanism is established in the third stage of EMU, hereafter referred to as 'ERM2'; whereas the currencies of non-participating Member States joining ERM2 will have a central rate *vis-à-vis* the euro, thereby providing a reference point for judging the adequacy of their policies; whereas the ERM2 will also help to protect them and the Member States adopting the euro from unwarranted pressures in the foreign-exchange markets; whereas, so as to enable appropriate surveillance in the Council, non-participating Member States not joining ERM2 will nevertheless present policies in their convergence programmes oriented to stability thus avoiding real exchange rate misalignments and excessive nominal exchange rate fluctuations;
- (11) Whereas lasting convergence of economic fundamentals is a prerequisite for sustainable exchange rate stability;
- (12) Whereas it is necessary to lay down a timetable for the submission of stability programmes and convergence programmes and their updates;
- (13) Whereas in the interest of transparency and informed public debate it is necessary that Member States make public their stability programmes and their convergence programmes;

- (14) Whereas the Council, when examining and monitoring the stability programmes and the convergence programmes and in particular their medium-term budgetary objective or the targeted adjustment path towards this objective, should take into account the relevant cyclical and structural characteristics of the economy of each Member State;
- (15) Whereas in this context particular attention should be given to significant divergences of budgetary positions from the budgetary objectives of being close to balance or in surplus; whereas it is appropriate for the Council to give an early warning in order to prevent a government deficit in a Member State becoming excessive; whereas in the event of persistent budgetary slippage it will be appropriate for the Council to reinforce its recommendation and make it public; whereas for non-participating Member States the Council may make recommendations on action to be taken to give effect to their convergence programmes;
- (16) Whereas both convergence and stability programmes lead to the fulfilment of the conditions of economic convergence referred to in Article 104c,

HAS ADOPTED THIS REGULATION:

#### SECTION 1

### PURPOSE AND DEFINITIONS

#### *Article 1*

This Regulation sets out the rules covering the content, the submission, the examination and the monitoring of stability programmes and convergence programmes as part of multilateral surveillance by the Council so as to prevent, at an early stage, the occurrence of excessive general government deficits and to promote

the surveillance and coordination of economic policies.

#### *Article 2*

For the purpose of this Regulation 'participating Member States' shall mean those Member States which adopt the single currency in accordance with the Treaty and 'non-participating Member States' shall mean those which have not adopted the single currency.

#### SECTION 2

### STABILITY PROGRAMMES

#### *Article 3*

1. Each participating Member State shall submit to the Council and Commission information necessary for the purpose of multilateral surveillance at regular intervals under Article 103 of the Treaty in the form of a stability programme, which provides an essential basis for price stability and for strong sustainable growth conducive to employment creation.
2. A stability programme shall present the following information:
  - (a) the medium-term objective for the budgetary position of close to balance or in surplus and the adjustment path towards this objective for the general government surplus/deficit and the expected path of the general government debt ratio;
  - (b) the main assumptions about expected economic developments and important economic variables which are relevant to the realization of the stability programme such as government investment expenditure, real gross domestic product (GDP) growth, employment and inflation;
  - (c) a description of budgetary and other economic policy measures being taken and/or proposed to achieve the objectives



of the programme, and, in the case of the main budgetary measures, an assessment of their quantitative effects on the budget;

- (d) an analysis of how changes in the main economic assumptions would affect the budgetary and debt position.

3. The information about paths for the general government surplus/deficit ratio and debt ratio and the main economic assumptions referred to in paragraph 2 (a) and (b) shall be on an annual basis and shall cover, as well as the current and preceding year, at least the following three years.

#### *Article 4*

1. Stability programmes shall be submitted before 1 March 1999. Thereafter, updated programmes shall be submitted annually. A Member State adopting the single currency at a later stage shall submit a stability programme within six months of the Council Decision on its participation in the single currency.

2. Member States shall make public their stability programmes and updated programmes.

#### *Article 5*

1. Based on assessments by the Commission and the Committee set up by Article 109c of the Treaty, the Council shall, within the framework of multilateral surveillance under Article 103, examine whether the medium-term budget objective in the stability programme provides for a safety margin to ensure the avoidance of an excessive deficit, whether the economic assumptions on which the programme is based are realistic and whether the measures being taken and/or proposed are sufficient to achieve the targeted adjustment path towards the medium-term budgetary objective.

The Council shall furthermore examine whether the contents of the stability programme facilitate the closer coordination of

economic policies and whether the economic policies of the Member State concerned are consistent with the broad economic policy guidelines.

2. The Council shall carry out the examination of the stability programme referred to in paragraph 1 within at most two months of the submission of the programme. The Council, on a recommendation from the Commission and after consulting the Committee set up by Article 109c, shall deliver an opinion on the programme. Where the Council, in accordance with Article 103, considers that the objectives and contents of a programme should be strengthened, the Council shall, in its opinion, invite the Member State concerned to adjust its programme.

3. Updated stability programmes shall be examined by the Committee set up by Article 109c on the basis of assessments by the Commission; if necessary, updated programmes may also be examined by the Council in accordance with the procedure set out in paragraphs 1 and 2 of this Article.

#### *Article 6*

1. As part of multilateral surveillance in accordance with Article 103 (3), the Council shall monitor the implementation of stability programmes, on the basis of information provided by participating Member States and of assessments by the Commission and the Committee set up by Article 109c, in particular with a view to identifying actual or expected significant divergence of the budgetary position from the medium-term budgetary objective, or the adjustment path towards it, as set in the programme for the government surplus/deficit.

2. In the event that the Council identifies significant divergence of the budgetary position from the medium-term budgetary objective, or the adjustment path towards it, it shall, with a view to giving early warning in order to prevent the occurrence of an excessive deficit, address,

in accordance with Article 103 (4), a recommendation to the Member State concerned to take the necessary adjustment measures.

3. In the event that the Council in its subsequent monitoring judges that the divergence of the budgetary position from the medium-term budgetary objective, or the adjustment path towards it, is persisting or worsening, the Council shall, in accordance with Article 103 (4), make a recommendation to the Member State concerned to take prompt corrective measures and may, as provides in that Article, make its recommendation public.

### SECTION 3

## CONVERGENCE PROGRAMMES

### *Article 7*

1. Each non-participating Member State shall submit to the Council and the Commission information necessary for the purpose of multilateral surveillance of regular intervals under Article 103 in the form of a convergence programme, which provides an essential basis for price stability and for strong sustainable growth conducive to employment creation.

2. A convergence programme shall present the following information in particular on variables related to convergence:

- (a) the medium-term objective for the budgetary position of close to balance or in surplus and the adjustment path towards this objective for the general government surplus/deficit; the expected path for the general government debt ratio; the medium-term monetary policy objectives; the relationship of those objectives to price and exchange rate stability;
- (b) the main assumptions about expected economic developments and important economic variables which are relevant to the realization of the convergence pro-

gramme, such as government investment expenditure, real GDP growth, employment and inflation;

- (c) a description of budgetary and other economic policy measures being taken and/or proposed to achieve the objectives of the programme, and, in the case of the main budgetary measures, an assessment of their quantitative effects on the budget;
- (d) an analysis of how changes in the main economic assumptions would affect the budgetary and debt position.

3. The information about paths for the general government surplus/deficit ratio, debt ratio and the main economic assumptions referred to in paragraph 2 (a) and (b) shall be on an annual basis and shall cover, as well as the current and preceding year, at least the following three years.

### *Article 8*

1. Convergence programmes shall be submitted before 1 March 1999. Thereafter, updated programmes shall be submitted annually.

2. Member States shall make public their convergence programmes and updated programmes.

### *Article 9*

1. Based on assessments by the Commission and the Committee set up by Article 109c of the Treaty, the Council shall, within the framework of multilateral surveillance under Article 103, examine whether the medium-term budget objective in the convergence programme provides for a safety margin to ensure the avoidance of an excessive deficit, whether the economic assumptions on which the programme is based are realistic and whether the measures being taken and/or proposed are sufficient to achieve the targeted adjustment

path towards the medium-term objective and to achieve sustained convergence.

The Council shall furthermore examine whether the contents of the convergence programme facilitate the closer coordination of economic policies and whether the economic policies of the Member State concerned are consistent with the broad economic policy guidelines.

2. The Council shall carry out the examination of the convergence programme referred to in paragraph 1 within at most two months of the submission of the programme. The Council, on a recommendation from the Commission and after consulting the Committee set up by Article 109c, shall deliver an opinion on the programme. Where the Council, in accordance with Article 103, considers that the objectives and contents of a programme should be strengthened, the Council shall, in its opinion, invite the Member State concerned to adjust its programme.

3. Updated convergence programmes shall be examined by the Committee set up by Article 109c on the basis of assessments by the Commission; if necessary, updated programmes may also be examined by the Council in accordance with the procedure set out in paragraphs 1 and 2 of this Article.

### *Article 10*

1. As part of multilateral surveillance in accordance with Article 103 (3), the Council shall monitor the implementation of convergence programmes on the basis of information provided by non-participating Member States in accordance with Article 7 (2) (a) of this Regulation and of assessments by the Commission and the Committee set up by Article 109c of the Treaty, in particular with a view to identifying actual or expected significant divergence of the budgetary position from the medium-term budgetary objective, or the

adjustment path towards it, as set in the programme for the government surplus/deficit.

In addition, the Council shall monitor the economic policies of non-participating Member States in the light of convergence programme objectives with a view to ensure that their policies are geared to stability and thus to avoid real exchange rate misalignments and excessive nominal exchange rate fluctuations.

2. In the event that the Council identifies significant divergence of the budgetary position from the medium-term budgetary objective, or the adjustment path towards it, it shall, with a view to given early warning in order to prevent the occurrence of an excessive deficit, address in accordance with Article 103 (4), a recommendation to the Member State concerned to take the necessary adjustment measures.

3. In the event that the Council in its subsequent monitoring judges that the divergence of the budgetary position from the medium-term budgetary objective, or the adjustment path towards it, is persisting or worsening, the Council shall, in accordance with Article 103 (4), make a recommendation to the Member State concerned to take prompt corrective measures and may, as provided in that Article, make its recommendation public.

## SECTION 4

### COMMON PROVISIONS

#### *Article 11*

As part of the multilateral surveillance described in this Regulation, the Council shall carry out the overall assessment described in Article 103 (3).

#### *Article 12*

In accordance with the second subparagraph of Article 103 (4) the President of the Council and the Commission shall include in their report to

the European Parliament the results of the multilateral surveillance carried out under this Regulation.

*Article 13*

This Regulation shall enter into force on 1 July 1998.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 7 July 1997.

*For the Council*

*The President*

J.-C. JUNCKER

**Council Regulation (EC) No 1467/97  
of 7 July 1997  
on speeding up and clarifying the implementation of  
the excessive deficit procedure (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the second subparagraph of Article 104c (14) thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the European Monetary Institute,

- (1) Whereas it is necessary to speed up and to clarify the excessive deficit procedure set out in Article 104c of the Treaty in order to deter excessive general government deficits and, if they occur, to further their prompt correction; whereas the provisions of this Regulation, which are to the above effect and adopted under Article 104c (14) second subparagraph, constitute, together with those of Protocol (No 5) to the Treaty, a new integrated set of rules for the application of Article 104c;
- (2) Whereas the Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation;
- (3) Whereas the Stability and Growth Pact consists of this Regulation, of Council

Regulation (EC) No 1466/97 (3) which aims to strengthen the surveillance of budgetary positions and the surveillance and coordination of economic policies and of the Resolution of the European Council of 17 June 1997 on the Stability and Growth Pact (4), in which, in accordance with Article D of the Treaty on European Union, firm political guidelines are issued in order to implement the Stability and Growth Pact in a strict and timely manner and in particular to adhere to the medium term objective for budgetary positions of close to balance or in surplus, to which all Member States are committed, and to take the corrective budgetary action they deem necessary to meet the objectives of their stability and convergence programmes, whenever they have information indicating actual or expected significant divergence from the medium-term budgetary objective;

- (4) Whereas in stage three of Economic and Monetary Union (EMU) the Member States are, according to Article 104c of the Treaty, under a clear Treaty obligation to avoid excessive government deficits; whereas under Article 5 of Protocol (No 11) to the Treaty, paragraphs 1, 9 and 11 of Article 104c do not apply to the United Kingdom unless it moves to the third stage; whereas the obligation under Article 109e (4) to endeavour to avoid excessive deficits will continue to apply to the United Kingdom;

(\*) OJ L 209, 2.8.1997, pp. 6-11.

(1) OJ C 368, 6.12.1996, p. 12.

(2) OJ C 380, 16.12.1996, p. 29.

(3) See p. 1 of this Official Journal [F 3 of this compendium].

(4) OJ C 236, 2.8.1997, p. 1.

- (5) Whereas Denmark, referring to paragraph 1 of Protocol (No 12) to the Treaty has notified, in the context of the Edinburgh decision of 12 December 1992, that it will not participate in the third stage; whereas, therefore, in accordance with paragraph 2 of the said Protocol, paragraphs 9 and 11 of Article 104c shall not apply to Denmark;
- (6) Whereas in stage three of EMU Member States remain responsible for their national budgetary policies, subject to the provisions of the Treaty; whereas the Member States will take the necessary measures in order to meet their responsibilities in accordance with the provisions of the Treaty;
- (7) Whereas adherence to the medium-term objective of budgetary positions close to balance or in surplus to which all Member States are committed, contributes to the creation of the appropriate conditions for price stability and for sustained growth conducive to employment creation in all Member States and will allow them to deal with normal cyclical fluctuations while keeping the government deficit within the 3 % of GDP reference value;
- (8) Whereas for EMU to function properly, it is necessary that convergence of economic and budgetary performances of Member States which have adopted the single currency, hereafter referred to as 'participating Member States', proves stable and durable; whereas budgetary discipline is necessary in stage three of EMU to safeguard price stability;
- (9) Whereas according to Article 109k (3) Articles 104c (9) and (11) only apply to participating Member States;
- (10) Whereas it is necessary to define the concept of an exceptional and temporary excess over the reference value as referred to in Article 104c (2) (a); whereas the Council should in this context, *inter alia*, take account of the pluriannual budgetary forecasts provided by the Commission;
- (11) Whereas a Commission report in accordance with Article 104c (3) is also to take into account whether the government deficit exceeds government investment expenditure and take into account all other relevant factors, including the medium-term economic and budgetary position of the Member State;
- (12) Whereas there is a need to establish deadlines for the implementation of the excessive deficit procedure in order to ensure its expeditious and effective implementation; whereas it is necessary in this context to take account of the fact that the budgetary year of the United Kingdom does not coincide with the calendar year;
- (13) Whereas there is a need to specify how the sanctions provided for in Article 104c could be imposed in order to ensure the effective implementation of the excessive deficit procedure;
- (14) Whereas reinforced surveillance under the Council Regulation (EC) No 1466/97 together with the Commission's monitoring of budgetary positions in accordance with paragraph 2 of Article 104c should facilitate the effective and rapid implementation of the excessive deficit procedure;
- (15) Whereas in the light of the above, in the event that a participating Member State fails to take effective action to correct an excessive deficit, an overall maximum period of ten months from the reporting date of the figures indicating the existence of an excessive deficit until the decision to impose sanctions, if necessary, seems both feasible and appropriate in order to exert pressure on the participating Member State concerned to take such action; in this event, and if the procedure starts in

- March, this would lead to sanctions being imposed within the calendar year in which the procedure had been started;
- (16) Whereas the Council recommendation for the correction of an excessive deficit or the later steps of the excessive deficit procedure, should have been anticipated by the Member State concerned, which would have had an early warning; whereas the seriousness of an excessive deficit in stage three should call for urgent action from all those involved;
- (17) Whereas it is appropriate to hold the excessive deficit procedure in abeyance if the Member State concerned takes appropriate action in response to a recommendation under Article 104c (7) or a notice issued under Article 104c (9) in order to provide an incentive to Member States to act accordingly; whereas the time period during which the procedure would be held in abeyance should not be included in the maximum period of ten months between the reporting date indicating the existence of an excessive deficit and the imposition of sanctions; whereas it is appropriate to resume the procedure immediately if the envisaged action is not being implemented or if the implemented action is proving to be inadequate;
- (18) Whereas, in order to ensure that the excessive deficit procedure has a sufficient deterrent effect, a non-interest-bearing deposit of an appropriate size should be required from the participating Member State concerned, whenever the Council decides to impose a sanction;
- (19) Whereas the definition of sanctions on a prescribed scale is conducive to legal certainty; whereas it is appropriate to relate the amount of the deposit to the GDP of the participating Member State concerned;
- (20) Whereas, whenever the imposition of a non-interest-bearing deposit does not induce the participating Member State concerned to correct its excessive deficit in due time, it is appropriate to intensify the sanctions; whereas it is then appropriate to transform the deposit into a fine;
- (21) Whereas appropriate action by the participating Member State concerned in order to correct its excessive deficit is the first step towards abrogation of sanctions; whereas significant progress in correcting the excessive deficit should allow for the lifting of sanctions in accordance with paragraph 12 of Article 104c; whereas the abrogation of all outstanding sanctions should only occur once the excessive deficit has been totally corrected;
- (22) Whereas Council Regulation (EC) No 3605/93 of 22 November 1993 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community<sup>(1)</sup> contains detailed rules for the reporting of budgetary data by Member States;
- (23) Whereas, according to Article 109f (8), where the Treaty provides for a consultative role for the European Central Bank (ECB), references to the ECB shall be read as referring to the European Monetary Institute before the establishment of the ECB,

HAS ADOPTED THIS REGULATION:

#### SECTION 1

### DEFINITIONS AND ASSESSMENTS

#### *Article 1*

1. This Regulation sets out the provisions to speed up and clarify the excessive deficit

<sup>(1)</sup> OJ L 332, 31.12.1993, p. 7.

procedure, having as its objective to deter excessive general government deficits and, if they occur, to further their prompt correction.

2. For the purpose of this Regulation 'participating Member States' shall mean those Member States which adopt the single currency in accordance with the Treaty and 'non-participating Member States' shall mean those which have not adopted the single currency.

### *Article 2*

1. The excess of a government deficit over the reference value shall be considered exceptional and temporary, in accordance with Article 104s(2) (a), second indent, when resulting from an unusual event outside the control of the Member State concerned and which has a major impact on the financial position of the general government, or when resulting from a severe economic downturn.

In addition, the excess over the reference value shall be considered temporary if budgetary forecasts as provided by the Commission indicate that the deficit will fall below the reference value following the end of the unusual event or the severe economic downturn.

2. The Commission when preparing a report under Article 104c (3) shall, as a rule, consider an excess over the reference value resulting from a severe economic downturn to be exceptional only if there is an annual fall of real GDP of at least 2 %.

3. The Council when deciding, according to Article 104c (6), whether an excessive deficit exists, shall in its overall assessment take into account any observations made by the Member State showing that an annual fall of real GDP of less than 2 % is nevertheless exceptional in the light of further supporting evidence, in particular on the abruptness of the downturn or on the accumulated loss of output relative to past trends.

## SECTION 2

### **SPEEDING UP THE EXCESSIVE DEFICIT PROCEDURE**

#### *Article 3*

1. Within two weeks of the adoption by the Commission of a report issued in accordance with Article 104c (3), the Economic and Financial Committee shall formulate an opinion in accordance with Article 104c (4).

2. Taking fully into account the opinion referred to in paragraph 1, the Commission, if it considers that an excessive deficit exists, shall address an opinion and a recommendation to the Council in accordance with Article 104c (5) and (6).

3. The Council shall decide on the existence of an excessive deficit in accordance with Article 104c (6), within three months of the reporting dates established in Article 4 (2) and (3) of Regulation (EC) No 3605/93. When it decides, in accordance with Article 104c (6), that an excessive deficit exists, the Council shall at the same time make recommendations to the Member State concerned in accordance with Article 104c (7).

4. The Council recommendation made in accordance with Article 104c (7) shall establish a deadline of four months at the most for effective action to be taken by the Member State concerned. The Council recommendation shall also establish a deadline for the correction of the excessive deficit, which should be completed in the year following its identification unless there are special circumstances.

#### *Article 4*

1. Any Council decision to make public its recommendations, where it is established that no effective action has been taken in accordance with Article 104c (8), shall be taken immediately after the expiry of the deadline set in accordance with Article 3 (4) of this Regulation.



2. The Council, when considering whether effective action has been taken in response to its recommendations made in accordance with Article 104c (7), shall base its decision on publicly announced decisions by the Government of the Member State concerned.

### *Article 5*

Any Council decision to give notice to the participating Member State concerned to take measures for the deficit reduction in accordance with Article 104c (9) shall be taken within one month of the Council decision establishing that no effective action has been taken in accordance with Article 104c (8).

### *Article 6*

Where the conditions to apply Article 104c (11) are met, the Council shall impose sanctions in accordance with Article 104c (11). Any such decision shall be taken no later than two months after the Council decision giving notice to the participating Member State concerned to take measures in accordance with Article 104c (9).

### *Article 7*

If a participating Member State fails to act in compliance with the successive decisions of the Council in accordance with Article 104c (7) and (9), the decision of the Council to impose sanctions, in accordance with paragraph 11 of Article 104c, shall be taken within ten months of the reporting dates pursuant to Regulation (EC) No 3605/93 as referred to in Article 3 (3) of this Regulation. An expedited procedure shall be used in the case of a deliberately planned deficit which the Council decides is excessive.

### *Article 8*

Any Council decision to intensify sanctions, in accordance with Article 104c (11), other than

the conversion of deposits into fines under Article 14 of this Regulation, shall be taken no later than two months after the reporting dates pursuant to Regulation (EC) No 3605/93. Any Council decision to abrogate some or all of its decisions in accordance with Article 104c (12) shall be taken as soon as possible and in any case no later than two months after the reporting dates pursuant to Regulation (EC) No 3605/93.

## SECTION 3

### **ABEYANCE AND MONITORING**

#### *Article 9*

1. The excessive deficit procedure shall be held in abeyance:

- if the Member State concerned acts in compliance with recommendations made in accordance with Article 104c (7),
- if the participating Member State concerned acts in compliance with notices given in accordance with Article 104c (9).

2. The period during which the procedure is held in abeyance shall be included neither in the ten month period referred to in Article 7 nor in the two month period referred to in Article 6 of this Regulation.

#### *Article 10*

1. The Commission and the Council shall monitor the implementation of action taken:

- by the Member State concerned in response to recommendations made under Article 104c (7),
- by the participating Member State concerned in response to notices given under Article 104c (9).

2. If action by a participating Member State is not being implemented or, in the Council's view, is proving to be inadequate, the Council

shall immediately take a decision under Article 104c (9) or Article 104c (11) respectively.

3. If actual data pursuant to Regulation (EC) No 3605/93 indicate that an excessive deficit has not been corrected by a participating Member State within the time limits specified either in recommendations issued under Article 104c (7) or notices issued under Article 104c (9), the Council shall immediately take a decision under Article 104c (9) or Article 104c (11) respectively.

#### SECTION 4

### SANCTIONS

#### *Article 11*

Whenever the Council decides to apply sanctions to a participating Member State in accordance with Article 104c (11), a non-interest-bearing deposit shall, as a rule, be required. The Council may decide to supplement this deposit by the measures provided for in the first and second indents of Article 104c (11).

#### *Article 12*

1. When the excessive deficit results from non-compliance with the criterion relating to the government deficit ratio in Article 104c (2) (a), the amount of the first deposit shall comprise a fixed component equal to 0,2 % of GDP, and a variable component equal to one tenth of the difference between the deficit as a percentage of GDP in the preceding year and the reference value of 3 % of GDP.

2. Each following year, until the decision on the existence of an excessive deficit is abrogated, the Council shall assess whether the participating Member State concerned has taken effective action in response to the Council notice in accordance with Article 104c (9). In this annual

assessment the Council shall decide, in accordance with Article 104c (11), and without prejudice to Article 13 of this Regulation, to intensify the sanctions, unless the participating Member State concerned has complied with the Council notice. If an additional deposit is decided, it shall be equal to one tenth of the difference between the deficit as a percentage of GDP in the preceding year and the reference value of 3 % of GDP.

3. Any single deposit referred to in paragraphs 1 and 2 shall not exceed the upper limit of 0,5 % of GDP.

#### *Article 13*

A deposit shall, as a rule, be converted by the Council, in accordance with Article 104c (11), into a fine if two years after the decision to require the participating Member State concerned to make a deposit, the excessive deficit has in the view of the Council not been corrected.

#### *Article 14*

1. In accordance with Article 104c (12), the Council shall abrogate the sanctions referred to in the first and second indents of Article 104c (11) depending on the significance of the progress made by the participating Member State concerned in correcting the excessive deficit.

#### *Article 15*

In accordance with Article 104c (12), the Council shall abrogate all outstanding sanctions if the decision on the existence of an excessive deficit is abrogated. Fines imposed in accordance with Article 13 of this Regulation will not be reimbursed to the participating Member State concerned.

*Article 16*

Deposits referred to in Articles 11 and 12 of this Regulation shall be lodged with the Commission. Interest on the deposits, and the fines referred to in Article 13 of this Regulation constitute other revenue referred to in Article 201 of the Treaty and shall be distributed among participating Member States without a deficit that is excessive as determined in accordance with Article 104c (6) in proportion to their share in the total GNP of the eligible Member States.

## SECTION 5

**TRANSITIONAL AND FINAL PROVISIONS***Article 17*

For the purpose of this Regulation and for as long as the United Kingdom has a budgetary

year which is not a calendar year, the provisions of sections 2, 3 and 4 of this Regulation shall be applied to the United Kingdom in accordance with the Annex.

*Article 18*

This Regulation shall enter into force on 1 January 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 7 July 1997.

*For the Council*

*The President*

J.-C. JUNCKER

## ANNEX

**TIME LIMITS APPLICABLE TO THE UNITED KINGDOM**

1. In order to ensure equal treatment of all Member States, the Council, when taking decisions in Sections 2, 3 and 4 of this Regulation, shall have regard to the different budgetary year of the budgetary year of the United Kingdom, with a view to taking decisions with regard to the United Kingdom at a point in its budgetary year similar to that at which decisions have been or will be taken in the case of other Member States.
2. For the provisions specified in Column I below there shall be substituted the provisions specified in Column II.

Column I	Column II
'three months of the reporting dates established in Article 4 (2) and (3) of Council Regulation (EC) No 3605/93' <i>(Article 3, (3))</i>	'five months after the end of the budgetary year in which the deficit occurred'
'the year following its identification' <i>(Article 3(4))</i>	'the budgetary year following its identification'
'ten months of the reporting dates pursuant to Council Regulation (EC) No 3605/93 as referred to in Article 3(3) of this Regulation' <i>(Article 7)</i>	'twelve months from the end of budgetary year in which the deficit occurred'
'the preceding year' <i>(Article 12(1))</i>	'the preceding budgetary year'

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*Part G*

**Exchange rate mechanism  
in stage three of EMU**

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**Resolution of the European Council  
on the establishment of an exchange-rate mechanism in the third  
stage of economic and monetary union  
Amsterdam, 16 June 1997 (\*)**

Building on the agreements reached at its meetings in Florence and Dublin, the European Council has today agreed as follows:

AN EXCHANGE RATE MECHANISM WILL BE SET UP WHEN THE THIRD STAGE OF ECONOMIC AND MONETARY UNION BEGINS ON 1 JANUARY 1999.

With the start of the third stage of economic and monetary union, the European Monetary System will be replaced by the exchange-rate mechanism as defined in this Resolution. The operating procedures will be laid down in an agreement between the European Central Bank and the national central banks of the Member States outside the euro area.

The exchange-rate mechanism will link currencies of Member States outside the euro area to the euro. The euro will be the centre of the new mechanism. The mechanism will function within the requisite framework of stability-oriented policies in accordance with the Treaty establishing the European Community which are at the core of economic and monetary union.

### 1. PRINCIPLES AND OBJECTIVES

1.1. Lasting convergence of economic fundamentals is a prerequisite for sustainable exchange-rate stability. To this end, in the third stage of economic and monetary union all Member States must pursue disciplined and responsible monetary policies directed towards price stability. Sound

fiscal and structural policies in all Member States are, at least, equally essential for sustainable exchange-rate stability.

1.2. A stable economic environment is necessary for the good functioning of the single market and for higher investment, growth and employment and is therefore in the interest of all Member States. The single market must not be endangered by real exchange-rate misalignments, or by excessive nominal exchange-rate fluctuations between the euro and the other EU currencies, which would disrupt trade flows between Member States. Moreover, under Article 109m of the Treaty each Member State has an obligation to treat its exchange-rate policy as a matter of common interest. The surveillance of Member States' macroeconomic policies in the Council under Article 103 of the Treaty will be organized, *inter alia*, with a view to avoiding such misalignments or fluctuations.

1.3. The exchange-rate mechanism will help to ensure that Member States outside the euro-area participating in the mechanism orient their policies to stability, foster convergence and thereby help them in their efforts to adopt the euro. It will provide those Member States with a reference for their conduct of sound economic policies in general and monetary policy in particular. At the same time, the mechanism will also help to protect them and the Member States adopting the euro from unwarranted pressures in the foreign-exchange markets. In such cases, it

(\*) OJ C 236, 2.8.1997, pp. 5 and 6.



may assist Member States outside the euro area participating in it, when their currencies come under pressure, to combine appropriate policy responses, including interest-rate measures, with coordinated intervention.

- 1.4. It will also help to ensure that Member States seeking to adopt the euro after 1 January 1999 receive treatment equal to that of those initially adopting the euro with respect to the fulfilment of the convergence criteria.
- 1.5. The exchange-rate mechanism will function without prejudice to the primary objective of the European Central Bank (ECB) and the national central banks to maintain price stability. It should be ensured that any adjustment of central rates is conducted in a timely fashion so as to avoid significant misalignments.
- 1.6. Participation in the exchange-rate mechanism will be voluntary for the Member States outside the euro area. Nevertheless, Member States with a derogation can be expected to join the mechanism. A Member State which does not participate from the outset in the exchange-rate mechanism may participate at a later date.
- 1.7. The exchange-rate mechanism will be based on central rates against the euro. The standard fluctuation band will be relatively wide. Through the implementation of stability-oriented economic and monetary policies, the central rates will remain the focus for the Member States outside the euro area participating in the mechanism.
- 1.8. Furthermore, sufficient flexibility is allowed, in particular, to accommodate the varying degrees, paces and strategies of economic convergence of Member States outside the euro area joining the mechanism. Exchange-rate policy cooperation may be further strengthened, for example

by allowing closer exchange-rate links between the euro and other currencies in the exchange-rate mechanism, where, and to the extent that, these are appropriate in the light of progress towards convergence. The existence of such closer links, particularly if it implied narrower fluctuation bands, would be without prejudice to the interpretation of the exchange-rate criterion of Article 109j of the Treaty.

## 2. MAIN FEATURES

- 2.1. A central rate against the euro will be defined for the currency of each Member State outside the euro area participating in the exchange-rate mechanism. There will be one standard fluctuation band of plus or minus 15 % around the central rate. Intervention at the margins will in principle be automatic and unlimited, with very short-term financing available. However, the ECB and the central banks of the other participants could suspend intervention if this were to conflict with their primary objective. In their decision they would take due account of all relevant factors and in particular of the need to maintain price stability and the credible functioning of the exchange-rate mechanism.
- 2.2. As is made clear in the agreement laying down the operating procedures of the exchange-rate mechanism which is expected to be concluded between the ECB and the national central banks, the flexible use of interest rates will be an important feature of the mechanism and there will be the possibility of coordinated intra-marginal intervention.
- 2.3. Decisions on central rates and the standard fluctuation band shall be taken by mutual agreement of the ministers of the euro-area Member States, the ECB and the ministers and central bank governors

of the non-euro area Member States participating in the new mechanism, following a common procedure involving the European Commission, and after consultation of the Economic and Financial Committee. The ministers and governors of the central banks of the Member States not participating in the exchange-rate mechanism will take part but will not have the right to vote in the procedure. All parties to the mutual agreement, including the ECB, will have the right to initiate a confidential procedure aimed at reconsidering central rates.

- 2.4. On a case-by-case basis, formally agreed fluctuation bands narrower than the standard one and backed up in principle by automatic intervention and financing may be set at the request of the non-euro area Member State concerned. Such a decision to narrow the band would be taken by the ministers of the euro-area Member States, the ECB and the minister and governor of the central bank of the non-euro area Member State concerned, following a common procedure involving the European Commission, and after consultation of the Economic and Financial Committee. The ministers and central bank governors of the other Member States will take part in the procedure, but will not have the right to vote.
- 2.5. The standard and narrower bands shall not prejudice the interpretation of the third indent of Article 109j (1) of the Treaty.
- 2.6. The details of the very short-term financing mechanism will be determined in the agreement between the ECB and the national central banks, broadly on the basis of the present arrangements. The European Monetary Institute (EMI) has drafted such an agreement incorporating the operating procedures required by this Resolution. The EMI will submit it to the ECB and to the central banks of the non-euro area Member States on the date of the establishment of the ECB.

**Agreement of 1 September 1998  
between the European Central Bank and the national central banks of  
the Member States outside the euro area laying down the operating  
procedures for an exchange rate mechanism in stage three of  
economic and monetary union (\*)**

THE EUROPEAN CENTRAL BANK (HEREINAFTER REFERRED TO AS THE 'ECB') AND THE NATIONAL CENTRAL BANKS OF THE MEMBER STATES OUTSIDE THE EURO AREA (HEREINAFTER REFERRED TO AS THE 'NON-EURO AREA NCBs' AND THE 'NON-EURO AREA MEMBER STATES' RESPECTIVELY),

Whereas the European Council has in its Resolution of 16 June (hereinafter referred to as the 'Resolution') agreed to set up an exchange rate mechanism (hereinafter referred to as 'ERM II') when the third stage of economic and monetary union begins on 1 January 1999;

Whereas, under the terms of the Resolution,

- ERM II will replace the present European Monetary System;
- a stable economic environment is necessary for the good functioning of the single market and for higher investment, growth and employment, and is therefore in the interest of all Member States. The single market must not be endangered by real exchange rate misalignments or by excessive nominal exchange rate fluctuations between the euro and the other EU currencies, which would disrupt trade flows between Member States. Moreover, under Article 109m of the Treaty establishing the European Community, each Member State has an obligation to treat its exchange rate policy as a matter of common interest;

- ERM II will help to ensure that non-euro area Member States participating in ERM II (hereinafter referred to as 'participating non-euro area Member States') orient their policies to stability, foster convergence and thereby help them in their efforts to adopt the euro;
- participation in ERM II will be voluntary for the non-euro area Member States. Nevertheless, Member States with a derogation can be expected to join the mechanism. A Member State which does not participate from the outset in ERM II may participate at a later date;
- ERM II will function without prejudice to the primary objective of the ECB and the non-euro area NCBs to maintain price stability;
- for the currency of each participating non-euro area Member State (hereinafter referred to as 'participating non-euro currency') a central rate against the euro will be defined;
- there will be one standard fluctuation band of 115 % around the central rates;
- it should be ensured that any adjustment of central rates is conducted in a timely fashion so as to avoid significant misalignments. Thus, all parties to the mutual agreement on the central rates, including the ECB, will have the right to initiate a confidential procedure aimed at reconsidering central rates;
- intervention at the margins will in principle be automatic and unlimited, with very

(\*) OJ C 345, 13.11.1998, pp. 6-12.

short-term financing available. However, the ECB and the non-euro area NCBs participating in ERM II (hereinafter referred to as 'participating non-euro area NCBs') could suspend intervention if this were to conflict with their primary objective of price stability. In their decision they would take due account of all relevant factors and in particular of the need to maintain stability and the credible functioning of ERM II;

- exchange rate policy co-operation may be further strengthened, for example by allowing closer exchange rate links between the euro and the participating non-euro area currencies, where, and to the extent that, these are appropriate in the light of progress towards convergence;

Whereas intervention shall be used as a supportive instrument in conjunction with other policy measures, including appropriate monetary and fiscal policies conducive to economic convergence and exchange rate stability. There will be the possibility of coordinated intramarginal intervention decided by mutual agreement between the ECB and the respective participating non-euro area NCB, in parallel with other appropriate policy responses, including the flexible use of interest rates, by the latter;

Whereas sufficient flexibility needs to be allowed, in particular to accommodate the varying degrees, paces and strategies of economic convergence of the non-euro area Member States;

Whereas this Agreement shall not preclude the establishment, on a bilateral basis, of additional fluctuation bands and intervention arrangements between non-euro area Member States;

HAVE AGREED AS FOLLOWS:

## **I. CENTRAL RATES AND FLUCTUATION BANDS**

### *Article 1*

#### **Bilateral central rates and intervention rates between the euro and the participating non-euro area currencies**

1.1. The parties to this Agreement shall participate in a joint notification to the market of the bilateral central rates, and any changes to them, between the participating non-euro area currencies and the euro as agreed following the common procedure specified in paragraph 2.3 of the Resolution.

1.2. In accordance with the fluctuation bands fixed pursuant to paragraphs 2.1, 2.3 and 2.4 of the Resolution, the ECB and each participating non-euro area NCB shall establish, by common accord, the bilateral upper and lower rates between the euro and the participating non-euro area currencies for automatic intervention. The ECB and the participating non-euro area NCBs shall jointly notify the market of these rates, which shall be quoted in accordance with the convention set forth in Annex I.

## **II. INTERVENTION**

### *Article 2*

#### **General provisions**

2.1. Intervention shall in principle be effected in euro and the participating non-euro area currencies. The ECB and the participating non-euro area NCBs shall inform each other about all foreign exchange intervention intended to safeguard the cohesion of ERM II.

2.2. The ECB and the non-euro area NCBs shall inform each other about all other foreign exchange intervention.

### *Article 3*

#### **Intervention at the margins**

3.1. Intervention at the margins shall in principle be automatic and unlimited. However, the ECB and the participating non-euro area NCBs could suspend automatic intervention if this were to conflict with their primary objective of maintaining price stability.

3.2. In deciding whether to suspend intervention, the ECB or a participating non-euro area NCB shall also take due account of all other relevant factors, including the credible functioning of ERM II. The ECB and/or the participating non-euro area NCB concerned shall base any decision on factual evidence and, in this context, also give consideration to any conclusion which may have been reached by other competent bodies. The ECB and/or the participating non-euro area NCB concerned shall notify, as long in advance as possible and on a strictly confidential basis, the other monetary authorities concerned and the monetary authorities of all other participating non-euro area Member States of any intention to suspend intervention.

3.3. A payment after payment procedure shall be applied in the event of intervention at the margins, as set forth in Annex I.

### *Article 4*

#### **Coordinated intramarginal intervention**

The ECB and participating non-euro area NCBs may agree to co-ordinated intramarginal intervention.

### *Article 5*

#### **Prior agreement for intervention and other transactions**

5.1. Prior agreement of the central bank issuing the intervention currency shall be required when a central bank intends to use

the former's currency in amounts exceeding mutually agreed limits in connection with all non-compulsory intervention, including unilateral intramarginal intervention, involving the sale or purchase of participating currencies.

5.2. Prior agreement shall also be required for transactions other than intervention which involve at least one participating non-euro area currency or the euro and are of a magnitude which makes them likely to influence the exchange rate of the two currencies concerned. In such cases the two respective central banks shall agree on an approach which minimises potential problems, including the possibility of settling the transaction — wholly or in part — directly between the two central banks.

## **III. VERY SHORT-TERM FINANCING FACILITY**

### *Article 6*

#### **General provisions**

6.1. For the purpose of intervention in euro and in the participating non-euro area currencies, the ECB and each participating non-euro area NCB shall open for each other very short-term credit facilities. The initial maturity for a very short-term financing operation shall be three months.

6.2. The financing operations under these facilities shall take the form of spot sales and purchases of participating currencies giving rise to corresponding claims and liabilities, denominated in the creditor's currency, between the ECB and the participating non-euro area NCBs. The value date of the financing operations shall be identical to the value date of the intervention in the market. The ECB shall keep a record of all transactions conducted in the context of these facilities.

### *Article 7*

#### **Financing of intervention at the margins**

7.1. The very short-term financing facility is in principle automatically available and unlimited in amount for the purpose of financing intervention in participating currencies at the margins.

7.2. The debtor central bank shall make appropriate use of its foreign reserve holdings prior to drawing on the facility.

7.3. The ECB and the participating non-euro area NCBs could suspend further automatic financing if it were to conflict with their primary objective of maintaining price stability. The suspension of further automatic financing will be subject to the provisions of Article 3.2 of this Agreement.

### *Article 8*

#### **Financing of intramarginal intervention**

For the purpose of intramarginal intervention, the very short-term financing facility may, with the agreement of the central bank issuing the intervention currency, be made available subject to the following conditions:

- (a) the cumulative amount of such financing made available to the debtor central bank shall not exceed the latter's ceiling as laid down in Annex II;
- (b) the debtor central bank shall make appropriate use of its foreign reserve holdings prior to drawing on the facility.

### *Article 9*

#### **Remuneration**

9.1. Outstanding very short-term financing balances shall be remunerated at the representative domestic three-month money market rate of the creditor's currency prevailing on the trade date of the initial financing operation or, in the

event of a renewal pursuant to Articles 10 and 11 of this Agreement, the three-month money market rate of the creditor's currency prevailing on the date on which the initial financing operation to be renewed falls due.

9.2. Accrued interest shall be paid in the creditor's currency on the date of the initial maturity of the facility, or, if applicable, on the date of the advance liquidation of a debtor balance. In the event of a renewal of the facility pursuant to Articles 10 and 11 of this Agreement, interest shall be capitalised at the end of every three-month period and shall be paid on the date of the final repayment of the debtor balance.

9.3. For the purpose of Article 9.1 of this Agreement, each participating non-euro area NCB shall notify the ECB of its representative domestic three-month money market rate. A representative domestic three-month money market rate in euro shall be used by the ECB and notified to the participating non-euro area NCBs.

### *Article 10*

#### **Automatic renewal**

At the request of the debtor central bank, the initial maturity for a financing operation may be extended for a period of three months.

However:

- (a) the initial maturity may only be automatically extended once for a maximum of three months;
- (b) the total amount of indebtedness resulting from application of this Article may at no time exceed the debtor central bank's ceiling as laid down for each central bank in Annex II.

*Article 11***Renewal by mutual agreement**

11.1. Any debt exceeding the ceiling laid down in Annex II may be renewed once for three months subject to the agreement of the creditor central bank.

11.2. Any debt already renewed automatically for three months may be renewed a second time for a further three months subject to the agreement of the creditor central bank.

*Article 12***Advance repayment**

Any debtor balance recorded in accordance with Articles 6, 10 and 11 of this Agreement may be settled at any time in advance at the request of the debtor central bank.

*Article 13***Netting-out of mutual claims and liabilities**

Mutual claims and liabilities between the ECB and a participating non-euro area NCB arising from the operations provided for in Articles 6 to 12 of this Agreement may be netted out against each other by mutual agreement between the two parties involved.

*Article 14***Means of settlement**

14.1. When a financing operation falls due or in the event of advance repayment, settlement shall in principle be carried out by means of holdings in the creditor's currency.

14.2. This provision shall be without prejudice to other forms of settlement agreed between creditor and debtor central banks.

**IV. CLOSER EXCHANGE RATE COOPERATION***Article 15***Closer exchange rate cooperation**

15.1. The exchange rate policy cooperation between participating non-euro area NCBs and the ECB may be further strengthened; in particular, closer exchange rate links may be agreed on a case-by-case basis at the initiative of the interested participating non-euro area Member State.

15.2. On a case-by-case basis, formally agreed fluctuation bands narrower than the standard one and backed up in principle by automatic intervention and financing may be set at the request of the participating non-euro area Member State concerned, according to the procedure laid down in paragraph 2.4 of the Resolution.

15.3. Other types of closer exchange rate arrangements of an informal nature may also be established between the ECB and participating non-euro area NCBs.

**V. MONITORING THE FUNCTION OF THE SYSTEM***Article 16***Tasks of the General Council of the ECB**

16.1. The General Council of the ECB shall monitor the functioning of ERM II and serve as the forum for monetary and exchange rate policy coordination as well as for the administration of the intervention and financing mechanism specified in this Agreement. It shall closely monitor, on a permanent basis, the sustainability of bilateral exchange rate relations between each participating non-euro area currency and the euro.

16.2. The General Council of the ECB shall periodically review the operation of this Agreement in the light of experience gained.

### *Article 17*

#### **Reconsideration of central rates and participation in narrower fluctuation bands**

17.1. All parties to the mutual agreement reached pursuant to paragraph 2.3 of the Resolution, including the ECB, shall have the right to initiate a confidential procedure aimed at reconsidering central rates.

17.2. In the event of formally agreed fluctuation bands narrower than the standard one, all parties to the joint decision made pursuant to paragraph 2.4 of the Resolution, including the ECB, shall have the right to initiate a confidential re-examination of the appropriateness of the respective currency's participation in the narrower band.

## **VI. NON-PARTICIPATION**

### *Article 18*

#### **Applicability**

The provisions of Article 1, 2.1, 3, 4, 6 to 15 and 17 of this Agreement shall not apply to non-euro area NCBs which do not participate in ERM II.

### *Article 19*

#### **Cooperation in the concentration**

Non-euro area NCBs not participating in ERM II shall cooperate with the ECB and the participating non-euro area NCBs in the concentration and the other exchanges of information necessary for the proper functioning of ERM II.

## **VII. FINAL PROVISIONS**

### *Article 20*

#### **Final provisions**

20.1. This Agreement replaces, with effect from 1 January 1999, the Agreement of 13 March 1979, as amended by the Instrument of 10 June 1985 and the Instrument of 10 November 1987, laying down the operating procedures of the European Monetary System.

20.2. This Agreement shall be drawn up in duly signed versions in English, French and German. A certified copy of the original in each language shall be sent to each central bank by the ECB, which is required to retain the originals. The Agreement shall be translated into all other official Community languages and be published in the C series of the *Official Journal of the European Communities*.



## ANNEX I

**QUOTATION CONVENTION FOR CURRENCIES PARTICIPATING IN ERM II AND THE  
PAYMENT AFTER PAYMENT PROCEDURE IN THE EVENT OF  
INTERVENTION AT THE MARGINS**

## (A) Quotation convention

For all the currencies of the non-euro area Member States participating in ERM II, the exchange rate for the bilateral central rate *vis-à-vis* the euro shall be quoted using the euro as the base currency. The exchange rate shall be expressed as the value of EUR 1 using six significant digits for all currencies.

The same convention shall be applied for quoting the upper and lower intervention rates *vis-à-vis* the euro of the currencies of the non-euro area Member States participating in ERM II. The intervention rates shall be determined by adding or subtracting the agreed bandwidth, expressed as a percentage, to or from the bilateral central rates. The resulting rates shall be rounded to six significant digits.

## (B) Payment after payment procedure

A payment after payment procedure shall be applied by both the ECB and the euro area NCBs in the event of intervention at the margins. The non-euro area NCBs participating in ERM II shall apply the payment after payment procedure when acting as correspondents of the euro area NCBs and the ECB in accordance with this Annex; the non-euro area NCBs participating in ERM II may, at their discretion, adopt the same payment after payment procedure when setting intervention at the margins that such NCBs have carried out on their own behalf.

(i) *General principles*

- The payment after payment procedure shall be applied when intervention at the margins in ERM II takes place between the euro and the currencies of the non-euro area Member States participating in ERM II.
- To be eligible for intervention at the margins in ERM II, counterparties shall be required to keep an account with the NCB concerned. Counterparties shall also be required to maintain SWIFT addresses and/or to exchange authenticated telex keys with the NCB concerned or with the ECB. In addition, eligible counterparties may conduct intervention at the margins in ERM II directly with the ECB.
- The non-euro area NCBs participating in ERM II shall act as the correspondents of the euro area NCBs and the ECB.
- When intervention at the margins takes place, the NCB concerned or the ECB shall release its payment for a given transaction only after receiving confirmation from its correspondent that the amount due has been credited to its account. Counterparties shall be required to pay in due time so as to enable the NCBs and the ECB to fulfil their respective payment obligations. Consequently, counterparties shall be required to pay before a predefined deadline.

*(ii) Deadline for the receipt of funds from counterparties*

Counterparties shall pay intervention amounts at the latest by 1 p.m. ECB (CET) time on value date.

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 ANNEX II

**CEILINGS ON ACCESS TO THE VERY SHORT-TERM FINANCING FACILITY REFERRED TO IN ARTICLES 8, 10 AND 11 OF THE AGREEMENT OF 1 SEPTEMBER 1998**

with effect from 1 January 1999

(in millions of euro)

<b>Central banks party to this Agreement</b>	<b>Ceilings <sup>(1)</sup></b>
Danmarks Nationalbank	520
Bank of Greece	300
Sveriges Riksbank	990
Bank of England	3480
European Central Bank	nil
<b>Euro area NCBs</b>	
Nationale Bank van België/Banque	nil
Nationale de Belgique	
Deutsche Bundesbank	nil
Banco de España	nil
Banque de France	nil
Central Bank of Ireland	nil
Banca d'Italia	nil
Banque centrale de Luxembourg	nil
De Nederlandsche Bank	nil
Oesterreichische Nationalbank	nil
Banco de Portugal	nil
Suomen Pankki	nil

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<sup>(1)</sup> The amounts indicated are notional for central banks which do not participate in ERM II.

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*Part H*

# **External aspects of the euro**

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**Resolution of the European Council  
of 13 December 1997  
on economic policy coordination in stage 3 of EMU and on Treaty  
Articles 109 and 109b of the EC Treaty (\*)**

*[Parts I and III of the resolution are  
reproduced as Part E 1 of this  
compendium]*

**II. IMPLEMENTING THE TREATY  
PROVISIONS ON THE EXCHANGE-RATE  
POLICY, EXTERNAL POSITION AND  
REPRESENTATION OF THE COMMUNITY  
(ARTICLE 109 OF THE TREATY)**

7. The European Council recognises the responsibility which will fall to the Community with the introduction of the euro, one of the major currencies in the world monetary system. The contribution of the Community through the ESCB, in strict accordance with the competences and procedures established by the Treaty, will be to provide a centre of price stability. For its part, the European Council is resolved to play its full part in helping to lay the foundations for a prosperous and efficient economy in the Community, in accordance with the principle of an open economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 3a of the Treaty. The European Council is convinced that this will provide the bases for a currency which is strong and respected.
8. The Council should monitor the development of the exchange rate of the euro in the light of a wide range of economic data. The Commission should provide analyses to the

Council, and the Economic and Financial Committee should prepare the Council's reviews. It is important to make full use of the Treaty provisions to ensure an exchange of information and views between the Council and the ECB on the exchange rate of the euro. While in general exchange rates should be seen as the outcome of all other economic policies, the Council may, in exceptional circumstances, for example in the case of a clear misalignment, formulate general orientations for exchange-rate policy in relation to non-EC currencies in accordance with Article 109(2) of the Treaty. These general orientations should always respect the independence of the ESCB and be consistent with the primary objective of the ESCB to maintain price stability.

9. The Council should decide on the position of the Community at international level as regards issues of particular relevance to economic and monetary union, in accordance with Article 109(4) of the Treaty. These positions will be relevant both to bilateral relations between the European Union and individual third countries and to proceedings in international organizations or informal international groupings. The scope of this provision is necessarily limited as only euro-area Member States vote under Article 109.
10. The Council and the European Central Bank will carry out their tasks in representing the Community at international level in an efficient manner and in compliance with the allocation of powers laid down in the

(\*) OJ C 35, 2.2.1998, pp. 1-4.

Treaty. On elements of economic policy other than monetary and exchange-rate policy, the Member States should continue to present their policies outside the Community framework, while taking full account of the Community interest. The Commission will be involved in external representation to the extent required to enable it to perform the role assigned to it by the Treaty.

Representation in international organizations should take account of those organi-

zations' rules. With particular regard to the Community's relations with the International Monetary Fund (IMF), they should be predicated upon the provision in that Fund's Articles of Agreement that only countries can be members of that institution. The Member States, in their capacities as members of the IMF, should help to establish pragmatic arrangements which would facilitate the conduct of IMF surveillance and the presentation of Community positions, including the views of the ESCB, in IMF fora.

**Report of the Council to the European Council  
on the state of preparation for Stage III of EMU,  
in particular the external representation of the Community  
(Annex II of the Presidency conclusions of the Vienna European  
Council of 11 and 12 December 1998) (\*)**

After several years of intense preparation, the European Union is ready to enter into Stage III of EMU on 1 January 1999. Eleven of its Member States will adopt the euro as their currency. Significant work has been accomplished in reaching convergence. The Ecofin Council has also developed, for approval by the Heads of State or Government, the framework for a well-functioning economic and monetary union, including the Stability and Growth Pact and procedures for economic policy coordination (see annex). The outstanding topic where decisions remain to be taken concerns the external representation of the Community. At the Luxembourg European Council of December 1997, the Heads of State or Government gave an important impetus to this work, and, in Cardiff, they asked 'the Council to take the necessary measures to ensure the external representation of the euro area Member States in an effective manner'.

In its work on external representation, the Council has benefited from the substantial help of the Commission and the ESCB/ECB in their respective fields of competence. In particular, it has been seized with a Commission proposal on 'the representation and position-taking of the Community at international level in the context of economic and monetary union'.

The external representation in Stage III of EMU will imply changes in the current organisation of international forums. Therefore, third countries and institutions will need to be persuaded to accept the solutions proposed by the European Union. The Council considers that a pragmatic approach might be

the most successful which could minimise the adaptation of current rules and practices provided, of course, that such an approach resulted in an outcome which recognised properly the role of the euro.

It follows from the Treaty that a distinction has to be made between the representation:

- of the Community at international level as regards issues of particular relevance to economic and monetary union (Article 109(4)), and
- on matters which do not belong to the Community competence, but on which it may be appropriate for Member States to express common understandings.

As regards the first indent of paragraph 4 — the representation of the Community at international level as regards issues of particular relevance to EMU — the Council believes that, while trying to reach early solutions pragmatically with international partners, these solutions should be further developed over time adhering to the following principles:

- the Community must speak with one voice;
- the Community shall be represented at the Council/ministerial level and at the central banking level. Article 6.1 of the protocol on the ESCB and the ECB provides that: 'In the field of international cooperation involving the tasks entrusted to the ESCB, the ECB shall decide how the ESCB shall be represented.' Article 6.3 adds: 'Articles 6.1 and 6.2 shall be without prejudice to Article 109(4) of this Treaty';

(\*) Bulletin of the European Union, 12-1998, pp. 22-25.



— the Commission 'will be involved in the Community external representation to the extent required to enable it to perform the role assigned to it by the Treaty', point 10, last sentence, of the Luxembourg European Council resolution.

As regards the second indent — matters which do not belong to Community competence — the Council considered it useful to develop pragmatic solutions for the external representation.

In developing those pragmatic solutions, the Council concentrated its work on three important areas:

- representation at the G7 Finance Ministers' and Governors' Group;
- representation at the International Monetary Fund;
- composition of Ecofin delegations for missions to third countries.

### **1. REPRESENTATION AT THE G7 FINANCE MINISTERS' AND GOVERNORS' GROUP**

Regarding the European Central Bank's participation in the representation of the Community at the G7 Finance Ministers' and Governors' Group, non-European partners have already accepted that the President of the ECB attends meetings of the group for the discussions which relate to EMU, e.g. multi-lateral surveillance, exchange rate issues, and for agreement of the relevant sections of the published statement.

Regarding the representation of the Community at ministerial level on EMU issues, the Council agreed to suggest to the other G7 partners to have the President of Ecofin, or if the President came from a non-euro area Member State, the President of EUR-11 at the table. If the President came from a non-G7 euro area State, he/she would attend in addition

to the euro area Ecofin members already present.

In a transitional phase, one of the euro area ministers who are involved in the G7 Group on a permanent basis will, for the sake of greater continuity, provide support for the President of the Ecofin/EUR-11 on a rotating basis for a term of one year.

Regarding the Commission's participation in the representation of the Community, the Council agreed to suggest to the other G7 partners that a Commission representative shall be a member of the Community delegation in the capacity of providing assistance to the President of Ecofin/EUR-11.

In light of the decisions on the previous paragraphs, further consideration will be given to attendance at preparatory (Deputy) meetings. The Council agreed that as an integral part of Community representation at the G7 Group, there should be an informal preparation on EMU issues in EUR-11 before meetings. The Council also outlined the need for an efficient communication network between its members.

To this end, the possibility of setting up a modern network of communication tools (audio and video conferences) between the 15 Economic and Finance Ministries, the European Commission, the ECB and the Secretariat of the Economic and Financial Committee will be studied and carried forward urgently. This, of course, cannot be used for adoption of any legally binding legislative acts.

Solutions found for the G7 Finance Ministers' and Governors' Group will provide a basis for finding solutions for other groupings.

The Council recognised that the G7 Group quite often will discuss international issues which go beyond the competence of the Community and beyond the particular interest of the 11 euro area Member States, and concern all Member States. Even on these issues, which

fall to Member State competence, it may be appropriate to formulate and present common understandings. The discussions and formulation of common understandings at recent Ecofin meetings on such topics as Russia and the international financial system might serve as a model. Those common understandings shall in any case be the basis of positions to be taken in the G7 Group and other groups.

## 2. REPRESENTATION AT THE INTERNATIONAL MONETARY FUND

The Council considers that pragmatic solutions for presenting issues of particular relevance to EMU may have to be sought which do not require a change in the Articles of Agreement of the IMF:

- a first necessary step has already been taken; the IMF Executive Board agreed to grant the ECB an observer position at that board;
- secondly, the views of the European Community/EMU would be presented at the IMF Board by the relevant member of the Executive Director's office of the Member State holding EUR-11 Presidency, assisted by a representative from the Commission.

## 3. COMPOSITION OF ECOFIN/EUR-11 DELEGATIONS FOR MISSIONS TO THIRD COUNTRIES

The composition of Ecofin/EUR-11 delegations for missions to third countries may vary with the circumstances and the objectives. It is the responsibility of the President of the Council/EUR-11 to make the necessary arrangements.

## REPORT TO THE EUROPEAN COUNCIL ON ECONOMIC POLICY COORDINATION (ANNEX TO ANNEX II)

### *The need for economic policy coordination*

The move to Stage III of economic and monetary union will link the economies of the Member States adopting the euro more closely together. They will share a single monetary policy and a single exchange rate. Economic policies and wage determination, however, remain a national responsibility, subject to the provisions of Treaty Article 104c and the Stability and Growth Pact. To the extent that national economic developments have an impact on inflation prospects in the euro area, they will influence monetary conditions in that area. It is for this basic reason that the move to a single currency will require closer Community surveillance and coordination of economic policies among euro area Member States. Moreover, close coordination should aim at an appropriate balance of the policy mix so as to contribute to the achievement of the Community objectives set out in Article 2 of the Treaty.

Economic and monetary interdependence with non-participating Member States will also be strong; they all participate in the single market. The need to ensure further convergence and the smooth functioning of the single market therefore requires all Member States to be included in the coordination of economic policies. Interdependence will be especially strong for those non-euro area Member States which will participate in the new exchange rate mechanism.

### *Agreement on economic policy coordination*

The Council (Ecofin) recognised the need for enhanced coordination of national economic policies and considered the issue in detail in its report to the European Council meeting in Luxembourg in December 1997. The latter endorsed this report and issued a resolution on, *inter alia*, economic policy coordination in

Stage III of EMU. In addition, the European Council meeting in Cardiff last June, considering that the full benefits of EMU and the European single market for all Europe's citizens can be achieved only by a strategy to promote employment through increased competitiveness and economic and social cohesion within a framework of macroeconomic stability, set out the essential elements of the European Union's strategy for further economic reform to promote growth, prosperity, jobs and social inclusion and welcomed the determination of Member States to ensure effective coordination of their economic policies.

#### *Areas for economic policy coordination*

In the meantime, nearly all elements of economic policy coordination have been put in place and are being tried out. The arrangements are proving to be successful, particularly since the Council is embarking on a fully-fledged annual coordination process. While respecting the principle of subsidiarity, it will give full attention to national economic developments and policies including wage policies with a view to their contribution to the achievement of the Community objectives. It will concentrate on those policies which have the potential to influence monetary and financial conditions throughout the euro area, the exchange rate of the euro, the smooth functioning of the internal market, and investment, employment and growth conditions in the Community. This includes:

- the close monitoring of macroeconomic developments in Member States to ensure sustained convergence,
- the close monitoring of exchange rate developments of the euro and other EU currencies in the recognition that, in general, these should be seen as the outcome of all other economic policies,
- the strengthened surveillance of budgetary positions and policies in accordance with

the Treaty and the Stability and Growth Pact,

- the monitoring of nominal and real wage developments with reference to the broad economic policy guidelines,
- the close examination of national employment action plans (NAPs), dealing in particular with active labour market policy in accordance with the employment policy guidelines and the exchange of best practice,
- the monitoring of Member States' structural policies in labour, product and services markets, as well as of cost and price trends, particularly insofar as they affect the chances of achieving sustained non-inflationary growth and job creation.

#### *Modalities for economic policy coordination*

The Council will apply the Treaty instruments for economic policy coordination fully and effectively. Its activity will centre on the broad economic policy guidelines, adopted in accordance with Article 103(2). They will be developed into an effective instrument for ensuring sustained convergence of Member States. Economic policies and developments in each Member State and in the Community will be closely monitored in the framework of multilateral surveillance according to Article 103(3), and measured against the broad economic policy guidelines.

If necessary, and according to Article 103(4), the Council will make recommendations to a Member State whenever its economic policies are not consistent with the broad economic policy guidelines or risk jeopardising the proper functioning of EMU.

In order to take account of the special needs of coordination for Member States participating in the euro area, the EUR-11 group was created and has met in fruitful dialogue several times. In September 1998, the non-participating

Member States were also invited in order to discuss matters of common concern.

The harmonious economic development of the Community in Stage III of EMU will also call for continuous and fruitful dialogue between the Council and the European Central Bank, involving the Commission and respecting all aspects of the independence of the ESCB. The Council and the EUR-11 group have started such a dialogue and stand ready to engage in it further when needed.

In order to stimulate a fruitful dialogue and to inform them about the stability-oriented macroeconomic policy framework, the European social partners were invited by the Ecofin Council for a regular exchange of views.

#### *Implementing the new arrangements for economic policy coordination*

In addition to the regular work on the broad economic policy guidelines, the Council started this spring to closely review the national employment action plans. Guided by the Cardiff European Council, the Council will moreover establish a light procedure, under which Member States and the Commission will produce short reports at the end of the year, each within their areas of competence, on product and capital markets. While fully respecting subsidiarity, this procedure will help exchange best practice and complement the

information already available in national employment action plans and stability/convergence programmes. It is being implemented for the first time this year.

In accordance with the 1 May declaration, this summer the Council looked closely into actual and prospective developments in Member States' budgetary policies. At present, the Council is examining the stability and convergence programmes with a view to their consistency with the broad economic policy guidelines and the requirements of the Stability and Growth Pact and the commitments of the Council's 1 May declaration.

The results of the analysis of these different reports should feed into the annual update of the broad economic policy guidelines and contribute to making them an effective instrument at the heart of the economic policy coordination process.

Continued efforts are necessary to implement the guidelines fully and to take appropriate account of the new policy environment upon the transition to Stage III of EMU. The ambition to ensure effective coordination of economic policies will imply a more active involvement of all participants in this process, including the ministers' meeting in the EUR-11 group, the Council and the Heads of State or Government.

**Council decision  
of 23 November 1998  
concerning exchange rate matters relating to the CFA franc  
and the Comorian franc (98/683/EC) (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 109(3) thereof,

Having regard to the recommendation from the Commission,

Having regard to the opinion of the European Central Bank<sup>(1)</sup>,

- (1) Whereas according to Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro<sup>(2)</sup>, the euro will be substituted as from 1 January 1999 for the currency of each participating Member State at the conversion rate;
- (2) Whereas the Community will have the competence for monetary and exchange rate matters in the Member States adopting the euro as from the same date;
- (3) Whereas the Council is to determine the appropriate arrangements for the negotiation and conclusion of agreements concerning monetary or foreign exchange regime matters;
- (4) Whereas France has concluded several agreements with the UEMOA (Union économique et monétaire ouest-africaine), the CEMAC (Communauté économique et monétaire de l'Afrique Centrale) and the Comores which are intended to guarantee the convertibility of the CFA

and Comorian francs into the French franc at a fixed parity<sup>(3)</sup>;

- (5) Whereas the euro will be substituted for the French franc on 1 January 1999;
- (6) Whereas the convertibility of the CFA and Comorian francs is guaranteed by a budgetary commitment of the French authorities; whereas the French authorities have given the assurance that the agreements with the UEMOA, the CEMAC and with the Comores have no substantial financial implications for France;
- (7) Whereas these agreements are unlikely to have any material effect on the monetary and exchange rate policy of the euro area; whereas in their present form and state of implementation these agreements are therefore unlikely to present any obstacle

(3) *Convention de coopération monétaire du 23 novembre 1972 entre les États membres de la Banque des États de l'Afrique centrale (BEAC) et la République française, as amended; Convention de compte d'opérations du 13 mars 1973 entre le ministre de l'Économie et des Finances de la République Française et le Président du Conseil de l'administration de la Banque des États de l'Afrique Centrale, as amended; Accord de coopération du 4 décembre 1973 entre la République française et les Républiques membres de l'union monétaire ouest-africaine, as amended; Convention de compte d'opérations du 4 décembre 1973 entre le ministre de l'Économie et des Finances de la République Française et le Président du conseil des ministres de l'Union monétaire ouest-africaine, as amended; Accord de coopération monétaire du 23 novembre 1979 entre la République française et la République fédérale islamique des Comores, as amended; Convention de compte d'opérations du 23 novembre 1979 entre le ministre de l'Économie et des Finances de la République Française et le ministre des Finances, de l'Économie et du Plan de la République fédérale des Comores, as amended.*

(\*) OJ L 320, 28.11.1998, pp. 58 and 59.

(1) Opinion of 23 September 1998 (not yet published in the Official Journal).

(2) OJ L 139, 11.5.1998, p. 1.

to a smooth functioning of economic and monetary union; whereas nothing in these agreements can be construed as implying an obligation for the European Central Bank or any national central bank to support the convertibility of the CFA or Comorian franc; whereas modifications to the existing agreements will not lead to any obligations for the European Central or any national central bank;

- (8) Whereas France and the African signatories to the agreements are willing to continue the present agreements after the substitution of the euro for the French franc; whereas it is appropriate that France may continue the present agreements after the substitution of the euro for the French franc and that France and the African signatories to the agreements implement them under their sole responsibility;
- (9) Whereas it is necessary for the Community to be informed on a regular basis about the implementation and envisaged modifications of the agreements;
- (10) Whereas the modification or implementation of existing agreements will be without prejudice to the primary objective of the Community's exchange-rate policy to maintain price stability, in accordance with Article 3a(2) of the Treaty;
- (11) Whereas it is necessary to involve the competent Community bodies before making any changes to the nature or scope of the present agreements; whereas this applies to the membership of the agreements and to the principle of free convertibility at a fixed parity between the euro and the CFA and Comorian francs, convertibility being guaranteed by a budgetary commitment of the French Treasury;
- (12) Whereas the decision does not establish a precedent with respect to any arrangements that may be decided in the future

with respect to the negotiation and conclusion of similar agreements concerning monetary or foreign exchange regime matters by the Community with other States or international organisations;

- (13) Whereas, without prejudice to Community competence and Community agreements as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements,

HAS ADOPTED THIS DECISION:

#### *Article 1*

Upon the substitution of the euro for the French franc, France may continue its present agreements concerning exchange rate matters with the UEMOA (Union économique et monétaire ouest-africaine), the CEMAC (Communauté économique et monétaire de l'Afrique Centrale) and the Comores.

#### *Article 2*

France and the African signatories to the agreements shall retain sole responsibility for the implementation of these agreements.

#### *Article 3*

The competent French authorities shall keep the Commission, the European Central Bank and the Economic and Financial Committee informed on a regular basis about the implementation of the agreements. The French authorities shall inform the Economic and Financial Committee prior to changes of the parity between the euro and the CFA or Comorian franc.

*Article 4*

France may negotiate and conclude modifications to the present agreements to the extent that the nature or scope of the agreements are not changed. It shall inform in advance the Commission, the European Central Bank and the Economic and Financial Committee of such changes.

*Article 5*

Any plans to change the nature or scope of these agreements shall be submitted by France to the Commission, the European Central Bank and the Economic and Financial Committee. Such plans require the approval of the Council

on the basis of a recommendation from the Commission and after consultation of the European Central Bank.

*Article 6*

This Decision shall apply as from 1 January 1999.

*Article 7*

This Decision is addressed to the French Republic.

Done at Brussels, 23 November 1998.

*For the Council*

*The President*

R. EDLINGER

**Council decision  
of 21 December 1998  
concerning exchange rate matters relating to  
the Cape Verde escudo (98/744/EC) (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 109(3) thereof,

Having regard to the recommendation from the Commission,

Having regard to the opinion of the European Central Bank <sup>(1)</sup>,

- (1) Whereas according to Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro <sup>(2)</sup>, the euro will be substituted as from 1 January 1999 for the currency of each participating Member State at the conversion rate;
- (2) Whereas the Community will have the competence for monetary and exchange rate matters in the Member States adopting the euro as from the same date;
- (3) Whereas the Council decides the arrangements for the negotiation and conclusion of agreements concerning monetary or foreign exchange regime matters;
- (4) Whereas the Portuguese Republic has concluded an agreement with the Republic of Cape Verde <sup>(3)</sup> which is intended to ensure the convertibility of the Cape Verde

escudo into the Portuguese escudo at a fixed parity;

- (5) Whereas the euro will be substituted for the Portuguese escudo on 1 January 1999;
- (6) Whereas the convertibility of the Cape Verde escudo is ensured by a limited credit facility provided by the Portuguese government; whereas the Portuguese government has given the assurance that the agreement with Cape Verde has no substantial financial implications for Portugal;
- (7) Whereas this agreement is unlikely to have any material effect on the monetary and exchange rate policy of the euro area; whereas in its present form and state of implementation this agreement therefore is unlikely to present any obstacle to a smooth functioning of Economic and Monetary Union; whereas nothing in this agreement can be construed as implying an obligation for the ECB or any NCB to support the convertibility of the Cape Verde escudo; whereas modifications to the existing agreement shall not lead to any obligation for the ECB or any NCB;
- (8) Whereas Portugal and Cape Verde are willing to continue the present agreement after the substitution of the euro for the Portuguese escudo; whereas it is appropriate that Portugal may continue the present agreement after this substitution and that Portugal and Cape Verde implement it under their sole responsibility;
- (9) Whereas it is necessary for the Community to be informed on a regular basis

(\*) OJ L 358, 31.12.1998, pp. 111 and 112.

<sup>(1)</sup> Opinion delivered on 17.12.1998 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 139, 11.5.1998, p. 1.

<sup>(3)</sup> *Acordo de cooperação cambial entre a República Portuguesa e a República de Cabo Verde. (Decreto n.º 24/98 de 15 de Julho 1998).*



about the implementation and envisaged modifications of the agreement;

- (10) Whereas the modification or implementation of this agreement should be without prejudice to the primary objective of the Community's exchange rate policy to maintain price stability, in accordance with Article 3a(2) of the Treaty;
- (11) Whereas it is necessary to involve the competent Community bodies before making any changes to the nature or scope of the present agreement; whereas this applies in particular to the principle of free convertibility at a fixed parity between the euro and the Cape Verde escudo, convertibility being ensured by a limited credit facility provided by the Portuguese government;
- (12) Whereas without prejudice to Community competence and Community agreements as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements;
- (13) Whereas this Decision does not establish a precedent with respect to any arrangements that may be decided in the future with respect to the negotiation and conclusion of similar agreements concerning monetary or foreign exchange regime matters by the Community with other States or international organisations,

HAS ADOPTED THIS DECISION:

### *Article 1*

Upon the substitution of the euro for the Portuguese escudo, the Portuguese Republic may continue its present agreement concerning exchange rate matters with the Republic of Cape Verde.

### *Article 2*

Portugal and Cape Verde shall keep the sole responsibility for the implementation of this agreement.

### *Article 3*

The competent Portuguese authorities shall keep the Commission, the European Central Bank and the Economic and Financial Committee informed on a regular basis about the implementation of the agreement. The Portuguese authorities shall inform the Economic and Financial Committee prior to changes of the parity between the euro and the Cape Verde escudo.

### *Article 4*

Portugal may negotiate and conclude modifications to the present agreement to the extent that the nature or scope of the agreement is not changed. It shall inform in advance the Commission, the European Central Bank and the Economic and Financial Committee of such changes.

### *Article 5*

Any plans to change the nature or scope of this agreement shall be submitted by Portugal to the Commission, the European Central Bank and the Economic and Financial Committee.

Such plans require the approval of the Council on the basis of a recommendation from the Commission and after consultation of the European Central Bank.

### *Article 6*

This Decision shall apply as from 1 January 1999.

*Article 7*

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 21 December 1998.

*For the Council*

*The President*

M. BARTENSTEIN

**Council decision  
of 31 December 1998  
on the position to be taken by the Community regarding  
an agreement concerning the monetary relations  
with the Principality of Monaco (1999/96/EC) (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 109(3) thereof,

Having regard to the recommendation from the Commission,

Having regard to the opinion of the European Central Bank,

(1) Whereas according to Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro<sup>(1)</sup> the euro will be substituted as from 1 January 1999 for the currency of each participating Member State at the conversion rate;

(2) Whereas the Community will have competence for monetary and exchange rate matters in the Member States adopting the euro as from that date;

(3) Whereas the Council is to determine the arrangements for the negotiation and conclusion of agreements concerning monetary or foreign exchange regime matters;

(4) Whereas France has particular monetary links with the Principality of Monaco which are based on various legal instru-

ments<sup>(2)</sup>; whereas financial institutions located in the Principality of Monaco have the potential right to access the refinancing facilities of the Banque de France and whereas they participate in some French payment systems under the same conditions as French banks;

(5) Whereas the euro will be substituted for the French Franc on 1 January 1999;

(6) Whereas according to Declaration (No 6) annexed to the Final Act of the Treaty on European Union, the Community undertakes to facilitate the renegotiations of existing arrangements with the Principality of Monaco as might become necessary as a result of the introduction of the single currency;

(7) Whereas the arrangements between France and the Principality of Monaco in their present form need to be amended or, as the case may be, replaced at the earliest possible date, taking into account the allocation of competence to the Community for monetary and exchange rate matters as laid down in the Treaty;

(8) Whereas, given the close economic relations between the Principality of Monaco and the Community, it is appropriate that an agreement concerning banknotes and coins, the access to payment systems and the legal status of the euro in the Principality of Monaco is concluded between the Community and the Principality of Monaco; whereas, given the historical links between France and the Principality of Monaco, it is appropriate

(\*) OJ L 30, 4.2.1999, pp. 31 and 32.

(1) OJ L 139, 11.5.1998, p. 1.

(2) *Ordonnance monégasque fixant le cours légal et le cours forcé des monnaies et billets du 2 janvier 1925; Convention franco-monégasque relative au contrôle des changes, 14 avril 1945; Echange de lettres entre la France et Monaco du 18 mai 1963 relatif à la réglementation bancaire dans la Principauté, as amended by the Echange de lettres du 27 novembre 1987.*

that France negotiates and may conclude the new agreement on behalf of the Community;

- (9) Whereas, in order to allow the Principality of Monaco to have the same currency as France, it is appropriate to agree that the Principality of Monaco uses the euro as its official currency and grants legal tender status to euro banknotes and coins issued by the European System of Central Banks and the Member States which have adopted the euro;
- (10) Whereas it is important that the Principality of Monaco ensures that Community rules on banknotes and coins denominated in euro are applicable in the Principality of Monaco; whereas euro banknotes and coins need appropriate protection against counterfeiting; whereas it is important that the Principality of Monaco takes all the necessary measures to combat counterfeiting and to cooperate with the Community in this area;
- (11) Whereas the European Central Bank (ECB) and the national central banks may engage in all types of banking transactions in relation to financial institutions located in third countries; whereas the ECB and the national central banks may, under appropriate conditions, allow financial institutions in third countries access to their payment systems; whereas the agreement between the Community and the Principality of Monaco shall not impose any obligations on the ECB or on any national central bank;
- (12) Whereas the Commission and the ECB in its field of competence will have to be fully associated with these negotiations; whereas it is appropriate that France submits the draft agreement to the Economic and Financial Committee for its opinion; whereas the draft agreement will have to be submitted to the Council in the case

that the Commission or the ECB or the Economic and Financial Committee are of the opinion that this is necessary;

- (13) Whereas existing arrangements between France and the Principality of Monaco should be amended or, as the case may be, replaced so as to avoid any inconsistencies between such arrangements and the agreement between the Community and the Principality of Monaco concerning their monetary relations,

HAS ADOPTED THIS DECISION:

#### *Article 1*

France shall notify the Principality of Monaco of the need to amend the existing arrangements between France and the Principality of Monaco at the earliest possible date as far as monetary matters are concerned and offer negotiations for a new agreement.

#### *Article 2*

The position to be taken by the Community in the negotiations with the Principality of Monaco for an agreement concerning matters referred to below shall be based on the principles laid down in Articles 3 to 6.

#### *Article 3*

1. The Principality of Monaco shall be entitled to use the euro as its official currency.
2. The Principality of Monaco shall be entitled to grant legal tender status to euro banknotes and coins.

#### *Article 4*

The Principality of Monaco shall undertake not to issue any banknotes, coins or monetary surrogates of any kind unless the conditions for such issuance have been agreed with the Community.

### *Article 5*

1. The Principality of Monaco shall undertake to make Community rules on euro banknotes and coins applicable in the Principality of Monaco.
2. The Principality of Monaco shall undertake to cooperate closely with the Community with regard to measures against counterfeiting of euro banknotes and coins.

### *Article 6*

Financial institutions located in the Principality of Monaco may have access to the payment systems within the euro area under appropriate conditions to be determined with the agreement of the ECB.

They may be subject to minimum reserve and statistical reporting obligations of the ECB.

### *Article 7*

France shall conduct the negotiations with the Principality of Monaco on the matters referred to in Articles 3 to 6 on behalf of the Community. The Commission shall be fully associated with the negotiations. The ECB shall be fully associated with the negotiations in its field of competence. France shall submit the

draft agreement to the Economic and Financial Committee for opinion.

### *Article 8*

France shall be entitled to conclude the agreement on behalf of the Community unless the Commission or the ECB or the Economic and Financial Committee are of the opinion that the agreement should be submitted to the Council.

### *Article 9*

France shall review its existing arrangements with the Principality of Monaco in order to make them compatible with the agreement between the Community and the Principality of Monaco concerning their monetary relations.

### *Article 10*

This Decision is addressed to the French Republic.

Done at Brussels, 31 December 1998.

*For the Council*

*The President*

R. EDLINGER

**Council decision  
of 31 December 1998  
on the position to be taken by the Community regarding  
an agreement concerning the monetary relations with  
the Republic of San Marino (1999/97/EC) (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 109(3) thereof,

Having regard to the recommendation from the Commission,

Having regard to the opinion of the European Central Bank,

- (1) Whereas according to Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro <sup>(1)</sup>, the euro will be substituted as from 1 January 1999 for the currency of each participating Member State at the conversion rate;
- (2) Whereas the Community will have competence for monetary and exchange rate matters in the Member States adopting the euro as from that date;
- (3) Whereas the Council is to determine the arrangements for the negotiation and conclusion of agreements concerning monetary or foreign exchange regime matters;
- (4) Whereas Italy has concluded several agreements with the Republic of San Marino

which include provisions on monetary matters <sup>(2)</sup>;

- (5) Whereas the euro will be substituted for the Italian Lira on 1 January 1999;
- (6) Whereas according to Declaration (No 6) annexed to the Final Act of the Treaty on European Union, the Community undertakes to facilitate the renegotiations of existing arrangements with the Republic of San Marino as might become necessary as a result of the introduction of the single currency;
- (7) Whereas the agreements between Italy and the Republic of San Marino in their present form need to be amended or, as the case may be, replaced at the earliest possible date, taking into account the allocation of competence to the Community for monetary and exchange rate matters as laid down in the Treaty;
- (8) Whereas given the close economic relations between the Republic of San Marino and the Community, it is appropriate that an agreement concerning banknotes and coins, the access to payment systems and the legal status of the euro in the Republic of San Marino is concluded between the Community and the Republic of San Marino; whereas given the historical links between Italy and the Republic of San Marino, it is appropriate that Italy negotiates and may conclude the new agreement on behalf of the Community;
- (9) Whereas in order to allow the Republic of San Marino to have the same currency as Italy, it is appropriate to agree that the

(\*) OJ L 30, 4.2.1999, pp. 33 and 34.

<sup>(1)</sup> OJ L 139, 11.5.1998, p. 1.

<sup>(2)</sup> *Convenzione di amicizia e di buon vicinato fra San Marino e l'Italia del 31 marzo 1939, as amended, Convenzione monetaria tra la Repubblica Italiana e la Repubblica di San Marino, 21-XII-1991; Convenzione in materia di rapporti finanziari e valutari tra la Repubblica Italiana e la Repubblica di San Marino con atto aggiuntivo corredato da Processo Verbale firmato a Roma il 4 marzo 1994.*

Republic of San Marino uses the euro as its official currency and grants legal tender status to euro banknotes and coins issued by the European System of Central Banks and the Member States which have adopted the euro;

(10) Whereas it is important that the Republic of San Marino ensures that Community rules on banknotes and coins denominated in euro are applicable in the Republic of San Marino; whereas euro banknotes and coins need appropriate protection against counterfeiting; whereas it is important that the Republic of San Marino takes all the necessary measures to combat counterfeiting and to cooperate with the Community in this area;

(11) Whereas the European Central Bank (ECB) and the national central banks may engage in all types of banking transactions in relation to financial institutions located in third countries; whereas the ECB and the national central banks may, under appropriate conditions, allow financial institutions in third countries access to their payment systems; whereas the agreement between the Community and the Republic of San Marino shall not impose any obligations on the ECB or on any national central bank;

(12) Whereas the Commission and the ECB in its field of competence will have to be fully associated with these negotiations; whereas it is appropriate that Italy submits the draft agreement to the Economic and Financial Committee for its opinion; whereas the draft agreement will have to be submitted to the Council in the case that the Commission or the ECB or the Economic and Financial Committee are of the opinion that this is necessary;

(13) Whereas existing agreements between Italy and the Republic of San Marino should be amended or, as the case may be, replaced

so as to avoid any inconsistencies between such agreements and the agreement between the Community and the Republic of San Marino concerning their monetary relations,

HAS ADOPTED THIS DECISION:

#### *Article 1*

Italy shall notify the Republic of San Marino of the need to amend the existing agreements between Italy and the Republic of San Marino at the earliest possible date as far as monetary matters are concerned and offer negotiations for a new agreement.

#### *Article 2*

The position to be taken by the Community in the negotiations with the Republic of San Marino for an agreement concerning matters referred to below shall be based on the principles laid down in Articles 3 to 6.

#### *Article 3*

1. The Republic of San Marino shall be entitled to use the euro as its official currency.
2. The Republic of San Marino shall be entitled to grant legal tender status to euro banknotes and coins.

#### *Article 4*

The Republic of San Marino shall undertake not to issue any banknotes, coins or monetary surrogates of any kind unless the conditions for such issuance have been agreed with the Community. This does not prejudice the right of the Republic of San Marino to continue issuing gold coins denominated in scudi.

*Article 5*

1. The Republic of San Marino shall undertake to make Community rules on euro banknotes and coins applicable in the Republic of San Marino.

2. The Republic of San Marino shall undertake to cooperate closely with the Community with regard to measures against counterfeiting of euro banknotes and coins.

*Article 6*

Financial institutions located in the Republic of San Marino may have access to payment systems within the euro area under appropriate conditions to be determined with the agreement of the ECB.

*Article 7*

Italy shall conduct the negotiations with the Republic of San Marino on the matters referred to in Articles 3 to 6 on behalf of the Community. The Commission shall be fully associated with the negotiations. The ECB shall

be fully associated with the negotiations in its field of competence. Italy shall submit the draft agreement to the Economic and Financial Committee for opinion.

*Article 8*

Italy shall be entitled to conclude the agreement on behalf of the Community unless the Commission or the ECB or the Economic and Financial Committee are of the opinion that the agreement should be submitted to the Council.

*Article 9*

Italy shall ensure that its existing agreements with the Republic of San Marino are compatible with the agreement between the Community and the Republic of San Marino concerning their monetary relations.

*Article 10*

This Decision is addressed to the Italian Republic.

Done at Brussels, 31 December 1998.

*For the Council*

*The President*

R. EDLINGER



**Council decision  
of 31 December 1998  
on the position to be taken by the Community regarding an  
agreement concerning the monetary relations with Vatican City (\*)  
(1999/98/EC)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 109(3) thereof,

Having regard to the recommendation from the Commission,

Having regard to the opinion of the European Central Bank,

- (1) Whereas according to Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro <sup>(1)</sup> the euro will be substituted as from 1 January 1999 for the currency of each participating Member State at the conversion rate;
- (2) Whereas the Community will have competence for monetary and exchange rate matters in the Member States adopting the euro as from that date;
- (3) Whereas the Council is to determine the arrangements for the negotiation and conclusion of agreements concerning monetary or foreign exchange regime matters;
- (4) Whereas Italy has concluded an agreement with Vatican City which includes provisions on monetary matters <sup>(2)</sup>;
- (5) Whereas the euro will be substituted for the Italian Lira on 1 January 1999;

(6) Whereas according to Declaration (No 6) annexed to the Final Act of the Treaty on European Union, the Community undertakes to facilitate the renegotiations of existing arrangements with Vatican City as might become necessary as a result of the introduction of the single currency;

(7) Whereas the agreement between Italy and Vatican City in its present form needs to be amended or, as the case may be, replaced at the earliest possible date, taking into account the allocation of competence to the Community for monetary and exchange rate matters as laid down in the Treaty;

(8) Whereas given the close economic relations between Vatican City and the Community, it is appropriate that an agreement concerning banknotes and coins, the access to payment systems and the legal status of the euro in Vatican City is concluded between the Community and Vatican City; whereas given the historical links between Italy and Vatican City, it is appropriate that Italy negotiates and may conclude the new agreement on behalf of the Community;

(9) Whereas in order to allow Vatican City to have the same currency as Italy, it is appropriate to agree that Vatican City uses the euro as its official currency and grants legal tender status to euro banknotes and coins issued by the European System of Central Banks and the Member States which have adopted the euro;

(\*) OJ L 30, 4.2.1999, pp. 35 and 36.

<sup>(1)</sup> OJ L 139, 11.5. 1998, p. 1.

<sup>(2)</sup> *Convenzione monetaria tra la Repubblica Italiana e lo Stato della Città del Vaticano il 3 dicembre 1991.*

(10) Whereas it is important that Vatican City ensures that Community rules on banknotes and coins denominated in euro are applicable in Vatican City; whereas euro banknotes and coins need appropriate protection against counterfeiting; whereas it is important that Vatican City takes all the necessary measures to combat counterfeiting and to cooperate with the Community in this area;

(11) Whereas the European Central Bank (ECB) and the national central banks may engage in all types of banking transactions in relation to financial institutions located in third countries; whereas the ECB and the national central banks may, under appropriate conditions, allow financial institutions in third countries access to their payment systems; whereas the agreement between the Community and Vatican City shall not impose any obligations on the ECB or on any national central bank;

(12) Whereas the Commission and the ECB in its field of competence will have to be fully associated with these negotiations; whereas it is appropriate that Italy submits the draft agreement to the Economic and Financial Committee for its opinion; whereas the draft agreement will have to be submitted to the Council in the case that the Commission or the ECB or the Economic and Financial Committee are of the opinion that this is necessary;

(13) Whereas the existing agreement between Italy and Vatican City should be amended or, as the case may be, replaced so as to avoid any inconsistencies between such agreement and the agreement between the Community and Vatican City concerning their monetary relations,

HAS ADOPTED THIS DECISION:

#### *Article 1*

Italy shall notify Vatican City of the need to amend the existing agreement between Italy and Vatican City at the earliest possible date as far as monetary matters are concerned and offer negotiations for a new agreement.

#### *Article 2*

The position to be taken by the Community in the negotiations with Vatican City for an agreement concerning matters referred to below shall be based on the principles laid down in Articles 3 to 6.

#### *Article 3*

1. Vatican City shall be entitled to use the euro as its official currency.
2. Vatican City shall be entitled to grant legal tender status to euro banknotes and coins.

#### *Article 4*

Vatican City shall undertake not to issue any banknotes, coins or monetary surrogates of any kind unless the conditions for such issuance have been agreed with the Community. This does not prejudice the right of Vatican City to continue issuing collector coins.

#### *Article 5*

1. Vatican City shall undertake to make Community rules on euro banknotes and coins applicable in Vatican City.
2. Vatican City shall undertake to cooperate closely with the Community with regard to measures against counterfeiting of euro banknotes and coins.

*Article 6*

Financial institutions located in Vatican City may have access to payment systems within the euro area under appropriate conditions to be determined with the agreement of the European Central Bank.

*Article 7*

Italy shall conduct the negotiations with Vatican City on the matters referred to in Articles 3 to 6 on behalf of the Community. The Commission shall be fully associated with the negotiations. The ECB shall be fully associated with the negotiations in its field of competence. Italy shall submit the draft agreement to the Economic and Financial Committee for opinion.

*Article 8*

Italy shall be entitled to conclude the agreement on behalf of the Community unless the Commission or the ECB or the Economic

and Financial Committee are of the opinion that the agreement should be submitted to the Council.

*Article 9*

Italy shall ensure that its existing agreement with Vatican City is compatible with the agreement between the Community and Vatican City concerning their monetary relations.

*Article 10*

This Decision is addressed to the Italian Republic.

Done at Brussels, 31 December 1998.

*For the Council*

*The President*

R. EDLINGER

**Council decision  
of 31 December 1998  
concerning the monetary arrangements in the French territorial  
communities of Saint-Pierre-et-Miquelon and Mayotte (\*)  
(1999/95/EC)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 109I(4), third sentence thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Central Bank,

- (1) Whereas according to Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro <sup>(1)</sup>, the euro will be substituted as from 1 January 1999 for the currency of each participating Member State at the conversion rate;
- (2) Whereas the Community will have competence for monetary and exchange rate matters in the Member States adopting the euro as from that date;
- (3) Whereas the euro will be substituted for the French franc on 1 January 1999;
- (4) Whereas the French territorial communities (*collectivités territoriales*) Saint-Pierre-et-Miquelon and Mayotte are an integral part of France; whereas they do not form part of the Community; whereas the monetary regime of Saint-Pierre-et-Miquelon and Mayotte is not specified in the Treaty; whereas it is necessary to clarify their monetary regime; whereas these territorial communities should have the same currency as metropolitan France;
- (5) Whereas banknotes and coins denominated in French francs are put into circulation by the Institut d'Emission des Départements d'Outre Mer (IEDOM) in Saint-Pierre-et-Miquelon and, from 1 January 1999, in Mayotte; whereas financial institutions located in these communities have access to refinancing facilities in French francs with IEDOM; whereas France intends to reform in time the status and role of the IEDOM in order to achieve compatibility with the tasks assigned to the European System of Central Banks (ESCB) by the Treaty and Protocol No 3;
- (6) Whereas the euro should be the currency of these communities; whereas France should grant legal tender status to French franc banknotes and coins and to euro banknotes and coins issued by the ESCB and the Member States which have adopted the euro;
- (7) Whereas as from 1 January 1999 the ESCB defines and implements the monetary policy of the Community; whereas the European Central Bank (ECB) and the national central banks may engage in all types of banking transactions in relation to financial institutions located in third countries; whereas they may also engage in these transactions in territories of a Member State which are not part of the Community; whereas they should make use of this competence with respect to these communities; whereas in order to ensure the singleness of the monetary policy of the ESCB and a level playing

(\*) OJ L 30, 4.2.1999, pp. 29 and 30.

(1) OJ L 139, 11.5.1998, p. 1.

field for financial institutions located in the euro area, it is appropriate that those parts of present and future Community law which are necessary for the functioning of Economic and Monetary Union be made applicable in Saint-Pierre-et-Miquelon and Mayotte;

- (8) Whereas the monetary arrangements in Saint-Pierre-et-Miquelon and Mayotte need to be defined by France by way of national legislation,

HAS ADOPTED THIS DECISION:

*Article 1*

The euro shall be the currency of Saint-Pierre-et-Miquelon and Mayotte.

*Article 2*

1. France shall continue to grant the legal tender status to banknotes and coins denominated in French francs in Saint-Pierre-et-Miquelon and Mayotte until 30 June 2002 at the latest.

2. From 1 January 2002 France shall grant legal tender status to banknotes and coins denominated in euro in Saint-Pierre-et-Miquelon and Mayotte.

*Article 3*

The ECB and the national central banks may carry out the functions and operations of the ESCB in Saint-Pierre-et-Miquelon and Mayotte as laid down in Chapter IV and Article 16 of the Statute of the ESCB and the ECB.

*Article 4*

France in agreement with the Commission and the ECB shall ensure that those parts of Community law which are or will be necessary for the functioning of Economic and Monetary Union are applied in Saint-Pierre-et-Miquelon and Mayotte.

*Article 5*

This Decision shall apply as from 1 January 1999.

*Article 6*

This Decision is addressed to the French Republic.

Done at Brussels, 31 December 1998.

*For the Council*

*The President*

R. EDLINGER

*Part I*

**Texts on the  
European Central Bank**

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**Statute of the European System of Central Banks  
and of the European Central Bank**

*The text of the Statute can be found in  
Part A 3.*



**Decision taken by common accord of the governments of the Member States adopting the single currency at the level of Heads of State or Government of 26 May 1998 appointing the President, the Vice-President and the other members of the Executive Board of the European Central Bank (98/345/EC) (\*)**

THE HEADS OF STATE OR GOVERNMENT OF THE MEMBER STATES OF THE EUROPEAN COMMUNITY ADOPTING THE SINGLE CURRENCY,

Under the Chairmanship of Mr Victor KLIMA, Federal Chancellor of the Republic of Austria,

Having regard to the Treaty establishing the European Community, and in particular Article 109a(2) and Article 109l(1), second indent thereof, and to Article 50 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank,

Having regard to the recommendation of the Council (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Council of the European Monetary Institute (3),

HAVE DECIDED AS FOLLOWS:

*Article 1*

1. Mr Wim DUISENBERG is hereby appointed President of the European Central Bank for a term of office of eight years.

(\*) OJ L 154, 28.5.1998, pp. 33 and 34.

(1) OJ L 139, 11.5.1998, p. 36.

(2) Opinion delivered on 13 May 1998 (not yet published in the Official Journal).

(3) Opinion delivered on 5 May 1998 (not yet published in the Official Journal).

2. Mr Christian NOYER is hereby appointed Vice-President of the European Central Bank for a term of office of four years.

3. Mr Otmar ISSING is hereby appointed member of the Executive Board of the European Central Bank for a term of office of eight years.

4. Mr Tommaso PADOA-SCHIOPPA is hereby appointed member of the Executive Board of the European Central Bank for a term of office of seven years.

5. Mr Eugenio DOMINGO SOLANS is hereby appointed member of the Executive Board of the European Central Bank for a term of office of six years.

6. Mrs Sirkka HÄMÄLÄINEN is hereby appointed member of the Executive Board of the European Central Bank for a term of office of five years.

These appointments take effect from 1 June 1998.

*Article 2*

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Brussels, 26 May 1998.

*The Chairman*

V. KLIMA

## **Decision taken by common agreement between the representatives of the governments of the Member States, meeting at Head of State or Government level, on the location of the seats of certain bodies and departments of the European Communities and of Europol (\*)**

THE REPRESENTATIVES OF THE MEMBER STATES, MEETING AT HEAD OF STATE AND GOVERNMENT LEVEL,

Having regard to Article 216 of the Treaty establishing the European Economic Community, Article 77 of the Treaty establishing the European Coal and Steel Community and Article 189 of the Treaty establishing the European Atomic Energy Community,

Having regard to Council Regulation (EEC) No 1210/90 of 7 May 1990 on the establishment of the European Environment Agency and the European environment information and observation network<sup>(1)</sup>, and in particular Article 21 thereof,

Having regard to Council Regulation (EEC) No 1360/90 of 7 May 1990 establishing a European Training Foundation<sup>(2)</sup>, and in particular Article 19 thereof,

Having regard to the Decision of 18 December 1991 under which the Commission approved the establishment of the Office for Veterinary and Plant-Health Inspection and Control,

Having regard to Council Regulation (EEC) No 302/93 of 8 February 1993 on the establishment of a European Monitoring Centre for Drugs and Drug Addiction<sup>(3)</sup>, and in particular Article 19 thereof,

Having regard to Council Regulation (EEC) No 2309/93 of 22 July 1993 establishing *inter alia* a European Agency for the Evaluation of

Medicinal Products<sup>(4)</sup>, and in particular Article 74 thereof,

Whereas, further to the action programme adopted by the Commission on 20 November 1989 relating to the implementation of the Community Charter of the Fundamental Social Rights of Workers, the European Council made provision for creating the Agency for Health and Safety at Work;

Whereas the Treaty on European Union, which was signed on 7 February 1992 and will enter into force on 1 November 1993, provides for the establishment of the European Monetary Institute and the European Central Bank;

Whereas the institutions of the European Communities envisage the establishment of an Office for Harmonization in the Internal Market (trade marks, designs and models);

Whereas, further to the conclusions of the Maastricht European Council, the Member States envisage concluding a Convention on Europol (European Police Office), which will create Europol and also replace the Ministerial Agreement of 2 June 1993, which set up the Europol Drugs Unit;

Whereas the location of the seats of these different bodies and departments should be determined;

Recalling the Decisions of 8 April 1965 and 12 December 1992,

**HAVE DECIDED AS FOLLOWS:**

(\*) OJ C 323, 30.11.1993, pp. 1-5.

(1) OJ L 120, 11.5.1990, p. 1.

(2) OJ L 131, 23.5.1990, p. 1.

(3) OJ L 36, 12.2.1993, p. 1.

(4) OJ L 214, 24.8.1993, p. 1.

*Article 1*

- (a) The European Environment Agency shall have its seat in the area of Copenhagen.
- (b) The European Training Foundation shall have its seat at Turin.
- (c) The Office for Veterinary and Plant-Health Inspection and Control shall have its seat in a town in Ireland to be determined by the Irish Government.
- (d) The European Monitoring Centre for Drugs and Drug Addiction shall have its seat at Lisbon.
- (e) The European Agency for the Evaluation of Medicinal Products shall have its seat at London.
- (f) The Agency for Health and Safety at Work shall have its seat in Spain, in a town to be determined by the Spanish Government.
- (g) The European Monetary Institute and the future European Central Bank shall have their seat at Frankfurt.
- (h) The Office for Harmonization in the Internal Market (trade marks, designs and models), including its Boards of Appeal, shall have its seat in Spain, in a town to be determined by the Spanish Government.
- (i) Europol, and the Europol Drugs Unit, shall have their seat at The Hague.

*Article 2*

This Decision, which will be published in the *Official Journal of the European Communities*, shall enter into force on this day.

Hecho en Bruselas, el veintinueve de octubre de mil novecientos noventa y tres.

Udfærdiget i Bruxelles den niogtyvende oktober nitten hundrede og tre og halvfems.

Geschehen zu Brüssel am neunundzwanzigsten Oktober neunzehnhundertdreiundneunzig.

Έγινε στις Βουξέλλες, στις είκοσι εννέα Οκτωβρίου χίλια εννιακόσια ενενήντα τρία

Done at Brussels on the twenty-ninth day of October in the year one thousand nine hundred and ninety-three.

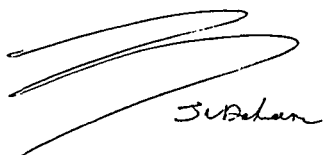
Fait à Bruxelles, le vingt-neuf octobre mil neuf cent quatre-vingt-treize.

Fatto a Bruxelles, addì ventinove ottobre millenovecentonovantatrè.

Gedaan te Brussel, de negentwintigste oktober negentienhonderd drieënnegentig.

Feito em Bruxelas, em vinte e nove de Outubro de mil novecentos e noventa e três.

Pour le gouvernement du royaume de Belgique  
Voor de Regering van het Koninkrijk België



J. C. Trichet

For regeringen for Kongeriget Danmark




Paul Nyrup Rasmussen

Für die Regierung der Bundesrepublik Deutschland



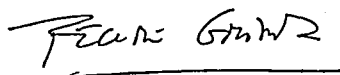
J. S. Genscher

Για την κυβέρνηση της Ελληνικής Δημοκρατίας



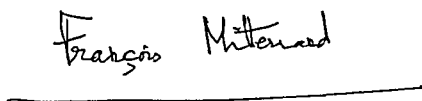
K. Karamanlis

Por el Gobierno del Reino de España



Felipe González

Pour la République française

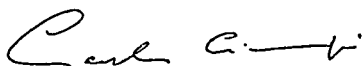


François Mitterrand

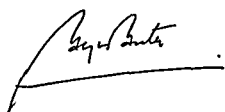
Thar ceann Rialtas na hÉireann  
For the Government of Ireland



Per il governo della Repubblica italiana



Pour le gouvernement du grand-duché de Luxembourg



Voor de Regering van het Koninkrijk der Nederlanden

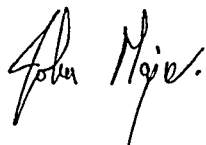


R. F. M. Lubbers

Pelo Governo da República Portuguesa



For the Government of the United Kingdom of Great Britain and Northern Ireland



## DECLARATIONS

When adopting the above Decision on 29 October 1993, the Representatives of the Governments of the Member States adopted the following declarations by common agreement:

- Under Council Regulation (EEC) No 337/75 of 10 February 1975, which was adopted unanimously by the Council on a proposal from the Commission and after consulting the European Parliament, the seat of the European Centre for the Development of Vocational Training was located in Berlin. The Representatives of the Governments of the Member States call upon the institution of the European Community to provide that that seat shall be determined, as soon as possible, in Thessaloniki.

The Commission stated that it was willing to submit a proposal to that effect in the very near future.

- A Translation Centre for the bodies of the Union will be set up within the Commission's Translation Departments located in Luxembourg and will provide the necessary translation services for the operation of the bodies and departments whose seats have been determined by the above Decision of 29 October 1993, with the exception of the translators of the European Monetary Institute.
- The Member States undertake to support the candidacy of Luxembourg as seat of the Common Appeal Court for Community patents as provided for in the Protocol on the settlement of litigation concerning the infringement and validity of Community patents annexed to the Community Patent Agreement of 15 December 1989.

At the conference of the Representatives of the Governments of the Member States the Commission confirmed that it intends to consolidate the establishment of those of its departments that are located in Luxembourg.

Finally, the Member States noted that budgetary resources are available to enable the European Foundation for the Improvement of Living and Working Conditions in Dublin to perform a number of new tasks.

**Council decision  
of 5 June 1998  
on the statistical data to be used for the determination of the key for  
subscription of the capital of the European Central Bank (\*)  
(98/382/EC)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 29.2 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank annexed thereto,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the European Monetary Institute <sup>(3)</sup>,

Acting in accordance with the procedure provided for in Article 106(6) of the Treaty and in Article 42 of the said Protocol,

- (1) Whereas the European Central Bank (ECB) will be established as soon as its Executive Board is appointed;
- (2) Whereas the initial capital of the ECB, which shall become operational upon its establishment, is ECU 5 000 million;
- (3) Whereas the national central banks will be the sole subscribers to, and holders of, the capital of the ECB;
- (4) Whereas the key for the subscription of the ECB's capital will be determined when the ECB is established;

<sup>(\*)</sup> OJ L 171, 17.6.1998, pp. 33 and 34.

<sup>(1)</sup> OJ C 118, 17.4.1998, p. 13.

<sup>(2)</sup> Opinion delivered on 28 May 1998 (not yet published in the Official Journal).

<sup>(3)</sup> Opinion delivered on 6 April 1998 (not yet published in the Official Journal).

(5) Whereas the statistical data to be used for the establishment of the key will be provided by the Commission in accordance with the rules adopted by the Council;

(6) Whereas the nature of, and sources for, the data to be used and the method of calculation of the weighting of national central banks in the key must be defined;

(7) Whereas Council Directive 89/130/EEC, Euratom of 13 February 1989 on the harmonisation of the compilation of gross national product at market prices <sup>(4)</sup> introduces a procedure for the adoption by Member States of data on the gross domestic product at market prices; whereas Member States must take all the necessary steps to ensure that these data are transmitted to the Commission,

HAS DECIDED AS FOLLOWS:

*Article 1*

The statistical data to be used for the determination of the key for subscription of the capital of the ECB shall be provided by the Commission in accordance with the rules laid down in the following Articles.

*Article 2*

Population and gross domestic product at market prices, hereinafter referred to as 'GDP mp', shall be defined according to the European System of Integrated Economic Accounts (ESA) in the version which is used for the application

<sup>(4)</sup> OJ L 49, 21.2.1989, p. 26.

of Directive 89/130/EEC, Euratom. GDP mp shall mean GDP mp as defined in Article 2 of that Directive.

### *Article 3*

The data on population shall be taken for the year 1996. The mean of the total population over the course of the year shall be used in accordance with the ESA recommendation.

### *Article 4*

The data on GDP mp shall be taken for each of the years 1991 to 1995. The data on GDP mp for each Member State shall be expressed in the national currency at current prices.

### *Article 5*

The data on population shall be collected by the Commission (Eurostat) from Member States.

### *Article 6*

The data on GDP mp for the years 1991 to 1995 shall result from the application of Directive 89/130/EEC, Euratom.

### *Article 7*

1. The share of a Member State in the population of the Community shall be its share in the sum of the population of the Member States, expressed as a percentage.
2. The GDP mp data for each year and each Member State expressed in national currencies

shall be converted into figures expressed in ecus. The exchange rate used for this purpose shall be the average of the exchange rates for all working days in a year. The daily exchange rate shall be the rate calculated by the Commission and published in the 'C' series of the *Official Journal of the European Communities*.

3. The share of a Member State in GDP mp of the Community shall be its share in the sum of GDP mp of the Member States over five years, expressed as a percentage.

### *Article 8*

The weighting of a national central bank in the key shall be the arithmetic mean of the shares of the Member State concerned in the population and in the GDP mp of the Community.

### *Article 9*

The various steps of calculation shall use sufficient digits to ensure their accuracy. The weighting of national central banks in the key shall be expressed to four decimal places.

### *Article 10*

The data referred to in this Decision shall be communicated by the Commission to the ECB as soon as possible after its establishment.

Done at Luxembourg, 5 June 1998.

*For the Council*

*The President*

G. BROWN



**Council decision  
of 29 June 1998  
on the consultation of the European Central Bank by national  
authorities regarding draft legislative provisions (\*)  
(98/415/EC)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 105(4) thereof and Article 4 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank annexed thereto,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the European Monetary Institute <sup>(3)</sup>,

Acting in accordance with the procedure provided for in Article 106(6) of the Treaty and in Article 42 of the said Protocol,

- (1) Whereas the European Central Bank (ECB) will be established as soon as its Executive Board is appointed;
- (2) Whereas the Treaty stipulates that national authorities shall consult the ECB regarding any draft legislative provision in its fields of competence; whereas it is for the Council to set out the limits and the conditions of such consultation;
- (3) Whereas this obligation on the authorities of the Member States to consult the ECB must not prejudice the responsibility of

these authorities for the matters which are the subject of such provision; whereas Member States must consult the ECB on any draft legislation in its fields of competence in accordance with Article 105(4) of the Treaty; whereas the list of particular areas included in Article 2 of this Decision is not exhaustive; whereas the sixth indent of Article 2 of this Decision is without prejudice to the present assignment of competences for policies relating to the prudential supervision of credit institutions and the stability of the financial system;

- (4) Whereas the monetary functions and operations of the European System of Central Banks (ESCB) are defined in the Statute of the ESCB and of the ECB; whereas central banks of participating Member States are an integral part of the ESCB and must act in accordance with the guidelines and instructions of the ECB; whereas, in the third stage of Economic and Monetary Union (EMU), the authorities of non-participating Member States must consult the ECB on draft legislative provisions on the instruments of monetary policy;
- (5) Whereas as long as Member States do not participate in the monetary policy of the ESCB, this Decision does not concern decisions taken by authorities of these Member States in the context of the implementation of their monetary policy;
- (6) Whereas consultation of the ECB must not unduly lengthen procedures for adopting legislative provisions in the Member States; whereas the time limits within which the ECB must deliver its opinion must, never-

(\*) OJ L 189, 3.7.1998, pp. 42 and 43.

(1) OJ C 118, 17.4.1998, p. 11.

(2) OJ C 195, 22.6.1998.

(3) Opinion delivered on 6 April 1998 (not yet published in the Official Journal).

theless, enable it to examine the texts referred to it with the required care; whereas, in duly justified cases of extreme urgency, for which the reasons will be stated, for example on account of market sensitivity, Member States may set a time limit which is less than one month and which reflects the urgency of the situation; whereas in these cases particularly, dialogue between the national authorities and the ECB should enable the interests of both to be taken into account;

- (7) Whereas, in accordance with paragraphs 5 and 8 of Protocol No 11 annexed to the Treaty, this Decision shall not apply to the United Kingdom of Great Britain and Northern Ireland if and so long as that Member State does not move to the third stage of EMU;
- (8) Whereas, from the date of the establishment of the ECB until the start of the third stage of EMU, national authorities have to consult the ECB, pursuant to Decision 93/717/EC<sup>(1)</sup> and Article 109l(2) of the Treaty,

HAS ADOPTED THIS DECISION:

### *Article 1*

1. For the purpose of this Decision:

‘participating Member State’ shall mean a Member State which has adopted the single currency in accordance with the Treaty;

‘draft legislative provisions’ shall mean any such provisions which, once they become legally binding and of general applicability in the territory of a Member State, lay down rules for an indefinite number of cases and are addressed to an indefinite number of natural or legal persons.

2. Draft legislative provisions shall not include draft provisions the exclusive purpose of

which is the transposition of Community directives into the law of Member States.

### *Article 2*

1. The authorities of the Member States shall consult the ECB on any draft legislative provision within its field of competence pursuant to the Treaty and in particular on:

- currency matters,
- means of payment,
- national central banks,
- the collection, compilation and distribution of monetary, financial, banking, payment systems and balance of payments statistics,
- payment and settlement systems,
- rules applicable to financial institutions insofar as they materially influence the stability of financial institutions and markets.

2. In addition, the authorities of Member States other than participating Member States shall consult the ECB on any draft legislative provisions on the instruments of monetary policy.

3. The ECB shall, immediately on receipt of any draft legislative provision, notify the consulting authority whether, in its opinion, such provision is within its field of competence.

### *Article 3*

1. The authorities of the Member States preparing a legislative provision may, if they consider it necessary, set the ECB a time limit for the submission of its opinion which may not be less than one month from the date on which the President of the ECB receives notification to this effect.

2. In case of extreme urgency, the time limit may be reduced. In this case, the consulting authority shall state the reasons for the urgency.

<sup>(1)</sup> OJ L 332, 31.12.1993, p. 14.

3. The ECB may request in due time an extension of the time limit for up to an additional four weeks. This request shall not be unreasonably declined by the consulting authority.

4. Upon expiry of the time limit, the absence of an opinion shall not prevent further action by the consulting national authority. Should the opinion of the ECB be received after the time limit, Member States shall, nevertheless, ensure that it is brought to the knowledge of the authorities referred to in Article 4.

#### *Article 4*

Each Member State shall take the measures necessary to ensure effective compliance with this Decision. To that end, it shall ensure that the ECB is consulted at an appropriate stage enabling the authority initiating the draft legislative provision to take into consideration the ECB's opinion before taking its decision on

the substance and that the opinion received from the ECB is brought to the knowledge of the adopting authority if the latter is an authority other than that which has prepared the legislative provisions concerned.

#### *Article 5*

1. This Decision shall apply from 1 January 1999.

2. Decision 93/717/EC shall be repealed with effect from 1 January 1999.

#### *Article 6*

This Decision is addressed to the Member States.

Done at Luxembourg, 29 June 1998.

*For the Council*

*The President*

R. COOK

**Council Regulation (EC) No 2531/98  
of 23 November 1998  
concerning the application of minimum reserves by the  
European Central Bank (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Protocol (No 3) on the Statute of the European System of Central Banks and of the European Central Bank (the 'Statute') and in particular to Article 19.2 thereof,

Having regard to the recommendation of the European Central Bank (the 'ECB') (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Commission (3),

Acting in accordance with the procedure laid down in Article 106(6) of the Treaty establishing the European Community (hereinafter referred to as the 'Treaty') and in Article 42 of the Statute and under the conditions set out in Article 43.1 of the Statute and paragraph 8 of the Protocol (No 11) on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland,

(1) Whereas Article 19.2, in conjunction with Article 43.1 of the Statute, paragraph 8 of Protocol No 11 and paragraph 2 of the Protocol (No 12) on certain provisions relating to Denmark, are not to confer any rights or impose any obligations on a non-participating Member State;

(\*) OJ L 318, 27.11.1998, pp. 1-3.

(1) OJ C 246, 6.8.1998, p. 6.

(2) OJ C 328, 26.10.1998.

(3) Opinion delivered on 8 October 1998 (not yet published in the Official Journal).

(2) Whereas Article 19.2 of the Statute requires the Council to define, *inter alia*, the basis for minimum reserves and the maximum permissible ratios between those reserves and their basis;

(3) Whereas Article 19.2 of the Statute also requires the Council to define the appropriate sanctions in cases of non-compliance with those requirements; whereas specific sanctions are set out herein; whereas this Regulation refers to Council Regulation (EC) No 2532/98 of 23 November 1998, concerning the powers of the European Central Bank to impose sanctions (4) for the principles and procedures relating to the imposition of sanctions and provides for a simplified procedure for the imposition of sanctions in the event of certain kinds of infringements; whereas, in the event of a conflict between the provisions of the Regulation (EC) No 2532/98 and the provisions of this Regulation enabling the ECB to impose sanctions, the provisions of this Regulation should prevail;

(4) Whereas Article 19.1 of the Statute provides that the Governing Council of the ECB may establish regulations concerning the calculation and determination of the required minimum reserves;

(5) Whereas, in order to be effective as an instrument for the performance of money market management and monetary control functions, the system for the imposition of minimum reserves needs to be structured so

(4) See page 4 of this Official Journal (I 7 of this compendium).

that the ECB has the ability and flexibility to impose reserve requirements within the context of, and dependent upon, changing economic and financial conditions among participating Member States; whereas in this respect the ECB must have the flexibility to react to new payment technologies such as the development of electronic money; whereas the ECB may impose minimum reserves on liabilities resulting from off-balance-sheet items, in particular those that are either individually or in combination with other on-balance-sheet or off-balance-sheet items, comparable with liabilities recorded on the balance sheet, in order to limit the possibilities of circumvention;

(6) Whereas the ECB, in establishing detailed regulations for the imposition of minimum reserves, including determining the actual reserve ratios, any remuneration of reserves, any exemptions from minimum reserves or any modifications to such requirements applicable to any specific group or groups of institutions, is bound to act in pursuance of the objectives of the European System of Central Banks (the 'ESCB') as set out in Article 105(1) of the Treaty and as reflected in Article 2 of the Statute; whereas this implies, *inter alia*, the principle of not inducing significant undesirable delocation or disintermediation; whereas the imposition of such minimum reserves may constitute an element of the definition and implementation of the monetary policy of the Community, being one of the basic tasks of the ESCB as specified in the first indent of Article 105(2) of the Treaty and as reflected in the first indent of Article 3.1 of the Statute;

(7) Whereas the sanctions provided in the event of non-compliance with the obligations set out in this Regulation are without prejudice to the possibility of the ESCB establishing appropriate enforcement provisions in its

relations with counterparties, including the partial or total exclusion of an institution from monetary policy operations in the case of serious infringements of the minimum reserve requirements;

(8) Whereas the ESCB and the ECB have been entrusted with the task of preparing the monetary policy instruments to allow for their full operation in the third stage of Economic and Monetary Union (hereinafter referred to as 'Stage Three'); whereas an essential element of preparation is the adoption, ahead of Stage Three, of ECB regulations requiring institutions to hold minimum reserves as from 1 January 1999; whereas it is desirable to inform market participants during 1998 of the detailed provisions which the ECB may deem necessary to adopt for the implementation of the minimum reserves system; whereas it is therefore necessary to provide the ECB from the date of entry into force of this Regulation with a regulatory power;

(9) Whereas the provisions of this Regulation can only be effectively applied in their entirety if participating Member States adopt the necessary measures with a view to ensuring that their authorities have the powers to assist and collaborate fully with the ECB in carrying out the collection and verification of information as required by this Regulation, in accordance with Article 5 of the Treaty,

HAS ADOPTED THIS REGULATION:

### *Article 1*

#### Definitions

For the purposes of this Regulation:

1. 'participating Member State' shall mean a Member State which has adopted the single currency in accordance with the Treaty;

2. 'national central bank' shall mean the central bank of a participating Member State;
3. 'institution' shall mean any entity in a participating Member State which, under the terms of Article 19.1 of the Statute, the ECB may require to hold minimum reserves;
4. 'reserve ratio' shall mean such percentage of the basis for minimum reserves as the ECB may specify in accordance with Article 19.1 of the Statute;
5. 'sanctions' shall mean fines, periodic penalty payments, penalty interest and non-interest-bearing deposits.

### *Article 2*

#### Right to exempt institutions

The ECB may, on a non-discriminatory basis, exempt institutions from minimum reserves in accordance with criteria established by the ECB.

### *Article 3*

#### Basis for minimum reserves

1. The basis for minimum reserves which the ECB may require institutions to hold according to Article 19.1 of the Statute shall include, subject to the provisions specified in paragraphs 2 and 3 of this Article:
  - (i) liabilities of the institution resulting from the acceptance of funds, together with
  - (ii) liabilities resulting from off-balance-sheet items, but excluding
  - (iii) fully or partly liabilities which are owed to any other institution according to modalities which shall be specified by the ECB, and
  - (iv) liabilities which are owed to the ECB or to a national central bank.
2. For liabilities in the form of negotiable debt instruments, the ECB may specify, as an

alternative to the provision in paragraph 1 (iii), that liabilities which are owed by one institution to another shall be fully or partly deducted from the basis for minimum reserves of the institution to which they are owed.

3. The ECB may, on a non-discriminatory basis, allow the deduction of specific types of assets from categories of liabilities forming part of the basis for minimum reserves.

### *Article 4*

#### Reserve ratios

1. Reserve ratios, which the ECB may specify according to Article 19.1 of the Statute, shall not exceed 10 % of any relevant liabilities forming part of the basis for minimum reserves but may be 0 %.
2. Subject to paragraph 1, the ECB may, on a non-discriminatory basis, specify differing reserve ratios for specific categories of liabilities forming part of the basis for minimum reserves.

### *Article 5*

#### Regulatory power

For the purpose of Articles 2, 3 and 4, the ECB shall adopt, where appropriate, regulations or decisions.

### *Article 6*

#### Right to collect and verify information

1. The ECB shall have the right to collect from institutions the information necessary for the application of minimum reserves. Such information shall be confidential.
2. The ECB shall have the right to verify the accuracy and quality of the information which institutions provide to demonstrate compliance with the minimum reserve requirements. The ECB shall notify the institution of its decision to verify data or to effect their compulsory collection.

3. The right to verify data shall include the right to:

- (a) require the submission of documents;
- (b) examine the books and records of the institutions;
- (c) take copies or extracts from such books and records; and
- (d) obtain written or oral explanations.

When an institution obstructs the collection and/or verification of information, the participating Member State in which the relevant premises are located shall afford the necessary assistance, including ensuring access to the premises of the institution, so that the above-mentioned rights can be exercised.

4. The ECB may delegate to the national central banks the execution of the rights to which paragraphs 1 to 3 refer. In accordance with the first indent of Article 34.1 of the Statute, the ECB shall be empowered to specify further in a regulation the conditions under which the right to verify may be exercised.

### Article 7

#### Sanctions in cases of non-compliance

1. Where an institution fails to hold all or part of the minimum reserves imposed in accordance with this Regulation and ECB regulations or decisions associated herewith, the ECB may impose either of the following sanctions:

- (a) a payment of up to 5 percentage points above the ESCB's marginal lending rate or twice the ESCB's marginal lending rate, in both cases applied to the amount of the minimum reserves which the relevant institution fails to provide;
- (b) the requirement for the relevant institution to establish a non-interest-bearing deposit

with the ECB or the national central banks up to 3 times the amount of the minimum reserves which the relevant institution fails to provide. The maturity of the deposit shall not exceed the period during which the institution fails to hold the minimum reserves.

2. Whenever a sanction is imposed in accordance with paragraph 1, the principles and procedures set out in Regulation (EC) No 2532/98 shall apply. However, Article 2(1) and (3) and Article 3(1), (2), (3) and (4) of that Regulation shall not be applicable, and the periods referred to in Article 3(6), (7) and (8) thereof shall be reduced to fifteen days.

3. Where an institution fails to comply with the obligations deriving from this Regulation or ECB regulations or decisions associated therewith, other than those set out in paragraph 1, sanctions in cases of such failure and the limits and conditions relating to the imposition of such sanctions shall be those set out in Regulation (EC) No 2532/98.

### Article 8

#### Final provisions

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 5 shall apply from the date of entry into force of this Regulation. The remaining Articles shall apply from 1 January 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 November 1998.

*For the Council*

*The President*

R. EDLINGER

**Council Regulation (EC) No 2532/98  
of 23 November 1998  
concerning the powers of the European Central Bank to impose  
sanctions (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community (hereinafter referred to as the 'Treaty') and in particular to Article 108a(3) thereof and to Article 34.3 of the Protocol (No 3) on the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the 'Statute'),

Having regard to the recommendation of the European Central Bank (hereinafter referred to as the 'ECB') (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Commission (3),

Acting in accordance with the procedure laid down in Article 106(6) of the Treaty and in Article 42 of the Statute, and under the conditions set out in Article 109k(5) of the Treaty and paragraph 7 of the Protocol (No 11) on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland,

(1) Whereas this Regulation, according to Article 34.3 of the Statute, in conjunction with Article 43.1 of the Statute, paragraph 8 of Protocol No 11 and paragraph 2 of the Protocol (No 12) on certain provisions relating to Denmark, is not to confer any

rights or impose any obligations on a non-participating Member State;

(2) Whereas Article 34.3 of the Statute requires the Council to specify the limits and conditions under which the ECB is entitled to impose fines or periodic penalty payments on undertakings for failure to comply with obligations under its regulations and decisions;

(3) Whereas infringements of the obligations arising from ECB regulations and decisions can arise in various fields of competence of the ECB;

(4) Whereas it is appropriate, in order to ensure a uniform approach towards the imposition of sanctions in the various fields of competence of the ECB, that all general and procedural provisions for the imposition of such sanctions are contained in a single Council Regulation; whereas other Council Regulations provide for specific sanctions in specific fields and refer to this Regulation for the principles and procedures relating to the imposition of such sanctions;

(5) Whereas, in order to provide an effective regime for the administration of sanctions, this Regulation must allow the ECB a certain discretion, both in relation to the relevant procedures and to their implementation within the limits and conditions laid down in this Regulation;

(6) Whereas the European System of Central Banks (hereinafter referred to as the 'ESCB') and the ECB have been entrusted with the task of preparing for their full

(\*) OJ L 318, 27.11.1998, pp. 4-7.

(1) OJ C 246, 6.8.1998, p. 9.

(2) OJ C 328, 26.10.1998.

(3) Opinion delivered on 8 October 1998 (not yet published in the Official Journal).



operation in the third stage of Economic and Monetary Union (hereinafter referred to as 'Stage Three'); whereas timely preparation is essential to enable the ESCB to fulfil its tasks in Stage Three; whereas an essential element of preparation is the adoption, ahead of Stage Three, of the regime for the imposition of sanctions on undertakings failing to comply with obligations imposed upon them by ECB regulations and decisions; whereas it is desirable to inform market participants as soon as possible of the detailed provisions the ECB may deem necessary to adopt for the imposition of sanctions; whereas it is therefore necessary to provide the ECB from the date of entry into force of this Regulation with a regulatory power;

- (7) Whereas the provisions of this Regulation can only be effectively applied if participating Member States adopt the necessary measures with a view to ensuring that their authorities have the powers to assist and collaborate fully with the ECB in the implementation of the infringement procedure as required by this Regulation, in accordance with Article 5 of the Treaty;
- (8) Whereas the ECB is to have recourse to the national central banks to carry out the tasks of the ESCB to the extent deemed possible and appropriate;
- (9) Whereas decisions under this Regulation imposing pecuniary obligations are to be enforceable in accordance with Article 192 of the Treaty,

HAS ADOPTED THIS REGULATION:

### *Article 1*

#### Definitions

For the purposes of this Regulation:

1. 'participating Member State' shall mean a Member State which has adopted the single currency in accordance with the Treaty;

2. 'national central bank' shall mean the central bank of a participating Member State;
3. 'undertakings' shall mean those natural or legal persons, private or public, with the exception of public persons in the exercise of their public powers, in a participating Member State, which are the subject of obligations arising from ECB regulations and decisions, and shall include branches or other permanent establishments located in a participating Member State, the head office or registered office of which is outside a participating Member State;
4. 'infringement' shall mean any failure by an undertaking to fulfil an obligation arising from ECB regulations or decisions;
5. 'fine' shall mean a single amount of money which an undertaking is obliged to pay as a sanction;
6. 'periodic penalty payments' shall mean amounts of money which, in the case of a continued infringement, an undertaking is obliged to pay as a sanction, which shall be calculated for each day of continued infringement following the notification of the undertaking of a decision, in accordance with the second subparagraph of Article 3(1), requiring the termination of such an infringement;
7. 'sanctions' shall mean fines and periodic penalty payments imposed as a consequence of an infringement.

### *Article 2*

#### Sanctions

1. The limits within which the ECB may impose fines and periodic penalty payments on undertakings, unless otherwise provided for in specific Council Regulations, shall be the following:

- (a) fines: the upper limit shall be EUR 500 000; and
- (b) periodic penalty payments: the upper limit shall be EUR 10 000 per day of infringement.

ment. Periodic penalty payments may be imposed in respect of a maximum period of six months following the notification of the undertaking of the decision in accordance with Article 3(1).

2. In determining whether to impose a sanction and in determining the appropriate sanction, the ECB shall be guided by the principle of proportionality.

3. The ECB shall take into consideration, where relevant, the circumstances of the specific case, such as:

- (a) on the one hand, the good faith and the degree of openness of the undertaking in the interpretation and fulfilment of the obligation arising from an ECB regulation or decision as well as the degree of diligence and cooperation shown by the undertaking or, on the other, any evidence of wilful deceit on the part of officials of the undertaking;
- (b) the seriousness of the effects of the infringement;
- (c) the repetition, frequency or duration of the infringement by that undertaking;
- (d) the profits obtained by the undertaking by reason of the infringement;
- (e) the economic size of the undertaking; and
- (f) prior sanctions imposed by other authorities on the same undertaking and based on the same facts.

4. Whenever the infringement consists of a failure to perform a duty, the application of a sanction shall not exempt the undertaking from its performance, unless the decision adopted in accordance with Article 3(4) explicitly states the contrary.

### *Article 3*

#### **Procedural rules**

1. The decision on whether or not to initiate an infringement procedure shall be taken by the Executive Board of the ECB, acting on its own initiative or on the basis of a motion to that effect addressed to it by the national central bank of the Member State in whose jurisdiction the alleged infringement has occurred. The same decision may also be taken, on its own initiative or on the basis of a motion to that effect addressed to it by the ECB, by the national central bank of the Member State in whose jurisdiction the alleged infringement has occurred.

Written notification of the decision to initiate an infringement procedure shall be given to the undertaking concerned, to the relevant supervisory authority and to the national central bank of the Member State in whose jurisdiction the alleged infringement has occurred or to the ECB. The notification shall disclose the details of the allegations against the undertaking and the evidence on which such allegations are founded. Where appropriate, the decision shall require the termination of the alleged infringement and shall give notice to the undertaking concerned that periodic penalty payments may be imposed.

2. The decision referred to in paragraph 1 may require the undertaking to submit to an infringement procedure. In carrying out the infringement procedure, the ECB or the national central bank, as the case may be, shall have the right to:

- (a) require the submission of documents;
- (b) examine the books and records of the undertaking;
- (c) take copies or extracts from such books and records; and
- (d) obtain written or oral explanations.

When an undertaking obstructs the conduct of the infringement procedure, the participating Member State where the relevant premises are located shall afford the necessary assistance, including ensuring access by the ECB or the national central bank to the premises of the undertaking, so that the aforementioned rights can be exercised.

3. The undertaking concerned shall have the right to be heard by the ECB or the national central bank, as the case may be. The undertaking shall be given no fewer than thirty days to present its defence.

4. The Executive Board of the ECB shall, as soon as possible after receiving a submission from the national central bank which initiates the infringement procedure or after having consulted the national central bank of the Member State in whose jurisdiction the alleged infringement has occurred, adopt a reasoned decision as to whether an undertaking has committed an infringement together with the sanction, if any, to be imposed.

5. The undertaking concerned shall be notified in writing of the decision and shall be informed of its right of review. Notification of the decision shall also be given to relevant supervisory authorities and to the national central bank of the Member State in whose jurisdiction the infringement has occurred.

6. The undertaking concerned shall have the right to request a review of the decision of the Executive Board by the Governing Council of the ECB. Such a request shall be made within thirty days of the receipt of the notification of the decision and shall include all supporting information and allegations. Such a request shall be addressed in writing to the Governing Council of the ECB.

7. A decision by the Governing Council of the ECB in response to a request submitted under paragraph 6 shall include the reasons for the decision and written notification thereof shall be given to the undertaking concerned, to

the relevant supervisory authority of that undertaking and to the national central bank of the Member State in whose jurisdiction the infringement occurred. The notification shall inform the undertaking of its right of judicial review. If no decision has been taken by the Governing Council of the ECB within two months of the request, the undertaking concerned may request a judicial review of the decision of the Executive Board in accordance with the Treaty.

8. No sanction shall be enforced against the undertaking until the decision has become final through either:

- (a) the period of thirty days referred to in paragraph 6 having elapsed without the undertaking making a request for review to the Governing Council of the ECB; or
- (b) the Governing Council notifying the undertaking of its decision, or the period referred to in paragraph 7 having elapsed without the Governing Council having taken a decision.

9. The proceeds from sanctions imposed by the ECB shall belong to the ECB.

10. If an infringement relates exclusively to a task entrusted to the ESCB under the Treaty and the Statute, an infringement procedure may be initiated only on the basis of this Regulation, irrespective of the existence of any national law or regulation which may provide for a separate procedure. If an infringement also relates to one or more areas outside the competence of the ESCB, the right to initiate an infringement procedure on the basis of this Regulation shall be independent of any right of a competent national authority to initiate separate procedures in relation to such areas outside the competence of the ESCB. This provision shall be without prejudice to the application of criminal law and to prudential supervisory competencies in participating Member States.

11. An undertaking shall bear the costs of the infringement procedure if it has been decided that it has committed an infringement.

#### *Article 4*

##### Time limits

1. The right to take the decision to initiate an infringement procedure, as provided for in this Regulation, shall expire one year after the existence of the alleged infringement first became known either to the ECB or to the national central bank of the Member State in whose jurisdiction the alleged infringement occurred and, in any case, five years after the infringement occurred or, in the case of a continued infringement, five years after the infringement was terminated.

2. The right to take the decision to impose a sanction in respect of an infringement, as provided for in this Regulation, shall expire one year after the decision to initiate the procedure as described in Article 3(1) was taken.

3. The right to start an enforcement procedure shall expire six months after the decision has become enforceable pursuant to Article 3(8).

#### *Article 5*

##### Judicial review

The Court of Justice of the European Communities shall have unlimited jurisdiction within the meaning of Article 172 of the Treaty over the review of final decisions whereby a sanction is imposed.

#### *Article 6*

##### General provisions and regulatory power

1. In the event of a conflict between the provisions of this Regulation and the provisions of other Council Regulations enabling the ECB to impose sanctions, the provisions of the latter shall prevail.

2. Subject to the limits and conditions laid down in this Regulation, the ECB may adopt regulations to specify further the arrangements whereby sanctions may be imposed in accordance with this Regulation as well as guidelines to coordinate and harmonise the procedures in relation to the conduct of the infringement procedure.

#### *Article 7*

##### Final provisions

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 6(2) shall apply from the date of entry into force of this Regulation. The remaining Articles shall apply from 1 January 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 November 1998.

*For the Council*

*The President*

R. EDLINGER

**Council Regulation (EC) No 2533/98  
of 23 November 1998  
concerning the collection of statistical information by the  
European Central Bank (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Protocol (No 3) on the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the 'Statute') and in particular to Article 5.4 thereof,

Having regard to the recommendation of the European Central Bank (the 'ECB')<sup>(1)</sup>,

Having regard to the opinion of the European Parliament<sup>(2)</sup>,

Having regard to the opinion of the Commission<sup>(3)</sup>,

Acting in accordance with the procedure laid down in Article 106(6) of the Treaty establishing the European Community and in Article 42 of the Statute,

(1) Whereas Article 5.1 of the Statute requires the ECB, assisted by the national central banks, to collect either from the competent national authorities or directly from economic agents the statistical information which is necessary for the tasks of the European System of Central Banks (hereinafter referred to as the 'ESCB') to be performed; whereas, to facilitate the execution of these tasks, set out in Article 105 of the Treaty, and in particular the conduct of monetary policy, this statistical information is used primarily

for the production of aggregated statistical information, for which the identity of individual economic agents is irrelevant, but may also be used at the level of individual economic agents; whereas Article 5.2 of the Statute requires the national central banks to carry out, to the extent possible, the tasks described in Article 5.1 of the Statute; whereas Article 5.4 of the Statute requires the Council to define the natural and legal persons subject to reporting requirements, the confidentiality regime and the appropriate provisions for enforcement; whereas the national central banks may cooperate with other competent authorities, including national statistical institutes and market regulators, for the purposes of Article 5.1 of the Statute;

(2) Whereas, in order for statistical information to be effective as an instrument for the performance of the tasks of the ESCB, definitions and procedures for its collection need to be structured so that the ECB has the ability and flexibility to avail itself in a timely manner of high-quality statistics which reflect changing economic and financial conditions and take account of the burden imposed on reporting agents; whereas in so doing attention must be paid not only to the performance of the ESCB's tasks and its independence but also to keeping the burden placed on the reporting agents to a minimum;

(3) Whereas it is therefore desirable to define a reference reporting population in terms of categories of economic units and

(\*) OJ L 318, 27.11.1998, pp. 8-19.

(1) OJ C 246, 6.8.1998, p. 12.

(2) OJ C 328, 26.10.1998.

(3) Opinion delivered on 8 October 1998 (not yet published in the Official Journal).

- statistical applications involved, to which the statistical powers of the ECB is confined and from which the ECB determines the actual reporting population through its regulatory power;
- (4) Whereas a homogeneous reporting population is necessary for the production of the consolidated balance sheet of the Monetary Financial Institutions sector of the participating Member States, the principal aim of which is to provide the ECB with a comprehensive statistical picture of monetary developments in the participating Member States, seen as one economic territory; whereas the ECB has established and maintains a List of Monetary Financial Institutions for statistical purposes based on a common definition of these institutions;
- (5) Whereas the said common definition for statistical purposes specifies that Monetary Financial Institutions comprise credit institutions as defined in Community law, and all other resident financial institutions whose business is to receive deposits and/or close substitutes for deposits from entities other than Monetary Financial Institutions and, for their own account (at least in economic terms), to grant credits and/or to make investments in securities;
- (6) Whereas those post office giro institutions which may not fulfil the common definition for statistical purposes of Monetary Financial Institutions may nevertheless need to be made subject to the ECB's statistical reporting requirements in the field of money and banking statistics and payment systems statistics because they may, to a significant extent, receive deposits and/or close substitutes for deposits and undertake payment systems business;
- (7) Whereas in the European System of National and Regional Accounts 1995<sup>(1)</sup> (hereinafter referred to as the 'ESA 95'), the Monetary Financial Institutions therefore comprise the sub-sectors 'the central bank' and 'other monetary financial institutions' and may be broadened solely through the inclusion of categories of institutions coming from the sub-sector 'other financial intermediaries, except insurance corporations and pension funds';
- (8) Whereas statistics on the balance of payments, the International Investment Position, securities, electronic money and payment systems are necessary to enable the ESCB to fulfil its tasks in an independent manner;
- (9) Whereas the use of the terms 'legal and natural persons' in Article 5.4 of the Statute has to be construed in a manner that is consistent with the practices of Member States in the field of money and banking statistics and balance of payments statistics and therefore also encompasses entities that are neither legal persons nor natural persons under their respective national laws but still fall within the relevant sub-sectors of the ESA 95; whereas reporting requirements can therefore be imposed on entities such as partnerships, branches, undertakings for collective investments in transferable securities (UCITS) and funds that, under their respective laws, do not enjoy the status of a legal person; whereas in these cases the reporting obligation is imposed on those persons who, under the applicable national laws, legally represent the entities concerned;
- (10) Whereas the statistical balance sheet reports of institutions mentioned in Article 19.1 of the Statute may also be used to calculate the amount of minimum reserves which they may be obliged to hold;

<sup>(1)</sup> OJ L 310, 30.11.1996, p. 1.

- (11) Whereas it is the task of the Governing Council of the ECB to specify the division of tasks between the ECB and the national central banks concerning the collection and verification of statistical information and their enforcement, taking into account the principle laid down in Article 5.2 of the Statute, as well as the tasks which will be assumed by national authorities within the limits of their competence, for the purposes of obtaining statistics of a consistently high quality;
- (12) Whereas, in the early years of the single currency area, cost-effectiveness may require that the ECB's statistical reporting requirements be satisfied through transitional procedures due to existing constraints on the collection systems; whereas this may imply in particular that, in the case of the Financial Account of the balance of payments, data on cross-border positions or transactions of the participating Member States seen as one economic territory may in the early years of the single currency area be compiled using all positions or transactions between residents of a participating Member State and residents of other countries;
- (13) Whereas the limits within and the conditions under which the ECB is entitled to impose sanctions on undertakings for failure to comply with the obligations laid down in regulations and decisions of the ECB have been defined by Council Regulation (EC) No 2532/98 of 23 November 1998, concerning the powers of the European Central Bank to impose sanctions<sup>(1)</sup>, in accordance with Article 34.3 of the Statute; whereas in the event of a conflict between the provisions of the said Regulation and this Regulation enabling the ECB to impose sanctions, the provisions of this Regulation will prevail; whereas the sanctions for non-compliance with the obligations set out in this Regulation are without prejudice to the possibility of the ESCB establishing appropriate enforcement provisions in its relations with counterparties, including the partial or total exclusion of a reporting agent from monetary policy operations in the case of a serious infringement of statistical reporting requirements;
- (14) Whereas regulations made by the ECB under Article 34.1 of the Statute do not confer any rights or impose any obligations on non-participating Member States;
- (15) Whereas Denmark, referring to paragraph 1 of the Protocol (No 12) on certain provisions relating to Denmark, has given notification, in the context of the Edinburgh Decision of 12 December 1992, that it will not participate in the third stage of Economic and Monetary Union; whereas, therefore, in accordance with paragraph 2 of the said Protocol, all Articles and provisions of the Treaty and the Statute referring to a derogation will be applicable to Denmark;
- (16) Whereas under paragraph 8 of the Protocol (No 11) on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland, Article 34 of the Statute does not apply to the United Kingdom unless it participates in the third stage of Economic and Monetary Union;
- (17) Whereas, while it is recognised that the statistical information needed to fulfil the ECB's statistical reporting requirements is not the same for the participating as for the non-participating Member States, Article 5 of the Statute applies to both participating and non-participating Member States; whereas this fact, together with Article 5 of the Treaty, implies an obligation to design and implement at

<sup>(1)</sup> See page 4 of this Official Journal [I 7 of this compendium].

the national level all the measures that Member States consider appropriate in order to carry out the collection of the statistical information needed to fulfil the ECB's statistical reporting requirements and the timely preparations in the field of statistics in order for them to become participating Member States;

- (18) Whereas confidential statistical information which the ECB and the national central banks must obtain for the performance of the tasks of the ESCB must be protected in order to gain and maintain the confidence of the reporting agents; whereas once this Regulation is adopted there will be no further cause to invoke provisions on confidentiality preventing the exchange of confidential statistical information relating to the tasks of the ESCB, subject to the provisions of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>(1)</sup>;
- (19) Whereas Article 38.1 of the Statute provides that members of the governing bodies and the staff of the ECB and the national central banks shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy and Article 38.2 of the Statute provides that persons having access to data covered by Community legislation imposing an obligation of secrecy shall be subject to such legislation;
- (20) Whereas any infringement of the rules binding members of the staff of the ECB, whether committed wilfully or through negligence, renders them liable to disciplinary sanctions and, if appropriate, legal

penalties for the violation of professional secrecy, subject to the combined provisions of Articles 12 and 18 of the Protocol on the privileges and immunities of the European Communities;

- (21) Whereas the possible use of statistical information for the execution of the tasks to be carried out through the ESCB in accordance with Article 105 of the Treaty, while reducing the overall reporting burden, implies that the confidentiality regime defined in this Regulation must differ to some extent from the general Community and international principles on statistical confidentiality, and in particular from the provisions on statistical confidentiality in Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics<sup>(2)</sup>; whereas, subject to this point, the ECB will take into account the principles underlying Community statistics set out in Article 10 of Regulation (EC) No 322/97;
- (22) Whereas the confidentiality regime defined in this Regulation applies only to confidential statistical information transmitted to the ECB for the performance of the tasks of the ESCB and does not affect special national or Community provisions relating to the transmission of other types of information to the ECB; whereas the rules on statistical confidentiality applied by the national statistical institutes and the Commission on the statistical information they collect on their own behalf must be respected;
- (23) Whereas, for the purposes of Article 5.1 of the Statute, the ECB is required to cooperate in the field of statistics with the Community institutions or bodies and with the competent authorities of the Member States or third countries and with international organisations; whereas

(1) OJ L 281, 23.11.1995, p. 31.

(2) OJ L 52, 22.2.1997, p. 1.



- the ECB and the Commission will establish appropriate forms of cooperation in the field of statistics in order to carry out their tasks in the most efficient way, trying to minimise the burden on reporting agents;
- (24) Whereas the ESCB and ECB have been entrusted with the task of preparing the statistical reporting requirements for the euro area for their full operation in the third stage of Economic and Monetary Union (hereinafter referred to as 'Stage Three'); whereas timely preparation in the statistical field is essential to enable the ESCB to fulfil its tasks in Stage Three; whereas an essential element of preparation is the adoption, ahead of Stage Three, of ECB statistical regulations; whereas it is desirable to inform market participants during 1998 of the detailed provisions the ECB may deem necessary to adopt for the implementation of its statistical reporting requirements; whereas it is therefore necessary to provide the ECB from the date of entry into force of this Regulation with a regulatory power;
- (25) Whereas the provisions of this Regulation can be effectively applied only if participating Member States in their entirety have adopted the necessary measures with a view to ensuring that their authorities have the powers to assist and collaborate fully with the ECB in carrying out the verification and compulsory collection of statistical information, in conformity with Article 5 of the Treaty,

HAS ADOPTED THIS REGULATION:

### *Article 1*

#### **Definitions**

For the purposes of this Regulation:

1. 'the ECB's statistical reporting requirements' shall mean the statistical information

which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;

2. 'reporting agents' shall mean the legal and natural persons and the entities referred to in Article 2(3) which are subject to the ECB's statistical reporting requirements;

3. 'participating Member State' shall mean a Member State which has adopted the single currency in accordance with the Treaty;

4. 'resident' and 'residing' shall mean having a centre of economic interest in the economic territory of a country as described in Annex A; in this context, 'cross-border positions' and 'cross-border transactions' shall mean respectively positions and transactions in the assets and/or liabilities of residents of participating Member States seen as one economic territory vis-a-vis residents of non-participating Member States and/or residents of third countries;

5. 'International Investment Position' shall mean the balance sheet of the stock of cross-border financial assets and liabilities;

6. 'electronic money' shall mean an electronic store of monetary value on a technical device, including prepaid cards, that may be widely used for making payments to entities other than the issuer without necessarily involving bank accounts in the transaction, but acting as a prepaid bearer instrument.

### *Article 2*

#### **Reference reporting population**

1. For the fulfilment of the ECB's statistical reporting requirements, the ECB, assisted by the national central banks in accordance with Article 5.2 of the Statute, shall have the right to collect statistical information within the limits of the reference reporting population and of what is necessary to carry out the tasks of the ESCB.

2. The reference reporting population shall comprise the following reporting agents:

- (a) legal and natural persons falling within the sub-sectors ‘central bank’, ‘other monetary financial institutions’ and ‘other financial intermediaries, except insurance corporations and pension funds’ as described in Annex B and residing in a Member State, to the extent necessary to fulfil the ECB’s statistical reporting requirements in the field of money and banking statistics and payment systems statistics;
- (b) post office giro institutions, to the extent necessary to fulfil the ECB’s statistical reporting requirements in the field of money and banking statistics and payment systems statistics;
- (c) legal and natural persons residing in a Member State, to the extent that they hold cross-border positions or carry out cross-border transactions and that statistical information relating to such positions or transactions is necessary to fulfil the ECB’s statistical reporting requirements in the field of balance of payments statistics or the International Investment Position;
- (d) legal and natural persons residing in a Member State, to the extent that statistical information relating to the securities or the electronic money issued by them is necessary to fulfil the ECB’s statistical reporting requirements.

3. An entity that would otherwise be covered by the definition in paragraph 2, but which according to the national law of its country of residence is neither a legal person nor a collection of natural persons, while it can be the subject of rights and obligations, shall be a reporting agent. The reporting obligation of such an entity shall be fulfilled by the persons legally representing it.

Where a legal person, collection of natural persons or an entity as referred to in the first

subparagraph has a branch resident in another country, the branch shall be a reporting agent in its own right irrespective of where the head office is located insofar as the branch satisfies the conditions defined in paragraph 2, with the exception of the need to possess separate legal personality. Any number of branches set up in the same Member State shall be regarded as a single branch when they belong to the same sub-sector of the economy. The reporting obligation of a branch shall be fulfilled by the persons legally representing it.

### *Article 3*

#### **Modalities for the definition of statistical reporting requirements**

In defining and imposing its statistical reporting requirements, the ECB shall specify the actual reporting population within the limits of the reference reporting population as defined in Article 2. Without prejudice to the fulfilment of its statistical reporting requirements, the ECB:

- (a) shall minimise the reporting burden involved, including by using existing statistics as far as possible;
- (b) shall take into account Community and international statistical standards;
- (c) may fully or partly exempt specific classes of reporting agents from its statistical reporting requirements.

### *Article 4*

#### **Obligations of Member States**

Member States shall organise themselves in the field of statistics and shall fully cooperate with the ESCB in order to ensure the fulfilment of the obligations arising out of Article 5 of the Statute.

### *Article 5*

#### **Regulatory power of the ECB**

1. The ECB may adopt regulations for the definition and imposition of its statistical reporting requirements on the actual reporting population of participating Member States.
2. To guarantee the coherence necessary to produce statistics meeting their respective information requirements, the ECB shall consult the Commission on draft regulations whenever links with the statistical requirements of the Commission exist. The Committee on Monetary, Financial and Balance of Payments Statistics shall take part, within the limits of its competence, in the process of cooperation between the Commission and the ECB.

### *Article 6*

#### **Right of verification and compulsory collection of statistical information**

1. If a reporting agent residing in a participating Member State is suspected of an infringement, as set out in Article 7(2), of the ECB's statistical reporting requirements, the ECB and, in accordance with Article 5.2 of the Statute, the national central bank of the participating Member State concerned shall have the right to verify the accuracy and quality of the statistical information and to carry out its compulsory collection. However, should the statistical information concerned be necessary in order to demonstrate compliance with minimum reserve requirements, the verification should be carried out in accordance with Article 6 of Council Regulation (EC) No 2531/98 of 23 November 1998 concerning the application of minimum reserves by the European Central Bank<sup>(1)</sup>. The right to verify statistical information or to carry out compulsory collection thereof shall comprise the right to:

- (a) require submission of documents;
- (b) examine the books and records of the reporting agents;
- (c) take copies or extracts from such books and records; and
- (d) obtain written or oral explanations.

2. The ECB or the competent national central bank shall notify the reporting agent in writing of its decision to verify statistical information or to collect it compulsorily, specifying the time limit for compliance with the verification request, the sanctions applicable in the case of non-compliance and the right to review. The ECB and the national central bank concerned shall inform each other of such verification requests.

3. For the verification and the compulsory collection of statistical information, national procedures shall be followed. The costs of the procedure shall be borne by the reporting agent concerned if it is established that the reporting agent has breached statistical reporting requirements.

4. The ECB may adopt regulations specifying the conditions under which the right to verify or to carry out the compulsory collection of statistical information may be exercised.

5. Within the limits of their competence, national authorities of participating Member States shall give the necessary assistance to the ECB and national central banks in the exercise of the powers provided for in this Article.

6. When a reporting agent opposes or obstructs the verification process or the compulsory collection of the required statistical information, the participating Member State in which the reporting agent's premises are located shall afford the necessary assistance, including ensuring access to the reporting agent's premises by the ECB or the national central bank so that the rights mentioned in paragraph 1 can be exercised.

<sup>(1)</sup> See page 1 of this Official Journal [I 6 of this compendium].

## *Article 7*

### **Imposition of sanctions**

1. The ECB shall have the power to impose the sanctions set out in this Article on reporting agents which are subject to reporting requirements and residing in a participating Member State and which fail to comply with the obligations resulting from this Regulation or from ECB regulations or decisions defining and imposing the ECB's statistical reporting requirements.

2. The obligation to transmit certain statistical information to the ECB or to the national central banks shall be deemed to have been infringed if:

- (a) no statistical information is received by the ECB or national central bank by the established deadline; or
- (b) the statistical information is incorrect, incomplete or in a form not complying with the requirement.

3. The obligation to allow the ECB and the national central banks to verify the accuracy and quality of the statistical information submitted by reporting agents to the ECB or national central bank shall be deemed to have been infringed whenever a reporting agent obstructs this activity. Such obstruction includes, but is not limited to, the removal of documents and prevention of physical access by the ECB or the national central bank which is necessary for them to carry out their verification task or compulsory collection.

4. The ECB may impose sanctions on a reporting agent as follows:

- (a) in the event of an infringement as defined in paragraph 2(a), a daily penalty payment not exceeding EUR 10 000, with the total fine not exceeding EUR 100 000;
- (b) in the event of an infringement as defined in paragraph 2(b), a fine not exceeding EUR 200 000; and

(c) in the event of an infringement as defined in paragraph 3, a fine not exceeding EUR 200 000.

5. The sanctions set out in paragraph 4 shall be additional to the obligation on the reporting agent to meet the costs of the verification and compulsory collection procedure as required in Article 6(3).

6. In exercising the powers provided for in this Article, the ECB shall act in accordance with the principles and procedures as set out in Regulation (EC) No 2532/98.

## *Article 8*

### **Confidentiality regime**

1. Within the scope of this Regulation and for the purposes of the confidentiality regime covering the statistical information which is necessary for the tasks of the ESCB to be performed, statistical information shall be confidential when it allows reporting agents or any other legal person, natural person, entity or branch to be identified, either directly from their name, address or from an officially allocated identification code, or indirectly through deduction, thereby disclosing individual information. To determine whether a reporting agent or any other legal person, natural person, entity or branch is identifiable, account shall be taken of all the means that might reasonably be used by a third party to identify the said reporting agent or the other legal person, natural person, entity or branch. Statistical information taken from sources which are available to the public in accordance with national law is not confidential.

2. Transmission from the national central banks to the ECB of confidential statistical information shall take place to the extent and at the level of detail necessary for the exercise of the tasks to be carried out through the ESCB, as described in Article 105 of the Treaty.

3. Reporting agents shall be informed of the statistical and other, administrative, uses, to which statistical information provided by them may be put. Reporting agents shall have the right to obtain information on the legal basis for the transmission and the protective measures adopted.
4. The ECB shall use confidential statistical information transmitted to it exclusively for the exercise of the tasks of the ESCB except:
- (a) if the reporting agent or the other legal person, natural person, entity or branch which can be identified, has explicitly given its consent to the use of the said statistical information for other purposes; or
  - (b) for the production of specific Community statistics, following an agreement between the Commission and the ECB in accordance with Article 9 of Regulation (EC) No 322/97; or
  - (c) for granting scientific research bodies access to confidential statistical information which does not allow direct identification, without prejudice to national legislation and with the previous explicit consent of the national authority which provided the information.
5. The national central banks shall use the confidential statistical information collected to fulfil the ECB's statistical reporting requirements exclusively for the exercise of the tasks of the ESCB except:
- (a) if the reporting agent or the other legal person, natural person, entity or branch which can be identified has explicitly given its consent to the use of the said statistical information for other purposes; or
  - (b) if it is used at the national level for statistical purposes following an agreement between the national statistical authorities and the national central bank or for the production of Community statistics in accordance with Article 9 of Regulation (EC) No 322/97; or
  - (c) if it is used in the field of prudential supervision or for the exercise in accordance with Article 14(4) of the Statute of functions other than those specified in the Statute; or
  - (d) for granting scientific research bodies access to confidential statistical information which does not allow direct identification.
6. This Article shall not prevent confidential statistical information collected for purposes other than, or in addition to, meeting the ECB's statistical reporting requirements from being used to meet those other purposes.
7. This Article shall apply only to the collection and transmission of confidential statistical information for the fulfilment of the ECB's statistical reporting requirements; it shall not affect special national or Community provisions relating to the transmission of other types of information to the ECB.
8. This Regulation shall apply without prejudice to Directive 95/46/EC.
- In the case of data collected by national statistical institutes and the Commission, which are submitted to the ECB, this Regulation shall, as regards statistical confidentiality, apply without prejudice to Regulation (EC) No 322/97.
9. The ECB and the national central banks shall take all the necessary regulatory, administrative, technical and organisational measures to ensure the protection of confidential statistical information. The ECB shall define common rules and minimum standards to prevent unlawful disclosure and unauthorised use. The protection measures shall apply to all confidential statistical information as defined in paragraph 1.
10. Member States shall adopt all the necessary measures to ensure the protection of confidential statistical information, including the imposition of the appropriate enforcement measures by the Member States in the event of an infringement.

*Article 9***Final provisions**

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 5, Article 6(4) and Article 8(9) shall apply from the date of entry into force of this Regulation. The remaining Articles shall apply from 1 January 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 November 1998.

*For the Council*

*The President*

R. EDLINGER

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 ANNEX A

**THE LIMITS OF THE NATIONAL ECONOMY**

- 2.04. The units, whether institutional, local kind-of-activity or of homogeneous production, which constitute the economy of a country and whose transactions are recorded in the ESA, are those which have a centre of economic interest on the economic territory of that country. These units, known as resident units, may or may not have the nationality of that country, may or may not be legal entities, and may or may not be present on the economic territory of the country at the time they carry out a transaction. Having thus defined the limits of the national economy in terms of resident units, it is necessary to define the meaning of the terms economic territory and centre of economic interest.
- 2.05. The term economic territory means:
- (a) the geographic territory administered by a government within which persons, goods, services and capital move freely;
  - (b) any free zones, including bonded warehouses and factories under customs control;
  - (c) the national air-space, territorial waters and the continental shelf lying in international waters, over which the country enjoys exclusive rights<sup>(1)</sup>;
  - (d) territorial enclaves, i.e. geographic territories situated in the rest of the world and used, under international treaties or agreements between States, by general government agencies of the country (embassies, consulates, military bases, scientific bases, etc.);
  - (e) deposits of oil, natural gas, etc. in international waters outside the continental shelf of the country, worked by units resident in the territory as defined in the preceding subparagraphs.
- 2.06. The economic territory does not include extraterritorial enclaves (i.e. the parts of the country's own geographic territory used by general government agencies of other countries,

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<sup>(1)</sup> Fishing boats, other ships, floating platforms and aircraft are treated in the ESA just like any other mobile equipment, whether owned and/or operated by units resident in the Country, or owned by non-residents and operated by resident units. Transactions involving the ownership (gross fixed capital formation) and use (renting, insurance, etc.) of this type of equipment are attributed to the economy of the country of which the owner and/or operator respectively are resident. In cases of financial leasing a change of ownership is assumed.

- by the institutions of the European Union or by international organisations under international treaties or agreements between States <sup>(1)</sup>.
- 2.07. The term centre of economic interest indicates the fact there exists some location within the economic territory on, or from, which a unit engages, and intends to continue to engage, in economic activities and transactions on a significant scale, either indefinitely or over a finite but long period of time (a year or more). It follows that a unit which carries out such transactions on the economic territory of several countries is deemed to have a centre of economic interest in each of them. The ownership of land and buildings within the economic territory is deemed to be sufficient in itself for the owner to have a centre of economic interest there.
- 2.08. On the basis of these definitions, units deemed to be residents of a country can be subdivided into:
- (a) units which are principally engaged in production, finance, insurance or redistribution, in respect of all their transactions except those relating to ownership of land and buildings;
  - (b) Units which are principally engaged in consumption <sup>(2)</sup>, in respect of all their transactions except those relating to ownership of land and buildings;
  - (c) all units in their capacity as owners of land and buildings with the exception of owners of extraterritorial enclaves which are part of the economic territory of other countries or are States *sui generis* (see paragraph 2.06).
- 2.09. In the case of units which are principally engaged in production, finance, insurance or redistribution, in respect of all their transactions except those relating to ownership of land and buildings, the following two cases may be distinguished:
- (a) activity conducted exclusively on the economic territory of the country: units which carry out such activity are resident units of the country;
  - (b) activity conducted for a year or more on the economic territories of several countries: only that part of the unit which has a centre of economic interest on the economic territory of the country is deemed to be a resident unit. It may be:
    1. either an institutional resident unit, whose activities conducted for a year or more in the rest of the world are excluded and treated separately <sup>(3)</sup>, or
    2. a notional resident unit, in respect of the activity conducted in the country for a year or more by a unit which is resident in another country.

(1) The territories used by the institutions of the European Union and international organisations thus constitute the territories of States *sui generis*. The feature of such States is that the only residents are the institutions themselves (see paragraph 2.10(e)).

(2) Consumption is not the only possible activity of households. Households may as entrepreneurs engage in any kind of economic activity.

(3) It is only where such activity is carried on for less than a year that it should not be separated from the activities of the producer institutional unit. This may also be done where the activity, though conducted for a year or more, is insignificant, and in all circumstances for the installation of equipment abroad. However, a unit which is resident in another country and which is carrying out a construction activity in the country for a duration of less than a year is deemed to have a centre of economic interest on the economic territory of the country if the output of the construction activity constitutes gross fixed capital formation. Such a unit should therefore be treated as a notional resident unit.

- 2.10. In the case of units which are principally engaged in consumption, except in their capacity as owners of land and buildings, households which have a centre of economic interest in the country are deemed to be resident units, even if they go abroad for short periods (less than a year). They include, in particular, the following:
- (a) border workers, i.e. people who cross the frontier daily to work in a neighbouring country;
  - (b) seasonal workers, i.e. people who leave the country for several months, but less than a year, to work in another country in sectors in which additional manpower is needed periodically;
  - (c) tourists, patients, students<sup>(1)</sup>, visiting officials, businessmen, salesmen, artists and crew members who travel abroad;
  - (d) locally recruited staff working in the extraterritorial enclaves of foreign governments;
  - (e) the staff of the institutions of the European Union and of civilian or military international organisations which have their headquarters in extraterritorial enclaves;
  - (f) the official, civilian or military representatives of the government of the country (including their households) established in territorial enclaves.
- 2.11. All units in their capacity as owners of land and/or buildings which form part of the economic territory are deemed to be resident units or notional resident units of the country in which the land or buildings in question are located.

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ANNEX B

**SUBSECTOR: THE CENTRAL BANK (S.121)**

- 2.45. *Definition:* The subsector the central bank (S.121) consists of all financial corporations and quasi-corporations whose principal function is to issue currency, to maintain the internal and external value of the currency and to hold all or part of the international reserves of the country.
- 2.46. The following financial intermediaries are classified in subsector S.121:
- (a) the national central bank, also in the case where it is part of a European System of Central Banks;
  - (b) central monetary agencies of essentially public origin (e.g. agencies managing foreign exchange or issuing currency) which keep a complete set of accounts and enjoy autonomy of decision in relation to central government. Mostly these activities are performed either within central government or within the central bank. In these cases no separate institutional units exist.
- 2.47. Subsector S.121 does not include agencies and bodies, other than the central bank, which regulate or supervise financial corporations or financial markets.

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<sup>(1)</sup> Students are always treated as residents, however long they study abroad.



**SUBSECTOR: OTHER MONETARY FINANCIAL INSTITUTIONS (S.122)**

- 2.48. *Definition:* The subsector other monetary financial institutions (S.122) consists of all financial corporations and quasi-corporations, except those classified in the central bank subsector, which are principally engaged in financial intermediation and whose business is to receive deposits and/or close substitutes for deposits from institutional units other than monetary financial institutions, and, for their own account, to grant loans and/or to make investments in securities.
- 2.49. The monetary financial institutions (MFIs) comprise the subsector the central bank (S.121) and the subsector other monetary financial institutions (S.122), and coincide with the monetary financial institutions for statistical purposes as defined by the EMI.
- 2.50. MFIs cannot be described simply as ‘banks’, because they may possibly include some financial corporations which may not call themselves banks, and some which may not be permitted to do so in some countries, while some other financial corporations describing themselves as banks may not in fact be MFIs. In general, the following financial intermediaries are classified in subsector S.122:
- (a) commercial banks, ‘universal’ banks, ‘all-purpose’ banks;
  - (b) savings banks (including trustee savings banks and savings banks and loan associations);
  - (c) post office giro institutions, post banks, giro banks;
  - (d) rural credit banks, agricultural credit banks;
  - (e) cooperative credit banks, credit unions;
  - (f) specialised banks (e.g. merchant banks, issuing houses, private banks).
- 2.51. The following financial intermediaries may also be classified in subsector S.122 where it is their business to receive repayable funds from the public whether in the form of deposits or in other forms such as the continuing issue of bonds and other comparable securities. Otherwise, they should be classified in subsector S.123:
- (a) corporations engaged in granting mortgages (including building societies, mortgage banks and mortgage credit institutions);
  - (b) mutual funds (including investment trusts, unit trusts and other collective investment schemes, e.g. undertakings for collective investment in transferable securities-UCITS);
  - (c) municipal credit institutions.
- 2.52. Subsector S.122 does not include:
- (a) holding corporations which only control and direct a group consisting predominantly of other monetary financial institutions, but which are not other monetary financial institutions themselves. They are classified in subsector S.123;
  - (b) non-profit institutions recognised as independent legal entities serving other monetary financial institutions, but not engaged in financial intermediation.

**SUBSECTOR: OTHER FINANCIAL INTERMEDIARIES, EXCEPT INSURANCE CORPORATIONS AND PENSION FUNDS (S.123)**

- 2.53. Definition: The subsector other financial intermediaries except insurance corporations and pension funds (S.123) consists of all financial corporations and quasi-corporations which are principally engaged in financial intermediation by incurring liabilities in forms other than currency, deposits and/or close substitutes for deposits from institutional units other than monetary financial institutions, or insurance technical reserves.
- 2.54. Subsector S.123 includes various types of financial intermediaries especially those which are predominantly engaged in long-term financing. In most cases this predominant maturity forms the basis of a distinction from the other monetary financial institutions subsector. Based on the non-existence of liabilities in the form of insurance technical reserves, the borderline with the insurance corporations and pension funds subsector can be determined.
- 2.55. In particular, the following financial corporations and quasi-corporations are classified in subsector S.123 unless they are MFIs:
- (a) corporations engaged in financial leasing;
  - (b) corporations engaged in hire purchase and the provision of personal or commercial finance;
  - (c) corporations engaged in factoring;
  - (d) security and derivative dealers (on own account);
  - (e) specialised financial corporations such as venture and development capital companies, export/import financing companies;
  - (f) financial vehicle corporations, created to be holders of securitised assets;
  - (g) financial intermediaries which receive deposits and/or close substitutes for deposits from MFIs only;
  - (h) holding corporations which only control and direct a group of subsidiaries principally engaged in financial intermediation and/or in auxiliary financial activities, but which are not financial corporations themselves.
- 2.56. Subsector S.123 does not include non-profit institutions recognised as independent legal entities serving other financial intermediaries except insurance corporations and pension funds, but not engaged in financial intermediation.

**Recommendation of the European Central Bank  
for a Council regulation (EC) concerning the limits and conditions for  
capital increases of the European Central Bank (ECB/1998/11) (\*)**

(Submitted by the European Central Bank on 3 November 1998)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the 'Statute') and in particular to Article 28.1 thereof,

Having regard to the recommendation made by the European Central Bank (ECB),

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Commission of the European Communities,

Acting in accordance with the procedure foreseen in Article 106(6) of the Treaty establishing the European Community (hereinafter referred to as the 'Treaty') and in Article 42 of the Statute,

Whereas Articles 28.1 and 28.2 of the Statute require that the ECB be provided by the national central banks with capital of 5 000 million euro, which shall become operational upon the establishment of the ECB; whereas

Article 28.1 of the Statute requires the Council to specify the limits and conditions under which increases in the capital of the ECB beyond the limit set in that Article may be effected by the ECB,

HAS ADOPTED THIS REGULATION:

*Article 1*

**Increases in the capital of the ECB**

The Governing Council of the ECB may increase the capital of the ECB beyond the amount specified in the first sentence of Article 28.1 of the Statute by an additional amount of up to 5 000 million euro.

*Article 2*

**Final provision**

This Regulation shall enter into force on 1 January 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

(\*) OJ C 411, 31.12.1998, p. 10.

*Part J*

**Technical aspects  
of the introduction of the euro**

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**Council Regulation (EC) No 975/98  
of 3 May 1998**

**on denominations and technical specifications of euro coins intended  
for circulation (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 105a(2) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Monetary Institute <sup>(2)</sup>,

Acting in accordance with the procedure laid down in Article 189c of the Treaty <sup>(3)</sup>,

(1) Whereas, at the meeting of the European Council in Madrid on 15 and 16 December 1995, the scenario for the changeover to the single currency was adopted which provides for introduction of euro coins by 1 January 2002 at the latest; whereas the precise date for the issue of euro coins will be decided when the Council adopts its regulation on the introduction of the euro immediately after the decision on the Member States adopting the euro as the single currency has been taken as early as possible in 1998;

(\*) OJ L 139, 11.5.1998, pp. 6-8.

(1) OJ C 208, 9.7.1997, p. 5 and OJ C 386, 20.12.1997, p. 12.

(2) Opinion delivered on 25 June 1997 (OJ C 205, 5.7.1997, p. 18).

(3) Opinion of the European Parliament of 6 November 1997 (OJ C 358, 24.11.1997, p. 24), Council common position of 20 November 1997 (OJ C 23, 23.1.1998, p. 1) and Decision of the European Parliament of 17 December 1997 (OJ C 14, 19.1.1998).

(2) Whereas, according to Article 105a(2) of the Treaty, Member States may issue coins subject to approval by the European Central Bank (ECB) of the volume of the issue and the Council may, acting in accordance with the procedure referred to in Article 189c and after consulting the ECB, adopt measures to harmonise the denominations and technical specifications of all coins intended for circulation to the extent necessary to permit their smooth circulation within the Community;

(3) Whereas the European Monetary Institute has indicated that euro banknotes will range from EUR 5 to EUR 500; whereas the denominations of banknotes and coins will need to allow for cash payments of amounts expressed in euro and cent to be made easily;

(4) Whereas the mint directors of the Community received a mandate from the Council to study and elaborate a report for a European single coinage system; whereas they submitted a report in November 1996 followed by a revised report in February 1997 indicating the denominations and technical specifications (diameter, thickness, weight, colour, composition and edge) of the new euro coins;

(5) Whereas the new European single coinage system should induce public confidence and entail technological innovations that would establish it as a secure, reliable and efficient system;

- (6) Whereas the acceptance of the new system by the public is one of the main objectives of the Community coinage system; whereas public confidence in the new system would depend on the physical characteristics of the euro coins, which should be as user-friendly as possible;
- (7) Whereas consultations with consumer associations, the European Blind Union and representatives of the vending machines industry have been carried out to take into account the specific requirements of important categories of coin users; whereas, in order to ensure a smooth changeover to the euro and to facilitate acceptance of the new coinage systems by users, easy distinction between coins through visual and tactile characteristics will need to be guaranteed;
- (8) Whereas the new euro coins will be more readily distinguishable and easier to become accustomed to if there is a link between their diameter and face value;
- (9) Whereas certain special security features are needed in order to reduce the scope for fraud for the 1 and 2 euro given their high value; whereas the use of a technique whereby coins are made in three layers and the combination of two different colours in the coin are considered to be the most efficient security features available today;
- (10) Whereas giving the coins one European and one national side is an appropriate expression of the idea of European monetary union between Member States and could significantly increase the degree of acceptance of the coins by European citizens;
- (11) Whereas on 30 June 1994 the European Parliament and the Council adopted Directive 94/27/EC<sup>(1)</sup>, which limited the use of nickel in certain products in recognition that nickel could be cause of allergies under certain conditions; whereas coins are not covered by that Directive; whereas, nevertheless, some Member States already use a nickel-free alloy called Nordic Gold in their current coinage system for reasons of public health; whereas it seems desirable to reduce the nickel content of coins when moving to a new coinage system;
- (12) Whereas it is therefore appropriate to follow in principle the proposal of the aforesaid mint directors and to adapt it only to the extent necessary to take into account in particular the specific requirements of important categories of coin users and the need to reduce the use of nickel in coins;
- (13) Whereas of all prescribed technical specifications for euro coins, only the value for thickness is of an indicative nature, since actual thickness of a coin depends on prescribed diameter and weight,

HAS ADOPTED THIS REGULATION:

### *Article 1*

The first series of euro coins will include eight denominations in the range from 1 cent to 2 euro with the following technical specifications:

<sup>(1)</sup> OJ L 188, 22.7.1994, p. 1.

Face value (euro)	Diameter in mm	Thickness in mm <sup>(1)</sup>	Weight in gr	Shape	Colour	Composition	Edge
2	25,75	1,95	8,5	Round	External part: white Internal part: yellow	Copper-nickel (Cu75Ni25)  Three-layers: nickel-brass/nickel/nickel-brass CuZn20Ni5/ Ni12/ CuZn20Ni5	Edge lettering Fine milled
1	23,25	2,125	7,5	Round	External part: yellow Internal part: white	Nickel-brass (CuZn20Ni5)  Three-layers: Cu75Ni25/Ni7/ Cu75Ni25	Interrupted milled
0,50	24,25	1,69	7	Round	Yellow	Nordic Gold Cu89Al5Zn5Sn1	Coarse milled
0,20	22,25	1,63	5,7	'Spanish flower' shape	Yellow	Nordic Gold Cu89Al5Zn5Sn1	Plain
0,10	19,75	1,51	4,1	Round	Yellow	Nordic Gold Cu89Al5Zn5Sn1	Coarse milled
0,05	21,25	1,36	3,9	Round	Red	Copper-covered steel	Smooth
0,02	18,75	1,36	3	Round	Red	Copper-covered steel	Smooth with a groove
0,01	16,25	1,36	2,3	Round	Red	Copper-covered steel	Smooth

(<sup>1</sup>) The values relating to thickness are of an indicative nature.

## Article 2

This Regulation shall enter into force on 1 January 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States, in accordance with the Treaty, subject to Article 109k(1) and Protocols 11 and 12.

Done at Brussels, 3 May 1998.

*For the Council*

*The President*

G. BROWN



**Council Regulation (EC) No 423/1999  
of 22 February 1999  
amending Regulation (EC) No 975/98 on denominations and technical  
specifications of euro coins intended for circulation (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 105a(2) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Central Bank <sup>(2)</sup>,

Acting in accordance with the procedure laid down in Article 189c of the Treaty <sup>(3)</sup>,

Whereas Article 1 of Regulation (EC) No 975/98 <sup>(4)</sup> sets out the technical specifications of the eight denominations included in the first series of euro coins; whereas the mint directors have drawn up, on the basis of that Regulation, the more detailed specifications necessary for production;

Whereas the vending industry, having examined those detailed specifications, has requested an increase of the weight of the 50 cent coin in order to ensure clearer differentiation of that coin and reduce risks of fraud; whereas the European Blind Union, having tested samples

from the first production runs, has complained about the edge milling of the 50 cent and 10 cent coins which did not match the milling of the samples agreed by it during the consultation process preceding the adoption of Regulation (EC) No 975/88; whereas, in order to ensure the acceptance of the new system by the users, it seems desirable to accede to the requests expressed both by the vending industry and the European Blind Union; whereas in order to satisfy the vending industry's requirements, it is necessary to increase the weight of the 50 cent coin from 7 g to 7,8 g; whereas in order to satisfy the European Blind Union's requirements and avoid any risk of misinterpretation in the future, it is desirable to modify the specification for the edge of the 50 cent and 10 cent coins from 'coarse milling' to 'shaped edge with fine scallops' which better reflects the shape of the edge originally agreed by the European Blind Union for those two coins;

Whereas it is essential that the modifications of the technical specifications be confined to the weight of the 50 cent coin and the edge of the 10 cent and 50 cent coins in order not to compromise the production timetable and the introduction of the euro coins on 1 January 2002,

HAS ADOPTED THIS REGULATION:

*Article 1*

In Article 1 of Regulation (EC) No 975/98, the table shall be amended as follows:

- (1) The fourth row relating to the 50 cent coin shall be amended as follows:

(\*) OJ L 52, 27.2.1999, pp. 2 and 3.

(1) OJ C 296, 24.9.1998, p. 10.

(2) Opinion delivered on 16 November 1998 (not yet published in the Official Journal).

(3) Opinion of the European Parliament of 18 November 1998 (OJ C 379, 7.12.1998), Council Common Position of 21 December 1998 (not yet published in the Official Journal) and Decision of the European Parliament of 9 February 1999 (not yet published in the Official Journal).

(4) OJ L 139, 11.5.1998, p. 6.

- (a) in the third column, the figure '1,69' shall be replaced by '1,88';
  - (b) in the fourth column, the figure '7' shall be replaced by '7,8';
  - (c) in the eighth column, the words 'coarse milled' shall be replaced by 'shaped edge with fine scallops'.
- (2) In the sixth row relating to the 10 cent coin, in the eighth column, the words 'coarse milled' shall be replaced by 'shaped edge with fine scallops'.

*Article 2*

This Regulation shall enter into force on 1 January 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States, in accordance with the Treaty, subject to Article 109k(1) and Protocols 11 and 12.

Done at Luxembourg, 22 February 1999.

*For the Council*

*The President*

H.-F. von PLOETZ

**Council conclusions of 2 May 1998  
on the Commission recommendations  
on the practical aspects of the introduction of the euro**

The Council welcomes the attention paid to the practical aspects of the introduction of the euro. The three Commission recommendations of 23 April 1998 form a useful complement to the preparations underway at national level in the countries concerned, insofar as they support a voluntary approach to the questions of banking charges for conversion to the euro and of the dual display of prices and other monetary amounts, while respecting the freedom of Member States to take whatever measures they consider necessary. The recommended stand-

ards of good practice as an appropriate basis for such an approach can help facilitate the transition to the euro in these areas, in particular in the light of ongoing consumer concerns. Furthermore, the Council recognises the need for constructive dialogue among professional and consumer organisations on the various aspects of the transition to the euro, and takes note of the recommendations made regarding the monitoring of preparations and information provision.

**Commission recommendation  
of 23 April 1998  
concerning banking charges for conversion to the euro (\*)  
(98/286/EC)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 155 thereof,

1. Whereas the euro will become the currency of the participating Member States as from 1 January 1999; whereas the euro will be substituted for the national currencies of the participating Member States at the conversion rates; whereas during a transitional period the euro will exist in different denominations; whereas the national currency units will be sub-units of the euro according to the conversion rates; whereas according to Article 4(3) of Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro <sup>(1)</sup>, the conversion rates are to be used for conversions either way between the euro unit and the national currency units; whereas the draft Council Regulation on the introduction of the euro <sup>(2)</sup> imposes certain obligations to convert;
2. Whereas the Commission considers that banks are not legally entitled to charge:
  - for the conversion of incoming payments denominated in the euro unit or in the national currency unit during the transitional period,
  - for the conversion of accounts from the national currency unit to the euro unit at the end of the transitional period,
  - a different fee for services denominated in the euro unit from that charged for otherwise identical services denominated in the national currency unit;
3. Whereas the Commission considers that, in order to facilitate the smooth introduction of the euro, banks should go beyond the minimum required by law by providing without charge the conversion of accounts from the national currency unit to the euro and during the transitional period, by providing without charge the conversion of outgoing payments from the national currency unit to the euro unit and vice versa during the transitional period, and by providing for the exchange without charge to their customers of 'household amounts' of the national banknotes and coin for euro banknotes and coin during the final period;
4. Whereas for reasons of clarity and completeness the legal requirements as interpreted by the Commission as well as the recommendations of the Commission should be presented together; whereas the term 'standard of good practice' is used to signify both the legally required and the recommended practice;
5. Whereas the standard of good practice should not include conversion without charge of accounts from the euro denomination into the national denomination, as this is not necessary for the introduction of the euro, nor should it include the exchange

(\*) OJ L 130, 1.5.1998, pp. 22-25.

(1) OJ L 162, 19.6.1997, p. 1.

(2) OJ C 236, 2.8.1997, p. 8.

- of euro-area national banknotes for other euro-area national banknotes without charge, as the need for such exchange is not affected by the introduction of the euro; whereas the standard of good practice should cover the transparency of any charges for such conversions;
6. Whereas the standard of good practice should not include the exchange of national banknotes and coin other than in household amounts; whereas banks and retailers should negotiate any charges for the withdrawal from retailers of national banknotes and coin and for the delivery to retailers of euro banknotes and coin, taking into account arrangements made by the competent authorities at national level;
  7. Whereas for all conversions between any national currency unit and the euro unit and vice versa, and for all exchanges of banknotes and coin of participating Member States, banks should show clearly the application of the conversion rates in accordance with the provisions of Regulation (EC) No 1103/97; whereas the use of the conversion rate and any charges should be transparent; whereas the standard of good practice in so far as it concerns transparency of charges should be implemented by banks in advance of 1 January 1999, wherever possible, in order to reduce the risk that consumers may wrongly attribute already existing charges to the introduction of the euro;
  8. Whereas banks which implement the standard of good practice should publicise this, to demonstrate that they comply with the standard, and all banks should in any event inform their customers in advance of 1 January 1999 whether they apply the standard of good practice and, if not, for which conversions they intend to charge;
  9. Whereas the Commission intends to monitor the application of the standard of good practice; whereas such monitoring activity is addressed in Recommendation 98/288/EC on dialogue, monitoring and information to facilitate the transition to the euro<sup>(1)</sup>; whereas the dialogue provided for in that Recommendation may include discussions on the implementation and monitoring of the standard of good practice; whereas the dialogue could also address aspects of charging for conversion which could extend beyond the scope of the standard of good practice as laid down by this Recommendation;
  10. Whereas consumers without a bank account may need special consideration in relation to the exchange of banknotes and coin denominated in the national currency for banknotes and coin denominated in euro, during the final period to be determined by local conditions within each Member State;
  11. Whereas the issue of charging for conversion to the euro has been discussed at the Round Table in May 1997; whereas an expert group has been established to examine the issue, involving all sectors concerned, and its report has been published<sup>(2)</sup>; whereas the conclusions of the experts' report have been accepted by the Commission in its Communication 'Update on practical aspects of the introduction of the euro' adopted on 11 February 1998<sup>(3)</sup> and discussed at the Round Table in February 1998,
- HEREBY RECOMMENDS:

(1) See page 29 of this Official Journal [J 6 of this compendium].

(2) Report of the expert group on banking charges for conversion to the euro, Euro Paper No 14.

(3) COM(1998) 61 final.

## Article 1

### Definitions

For the purpose of this Recommendation, the following definitions apply:

- (a) 'Banks' are credit institutions as defined in Council Directive 77/780/EEC <sup>(1)</sup>, and any other financial institutions as defined in Article 4(1) of Council Regulation (EC) No 3604/93 <sup>(2)</sup>, whose business is to carry out activities related to the conversion of payments and accounts and the exchange of notes and coin, and bureaux de change and post offices;
- (b) 'national currency unit' is the unit of the currency of a participating Member State, as that unit is defined on the day before the start of the third stage of economic and monetary union; 'the national currency unit' in this Recommendation refers to the national currency unit of the Member State where the bank making the conversion is located;
- (c) 'participating Member States' are those Member States which adopt the single currency in accordance with the Treaty;
- (d) 'conversion' is the change of denomination of a monetary amount from the national currency unit to the euro unit and vice versa at the conversion rate, in accordance with the provisions of Regulation (EC) No 1103/97;
- (e) 'euro unit' is the currency unit of the euro as referred to in the second sentence of Article 2 of the draft Council Regulation on the introduction of the euro;
- (f) 'transitional period' is the period beginning on 1 January 1999 and ending on 31 December 2001;
- (g) 'final period' is the period beginning on 1 January 2002 and ending on 30 June 2002 at the latest, which period may vary in length according to participating Member State, under the terms of the draft Council Regulation on the introduction of the euro;
- (h) 'conversion rate' is the irrevocably fixed rate adopted for the currency of each participating Member State by the Council according to the first sentence of Article 109I(4) of the Treaty;
- (i) 'incoming payments' are payments received for crediting to accounts of beneficiaries;
- (j) 'outgoing payments' are payments made by debiting accounts of originators;
- (k) 'accounts' are all types of accounts with banks (as defined in (a)) and include deposit accounts, current accounts, mortgage accounts and securities accounts.

## Article 2

### Standard of good practice

Banks should implement, in accordance with Article 4, a standard of good practice on conversion without charge, which should include:

- (a) *Practice that the Commission considers to be legally required:*
  - (i) the conversion without charge of incoming payments from the national currency unit to the euro unit and vice versa during the transitional period;
  - (ii) the conversion without charge of accounts from the national currency unit to the euro unit at the end of the transitional period;
  - (iii) the charging for services denominated in the euro unit at fees no different from those for identical services denominated in the national currency unit.

<sup>(1)</sup> OJ L 322, 17.12.1977, p. 30.

<sup>(2)</sup> OJ L 332, 31.12.1993, p. 4.

(b) *Other recommended practice:*

- (i) the conversion without charge of outgoing payments from the national currency unit to the euro unit and vice versa during the transitional period;
- (ii) the conversion without charge of accounts from the national currency unit to the euro unit during the transitional period;
- (iii) the exchange without charge to their customers (namely the account holders) of 'household amounts' of the national banknotes and coin for euro banknotes and coin during the final period. Banks should quantify 'household amounts' by volume and frequency in a transparent manner.

*Article 3*

## Transparency

1. For all conversions between any national currency unit and the euro unit and vice versa, and for all exchanges of banknotes and coin of participating Member States, banks should show clearly the application of the conversion rates in accordance with the provisions of Regulation (EC) No 1103/97, and should identify separately from the conversion rate any charges for any kind whatever which have been applied.

2. Where banks charge for conversions and exchanges which are not included in Article 2 or where banks do not implement one or more of the provisions of Article 2(b), they should provide clear and transparent information concerning those conversion charges or exchange charges by providing their customers with:

- (a) prior (*ex ante*) written information on any conversion charges or exchange charges which they propose to apply, and

- (b) specific information (*ex post*) on any conversion charges or exchange charges which have been applied, on bank and cardholder statements and any other means used for communicating with the customer. This information should demonstrate clearly to their customers the application of the conversion rates in accordance with the provisions of Regulation (EC) No 1103/97, with any conversion charges or exchange charges being identified separately from the conversion rate and from any other charges of any kind whatever which are applied.

*Article 4*

## Implementation

1. Banks should implement the standard of good practice by 1 January 1999 at the latest, and earlier in the case of Article 3 if this is technically feasible.

2. Banks should inform their customers as soon as possible before 1 January 1999 about whether and to what extent they will implement the standard of good practice.

3. Implementation of the standard of good practice should be publicised by any method which demonstrates that banks comply with the standard, such as:

- (a) professional codes of conduct;
- (b) provisions within a national changeover plan;
- (c) displaying a 'conversion symbol' which demonstrates that banks comply with the standard of good practice. A scheme to confer the right to display a conversion symbol should be worked out at national level by the parties concerned, if and when it is considered appropriate.

*Article 5***Other recommended measures**

The competent authorities of the Member States are invited to consider how best to facilitate the exchange, free of charge, of banknotes and coin denominated in the national currency unit in reasonable amounts and at reasonable frequencies, for banknotes and coin denominated in the euro unit during the final period, in the case of consumers having no bank account.

*Article 6***Final provision**

Member States are invited to support the implementation of this Recommendation.

*Article 7***Addressees**

This Recommendation is addressed to the Member States and to banks and their associations.

Done at Brussels, 23 April 1998.

*For the Commission*

Yves-Thibault DE SILGUY

*Member of the Commission*



**Commission recommendation  
of 23 April 1998  
concerning dual display of prices and other monetary amounts (\*)  
(98/287/EC)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 155 thereof,

1. Whereas according to the draft Council Regulation on the introduction of the euro<sup>(1)</sup>, the euro will become the currency of the participating Member States as from 1 January 1999; whereas the euro will be substituted for the national currencies of the participating Member States at the conversion rates; whereas during a transitional period the euro will exist in different denominations; whereas the national currency units will be sub-units of the euro according to the conversion rates; whereas according to Article 4(3) of Council Regulation (EC) No 1103/97<sup>(2)</sup> of 17 June 1997 on certain provisions relating to the introduction of the euro the conversion rates shall be used for conversions either way between the euro unit and the national currency units;
  2. Whereas the issue of dual display of prices and other monetary amounts was discussed at the first Round Table of May 1997 on the practical aspects of the introduction of the euro; whereas as a follow-up to this Round Table, expert consultative groups were set up by the Commission to examine the issues of dual display and of adjustment to new prices and values in euro; whereas
- the reports of these expert consultative groups have been published<sup>(3)</sup>, and the conclusions, together with the preliminary conclusions of the Commission presented in the Commission communication 'Update on the practical aspects of the introduction of the euro' adopted on 11 February 1998<sup>(4)</sup>; whereas this approach was discussed at the Round Table of 26 February 1998;
3. Whereas on the basis of those conclusions the Commission is of the view that the use of dual displays will greatly facilitate the transition to the euro for consumers, retailers and providers of services, and that in particular dual displays will be an important instrument of consumer education and protection; whereas dual displays are nevertheless one of the many communication instruments that could be used as part of an overall communications strategy to facilitate the switchover to the euro;
  4. Whereas the Commission considers that legislation at Community level on the provision of dual displays would not be the best way of ensuring that dual displays respond to the needs of consumers and at the same time minimise the costs of the transition to the euro; whereas the Commission has concluded nevertheless that where dual displays are provided, adherence to a standard of good practice would

(\*) OJ L 130, 1.5.1998, pp. 26-28.

(1) OJ C 236, 2.8.1997, p. 8.

(2) OJ L 162, 19.6.1997, p. 1.

(3) Report of the expert group on the technical and cost aspects of dual displays, Euro Paper No 13; report of the expert group on acceptance of new prices and scales of value in euro, Euro Paper No 18.

(4) COM(1998) 61 final.

improve certainty and clarity for all parties concerned; whereas this standard of good practice should cover the following: clear indication by retailers on whether they are prepared to accept payment in the euro unit during the transitional period; a clear distinction between, on the one hand, the unit in which the price is set and in which amounts to be paid are to be calculated and, on the other hand, the counter-value which is displayed for information purposes only; where appropriate, agreements on common formats or designs for dual displays; and the avoidance of excessive amounts of information, which may be confusing;

5. Whereas Articles 4 and 5 of Regulation (EC) No 1103/97 provide rules for the adoption and use of the conversion rates; whereas the conversion rates and rounding rules should be used when calculating the counter-values in dual displays; whereas a dual display should not place an obligation on a retailer to accept payments in euro during the transitional period;
6. Whereas there is a series of provisions concerning consumer protection and information to consumers; whereas Article 4 of Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers<sup>(1)</sup> states that price displays (sale price and price per unit) should be unambiguous, easily identifiable and clearly legible; whereas the aforesaid Article 4, in the light of recital 13 of the Directive, states that, in the interests of transparency, Member States can limit the number of prices which would have to be displayed in the national currency unit and in the euro unit; whereas recital 5 of Regulation (EC) No 1103/97 states that measures other than those contained in that Regulation and in the Regulation to be adopted under the

third sentence of Article 109l(4) of the Treaty should be examined to ensure a balanced changeover, in particular for consumers;

7. Whereas for reasons of clarity and completeness the legal requirements as interpreted by the Commission as well as the standard of good practice proposed by the Commission are presented together in this Recommendation; whereas this standard of good practice could serve as a minimum basis for negotiations between professionals and consumers with the objective of agreeing on standards of transparency and information provision; whereas such negotiations have already begun at national and Community level;
8. Whereas it would be desirable for dual displays on 'benchmark indicators' such as bank statements and bills from utility companies to begin early in the transitional period; whereas the introduction of dual displays in the retail sector should be progressive depending on several factors: the pace at which customers wish to make the changeover, the need to educate consumers, on the nature of the retail outlet and on the types of product being sold, and on the technical implications and cost of modifying existing price and financial display systems;
9. Whereas Recommendation 98/288/EC on dialogue, monitoring and information to facilitate the transition to the euro<sup>(2)</sup> cover measures for the monitoring and evaluation of good practices relating to the introduction of the euro; whereas the Commission would consider legislation to ensure the respect of good practices in the case of dual display should these measures prove ineffective,

HEREBY RECOMMENDS:

<sup>(2)</sup> See page 29 of this Official Journal [J 6 of this compendium].

<sup>(1)</sup> OJ L 80, 18.3.1998, p. 27.

## *Article 1*

### Definitions

For the purpose of this Recommendation, the following definitions apply:

- (a) a 'dual display' of a price or other monetary amount is the simultaneous display of an amount in the national currency unit and in the euro unit;
- (b) 'participating Member States' are those Member States which adopt the single currency in accordance with the Treaty;
- (c) 'national currency unit' is the unit of the currency of a participating Member State, as that unit is defined on the day before the start of the third stage of economic and monetary union;
- (d) 'euro unit' is the currency unit of the euro as referred to in the second sentence of Article 2 of the draft Council Regulation on the introduction of the euro;
- (e) 'transitional period' is the period beginning on 1 January 1999 and ending on 31 December 2001;
- (f) 'conversion rate' is the irrevocably fixed rate adopted for the currency of each participating Member State by the Council according to the first sentence of Article 109l(4) of the Treaty.

## *Article 2*

### Standard of good practice

1. Where a dual display of prices or of other monetary amounts is provided, the following provisions must be complied with pursuant to existing legislation:
  - (a) the conversion rates must be used for calculating the counter-values in dual displays;
  - (b) rounding to the nearest cent must be adhered to as a minimum standard of

accuracy for prices or other monetary amounts which have been converted from a national currency unit into the euro unit;

- (c) dual displays of prices and of other monetary amounts must be unambiguous, easily identifiable and clearly legible.

2. The following basic provisions should also be adhered to.

- (a) With particular regard to the clarity of dual displays:

- (i) it should be possible to distinguish between, on the one hand, the unit in which the price is set and in which amounts to be paid are to be calculated and, on the other hand, the counter-value which is displayed for information purposes only;

- (ii) dual displays of prices and other monetary amounts should not be overloaded with excessive numbers of figures. As a general rule, dual displays of prices on individual products may be limited to the final price which consumers have to pay. As a general rule, dual displays on receipts from retail outlets and on other financial statements may be limited to the total amount.

- (b) Retailers should indicate clearly whether they are prepared to accept payment in the euro unit during the transitional period.

## *Article 3*

### Implementation

1. Dual displays should form part of an overall communications strategy designed to facilitate the switchover of consumers and employees to the euro.
2. Dual displays on benchmark indicators such as bank statements and bills from utility

companies should begin early in the transitional period.

3. The introduction of dual displays in the retail sector should be progressive, and will depend on the need to facilitate the changeover of clients and consumers and the pace at which they wish to make the changeover. It will also depend on the nature of the retail outlet, on the types of product being sold, and on the technical implications and cost of modifying existing price and financial display systems.

4. Professional associations should consider the possibility of establishing common formats or designs for dual displays. They are also invited to provide small retailers with assistance in developing dual display capabilities and other communication activities.

#### *Article 4*

##### **Final provision**

Member States are invited to support the implementation of this Recommendation.

#### *Article 5*

##### **Addressees**

This Recommendation is addressed to the Member States and to all economic agents who may provide a dual display of prices or other monetary amounts.

Done at Brussels, 23 April 1998.

*For the Commission*

Yves-Thibault DE SILGUY

*Member of the Commission*

**Commission recommendation  
of 23 April 1998  
on dialogue, monitoring and information to facilitate  
the transition to the euro (98/288/EC) (\*)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 155 thereof,

1. Whereas the euro will become the currency of the participating Member States as from 1 January 1999; whereas the euro will be substituted for the national currencies of the participating Member States at the conversion rates; whereas during the transitional period money-market and financial instruments, but not notes and coins, will be available in euro; whereas the national currency units will be sub-units of the euro according to the conversion rates; whereas pursuant to Article 4(3) of Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro<sup>(1)</sup> the conversion rates must be used for conversions either way between the euro unit and the national currency units;
2. Whereas account should be taken of the work<sup>(2)</sup> undertaken since the Round Table of May 1997, of the communications of the Commission which have resulted from that work, and of the discussions at the Round

Table of 26 February 1998<sup>(3)</sup>; whereas the Commission considers it necessary to recommend that measures be taken as regards dialogue between professional organisations and consumers, the monitoring of the transition to the euro, especially by the creation of observatories, and as regards training and education; whereas the European Parliament has encouraged the Commission to continue this work<sup>(4)</sup>;

3. Whereas Recommendations 98/286/EC concerning banking charges for conversion to the euro<sup>(5)</sup>, and 98/287/EC concerning dual displays of prices and other monetary amounts<sup>(6)</sup> are supplementary to the dialogue initiated at national and Community level;
4. Whereas following the work carried out by the Committee on Commerce and Distribution and the Consumer Committee<sup>(7)</sup> and the joint work carried out by these two committees, negotiations have begun at the

(\*) OJ L 130, 1.5.1998, pp. 29-31.

(1) OJ L 162, 19.6.1997, p. 1.

(2) Report of the expert group on the technical and cost aspects of dual display, Euro Paper No 13; report of the expert group on banking charges for conversion to the euro, Euro Paper No 14; report of the expert group on adjusting to prices and values in euro, Euro Paper No 18; report of the expert group on euro-education, Euro Paper No 19; report of the expert group on small enterprises and the euro, Euro Paper No 21.

(3) Communication from the Commission Update on the practical aspects of the introduction of the euro; COM(98) 61 final, 11 February 1998. Communication from the Commission on the information strategy for the euro; COM(98) 39 final, 6 February 1998.

(4) Resolution of the European Parliament of 13 January 1998 on the euro and the consumer.

(5) See page 22 of this Official Journal [J 4 of this compendium].

(6) See page 26 of this Official Journal [J 5 of this compendium].

(7) Committee on Commerce and Distribution 'Opinion on the key points of the introduction of the single currency', adopted 20 February 1998; Consumer Committee 'Facilitating the transition of the consumer to the euro', adopted 10 February 1998; Report of the working group on acceptance of the new prices and scales of values in euro, Euro Paper No 18.

Community level between professional organisations in the fields of distribution, tourism, small enterprises, crafts, and consumer organisations; whereas the Commission intends to continue and to intensify this dialogue;

5. Whereas it would be appropriate for Member States to set up observatories, in line with relevant national law and compatible with existing administrative structures, as centres for dialogue and monitoring for the citizen; whereas the European Parliament has urged that this approach be continued;
6. Whereas consumer contracts have to comply with the provisions of applicable legislation, including those of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts<sup>(1)</sup>;
7. Whereas as far as the standards of good practice for banking charges for conversion to the euro are concerned, in addition to other arrangements set in place for monitoring the Commission intends to monitor the observance of those standards, and calls on all the parties concerned, and in particular the banking associations, to provide it with the information necessary for that purpose;
8. Whereas there should be a permanent dialogue between small and medium-sized enterprises and their business partners; whereas small enterprises in particular may face specific difficulties in their own preparations for the changeover to the euro during the transitional period; whereas it is in everyone's interest to facilitate the changeover to the euro for small enterprises; whereas one way of achieving this would be for enterprises to engage in negotiations at the appropriate level with a view to agreeing on principles that would help small enterprises to make the change-over to the euro;
9. Whereas small enterprises have difficulty in gaining access to traditional information sources, and lack information; whereas targeted information activities should be organised for small enterprises; whereas professionals and institutions, including chambers of commerce, having contact with small enterprises should keep up their awareness-raising and information efforts; whereas the Commission will continue to make available to small enterprises, in particular through the Euro-Info Centres network, practical tools tailored to their needs;
10. Whereas Member States should continue to examine the role played by the education system in informing young people and the general public; whereas Member States should exchange information and good practice in this area, for which purpose a network of national education officials has been set up; whereas it is essential that young people of school age should be able rapidly to understand and accept the euro under the most favourable conditions and adjust to the new scales of values, due regard being had in particular to their ability to pass on information within the family circle; whereas, if it is to bear fruit, action in schools must closely involve education officials, teachers and other school staff; whereas action on the education front should involve not only schools but all the different components of the education and training system; whereas young people outside the school system should be given special attention,

<sup>(1)</sup> OJ L 95, 21.4.1993, p. 29.

HEREBY RECOMMENDS:

## *Article 2*

### *Article 1*

#### Dialogue

1. To ensure further progress in practical preparations for the changeover to the euro, national authorities are invited to encourage consumer organisations and trade associations to keep up an interactive dialogue. The Commission will also continue to encourage such dialogue at Community level, and will invite the Member States to take into account the results.

2. As part of that dialogue, consumer organisations and trade associations are invited to negotiate and, where appropriate, to conclude agreements on standards of good practice concerning dual display and payments, and to lay down minimum standards with regard to the information to be provided.

3. Businesses should negotiate at the appropriate level with a view to defining principles that would help small enterprises to make the changeover to the euro. Such principles should aim in particular at ensuring:

- (a) that businesses give a period of notice before issuing or requesting invoices exclusively in euro in order to allow their customers, particularly where these are small enterprises, time to prepare themselves properly;
- (b) that, if a small enterprise requests its supplier to continue showing prices in national currency alongside prices in euro on invoices, the supplier accepts;
- (c) that large firms provide their subcontractors with the necessary assistance in order to help them make the changeover to the euro.

#### Observatories and monitoring

1. The Member States, including where appropriate local authorities, are invited to establish suitable facilities, and preferably to set up observatories on the transition to the euro, for monitoring the introduction of the euro, and the fairness and transparency of professional practices.

2. Each observatory should involve representatives of all relevant business sectors, the public administrations concerned and members of the public, including representative bodies, particularly consumer associations.

3. Observatories should carry out the following tasks at local level: reception, guidance to sources of information, providing feedback, mediation, and assistance to citizens. On the basis of an evaluation of these practices, they should be able to transmit the benefits of their experience to the relevant national and Community instances.

4. In order to facilitate the monitoring of the implementation by banks of the standard of good practice on banking charges for conversion to the euro, and in addition to other monitoring arrangements set in place, the national and European banking associations are invited to respond forthwith to the Commission's requests for information on progress in implementing them. To allow an initial evaluation of these good practices to be carried out before the end of 1998, the national banking associations are requested to report to the Commission by 1 November 1998, through their European associations, on the way in which banks intend to implement these good practices.

5. The Member States are invited to follow closely the implementation of the standard of good practice and the information provided by banks on the subject.

### *Article 3*

#### **Information and training**

1. In view of the specific difficulties facing small enterprises in their own preparations for the changeover to the euro and in gaining access to traditional information sources, professionals and institutions, including chambers of commerce, in contact with small enterprises should keep up their awareness-raising and information efforts by targeted activities, including consultancy and advice, and emphasising the practical preparations to be undertaken.
2. Member States are invited to involve their education and school systems as quickly as possible in the information drive on the euro, and to that end to take all the necessary steps to raise the awareness of, to inform and train teachers and other school staff.
3. Action in the education field should comprise specific measures for all forms of education and training, such as distance learning, adult education, higher education, vocational training, and block-release training. Information technology should be not only for raising the awareness of and training teachers but also for channelling information to young people. Member States are also invited

to prepare teaching materials that can be easily used by teachers.

Special attention should also be given to young people outside the school system or educational structures, by taking appropriate measures to inform them.

### *Article 4*

#### **Final provision**

Member States are invited to support the implementation of this Recommendation.

### *Article 5*

#### **Addressees**

This Recommendation is addressed to the Member States, trade associations, consumer organisations, chambers of commerce, banking associations, enterprises and all other organisations or institutions in contact with them.

Done at Brussels, 23 April 1998.

*For the Commission*

Yves-Thibault DE SILGUY

*Member of the Commission*



**Commission recommendation  
of 13 January 1999  
concerning collector coins, medals and tokens  
(notified under number SEC(1999) 24/2) (1999/63/EC) (\*)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 155 thereof,

- (1) Whereas the euro will become the currency of the participating Member States as from 1 January 1999; whereas during a transitional period lasting from 1 January 1999 until 31 December 2001, the euro will be introduced as from 1 January 2002; whereas the euro banknote and coin after their introduction in 2002 will circulate throughout the whole euro area;
- (2) Whereas in order to facilitate the transition to the euro it is necessary to avoid confusion for the citizens; whereas during the three years transitional period people will not be familiar with the new euro coins and banknotes and therefore will more easily be misled or abused; whereas the same level of protection of the euro should exist in all Member States;
- (3) Whereas in order to reduce the risk of confusion during the transitional period, it is desirable to ban from the territory of the European Union all collector coins in euro or medals and tokens which bear the words 'euro' or 'euro cent' or which show a design which is similar to the design which appears on the common side of the euro coin;
- (4) Whereas in order to achieve it, during the transitional period, Member States should not issue any collector coin in euro and

official minting institutions and private issuers in the Member States should not issue for the purpose of sale or for commercial purposes, medals and tokens of the kind described above; whereas in order to avoid that medals and tokens of the kind described above, issued by third countries, will circulate in the Community territory, the ban should not only concern the issue but also the sale, production, stock, import and distribution for the purpose of sale or for commercial purposes of collector coins and said medals and tokens;

- (5) Whereas the ban on collector coins in euro during the transitional period has been supported by the Ecofin Council on 23 November; whereas in some Member States, legislation on medals and tokens exist or is being introduced which goes in the direction recommended herein;
- (6) Whereas it would be desirable that third countries support the efforts made by the European Union to protect its citizens against confusion and fraud, and for that purpose avoid issuing collector coins, medals and tokens of the kind described above in particular during the transitional period,

HEREBY RECOMMENDS:

*Article 1*

**Definitions**

For the purpose of this recommendation, the following definitions apply:

(\*) OJ L 20, 27.1.1999, pp. 61 and 62.

- (a) 'collector coins' refer to commemorative and bullion coins which have legal tender but which are not produced with a view to their entry into circulation;
- (b) 'medals and tokens' refer to those metallic objects of circular shape which look like a coin but which are neither legal means of payment nor legal tender or are not issued under national or foreign legislative provisions;
- (c) 'euro' is the lawful currency of the participating Member States as defined in Article 2 of Council Regulation (EC) No 974/98 on the introduction of the euro;
- (d) 'transitional period' is the period beginning on 1 January 1999 and ending on 31 December 2001.

### *Article 2*

#### Recommended practices

The following recommended practices should apply during the transitional period:

1. Member States should not issue collector coins denominated in euro. This restriction should equally apply to collector coins with a dual denomination in euro and in a national currency unit.
2. the sale and the production, issue, stock, import and distribution for the purpose of sale or for commercial purposes, of collector

coins, medals and tokens which bear the words 'euro' or 'euro cent' or show a design which is similar to the design which appears on the common side of the euro coin or which has already been officially laid down for the minting of such coins in the future, should not take place.

### *Article 3*

#### Implementation by Member States

Member States should take as soon as possible all measures deemed necessary including additional national legislation, to ensure the full implementation of the recommended practices during the transitional period.

### *Article 4*

#### Addressees

This recommendation is addressed to the Member States and to all economic agents which may issue, produce, distribute, import or sell medals and tokens.

Done at Brussels, 13 January 1999.

*For the Commission*

Yves-Thibault DE SILGUY

*Member of the Commission*

**Commission communication COM(97) 418  
of 23 July 1997  
on the use of the euro symbol (€)**

Since the meeting of the European Council in Dublin on 13 and 14 December 1996, the Commission is using the symbol € in its own publications to designate the single currency, the euro. Since then, this symbol has been widely used by national administrations, central banks and by the private sector.

The European Monetary Institute on 15 July 1997 acknowledged the need for a distinctive codified symbol for the single currency and announced that it will support the logo.

Given the broad support the euro symbol has received, the European Commission invites all currency users to use the symbol, as described in the annex, whenever a distinctive symbol is needed for the description of monetary amounts in euro, e.g. in price lists and invoices, on cheques and in any other legal instruments.

The European Commission will undertake all the necessary steps for the registration of the euro symbol with the International Organisation for Standardisation (ISO), which is

responsible for the standardisation of glyphs/ fonts, keyboards, character transmission codes, etc., with a view to enabling the insertion of the symbol in computer systems. First contacts have shown that the providers of information technology would support such an approach. A prominent position of the euro symbol, in particular on keyboards, will help economic agents in their preparatory work for the introduction of the single currency and will promote the widespread use of the new symbol.

The euro symbol was designed by the Commission services. The final choice from among several designs was made following a qualitative assessment by the general public conducted by a specialised organisation. The € is inspired by the Greek epsilon pointing back to the cradle of European civilisation and the first letter of Europe, crossed by two parallel lines to indicate the stability of the euro. The early definition of a distinctive symbol for the euro also reflects the vocation of the euro to become one of the world's major currencies.

## **Commission communication SEC(1999) 24 of 13 January 1999 on copyright protection of the common face design of the euro coins**

### **INTRODUCTION**

According to the Council regulation on the introduction of the euro ((EC) No 974/98) <sup>(1)</sup> coins denominated in euro will be introduced as from 1 January 2002.

The denominations and technical specifications of the first series of euro coins have been defined in a Council regulation adopted on 3 May 1998 ((EC) No 975/98) <sup>(1)</sup>. Following this, a proposal to slightly modify such regulation, for reasons of new developments, has been adopted by the Commission on 29 July 1998. The first series of euro coins will include eight denominations: 1, 2, 5, 20, 50 cent and 1 and 2 euro.

In spring 1996, Member States decided that the euro coins will have a common face and a national face and gave a mandate to the Commission to organise a competition at European level to select the design for the common face of the euro coins. The winning designs of the European coin design competition were selected by the Heads of States or Government in June 1997.

As provided in the competition's terms of references, the copyrights on the winning designs were assigned to the Commission by the artist.

By this communication, the Commission intends to set out the arrangements which have been put in place for the enforcement of the copyrights and the applicable reproduction regime.

### **1. HOLDER OF THE COPYRIGHT**

The copyright on the design of the common face of the euro coins belongs to the European Community represented by the Commission. The European Commission has assigned to each of the Member States adopting the euro all the Community rights as regards the territory of such Member State. The Commission will assign the copyright to the other Member States once they adopt the euro.

### **2. REPRODUCTION REGIME**

The following common reproduction regime will be applied by the Commission and by the participating Member States as regards their territory.

Reproduction of all or part of the common face design of the euro coins is authorised without recourse to a specific procedure in the following cases:

- for photographs, drawings, painting, films, images, and generally reproductions in that format (without relief) provided they are in faithful likeness and are used in ways which do not damage or detract the image of the euro;
- for reproduction with relief on objects other than coins, medals and tokens or any other objects which might be confused with coins;
- for reproduction on tokens made in soft materials or made in plastic provided the size is at least 50 % greater or smaller than the real coins.

<sup>(1)</sup> OJ L 139, 11.5.1998.

Reproduction on medals and tokens made in metal or on any other made in metal which might be confused with coins is not authorised.

Any other reproduction of all or part of the common face design of the euro coins has to be expressly authorised by the European Commission in the case of non-participating Member States, and by the designated authority of the Member State to which the copyright has been assigned in the case of participating Member States. (The list of designated authorities for the participating Member States is attached as Annex I).

The requests for authorisation addressed to the European Commission should be sent to Directorate-General II for Economic and Financial Affairs.

### **3. ENFORCEMENT**

Enforcement of the copyright will be ensured by the participating Member States within their territory according to their national legislation and in compliance with the reproduction regime set out above. The Commission intends to enforce the copyright in the non-participating Member States and third countries according to the relevant national legislation.

If the Commission or the national entities to which the copyrights have been assigned become aware of an unauthorised reproduction having occurred on the relevant territory, they will take immediate action to ensure that such reproduction ceases or is withdrawn. The Commission or the Member States (in the case of participating Member States) may decide the initiation of civil or criminal proceedings against the person responsible for the reproduction according to the corresponding national legislation.

The Commission intends to enforce the copyrights in coordination with the Member States. For that purpose Member States are invited to inform the Commission of any action they take to enforce the copyrights and on the implementation of the reproduction rules.

### **4. REVIEW OF PRESENT ARRANGEMENTS**

By the time of the introduction of the euro coins on 1 January 2002, the Commission intends to review the implementation of the rules described above. The present arrangements might be adapted in the future in the light of the experience gained.

## ANNEX I

**LIST OF DESIGNATED AUTHORITIES AS MENTIONED IN PARAGRAPH 2 OF THE COMMUNICATION**

Belgium:	Ministère des finances — Administration de la trésorerie
Germany:	Bundesministerium der Finanzen
Spain:	Dirección General del Tesoro y Política Financiera
France:	Direction des monnaies et médailles — Ministère de l'économie des finances et de l'industrie de la république française
Ireland:	Minister for Finance of Ireland
Italy:	Ministry of Treasury
Luxembourg:	Ministère des finances — Service de la trésorerie
Netherlands:	The Kingdom of the Netherlands (Ministry of Finance, Domestic Monetary and Financial Affairs Directorate)
Austria:	Münze Österreich AG
Portugal:	Imprensa Nacional — Casa da Moeda
Finland:	Ministry of Finance

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*Part K*

## **Other legislation**



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**Council Regulation (EC) No 3603/93  
of 13 December 1993  
specifying definitions for the application of the prohibitions  
referred to in Articles 104 and 104b (1) of the Treaty (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 104b (2) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

In cooperation with the European Parliament <sup>(2)</sup>,

Whereas Articles 104 and 104b (1) of the Treaty are directly applicable; whereas the terms featuring in Articles 104 and 104b (1) may be specified, if necessary;

Whereas the terms 'overdraft facilities' and 'other types of credit facility' used in Article 104 of the Treaty should be defined, particularly with reference to the treatment of claims existing at 1 January 1994;

Whereas it is desirable that the national central banks participating in the third stage of Economic and Monetary Union should enter such Union having on their balance sheets claims negotiable under market conditions, in particular to give the required flexibility to the monetary policy of the European System of Central Banks and to permit a standard contribution from the various national central banks participating in monetary union to the monetary income to be distributed among them;

Whereas the central banks which, after 1 January 1994, still hold claims against the public sector which are non-negotiable or are subject to conditions which are not market conditions should be authorized subsequently to convert such claims into negotiable fixed-maturity securities under market conditions;

Whereas paragraph 11 of the Protocol on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland stipulates that the Government of the United Kingdom may maintain its 'ways and means' facility with the Bank of England if and so long as the United Kingdom does not move to the third stage; whereas it is appropriate to make provision for the conversion of the amount of this facility into marketable debt at a fixed maturity and on market terms if the United Kingdom moves to stage three of EMU;

Whereas the Protocol on Portugal lays down that 'Portugal is hereby authorized to maintain the facility afforded to the Autonomous Regions of the Azores and Madeira to benefit from an interest-free credit facility with the Banco de Portugal under the terms established by existing Portuguese law'; and that 'Portugal commits itself to pursue its best endeavours in order to put an end to the abovementioned facility as soon as possible';

Whereas Member States must take appropriate measures to ensure that the prohibitions referred to in Article 104 of the Treaty are applied effectively and fully; whereas, in particular, purchases made on the secondary market must not be used to circumvent the objective of that Article;

(\*) OJ L 332, 31.12.1993, pp. 1-3.

(1) OJ C 324, 1.12.1993, p. 5; and OJ C 340, 17.12.1993, p. 3.

(2) OJ C 329, 6.12.1993 and Decision of 2 December 1993 (not yet published in the Official Journal).

Whereas, within the limits laid down in this Regulation, the direct acquisition by the central bank of one Member State of marketable debt instruments issued by the public sector of another Member State does not help to shield the public sector from the discipline of market mechanisms where such purchases are conducted for the sole purpose of managing foreign exchange reserves;

Whereas, notwithstanding the role assigned to the Commission pursuant to Article 169 of the Treaty, it is for the European Monetary Institute and, thereafter, for the European Central Bank, pursuant to Articles 109f (9) and 180 of the Treaty, to ensure that national central banks honour the obligations laid down by the Treaty;

Whereas intra-day credits by the central banks may assist the smooth operation of payment systems; whereas, therefore, intra-day credits in the public sector are compatible with the objectives of Article 104 of the Treaty, provided that no extension to the following day is possible;

Whereas the function of fiscal agent exercised by the central banks should not be impeded; whereas, even if clearing by the central banks of cheques issued by third parties for the public sector's account may occasionally involve a credit, Article 104 of the Treaty should not be regarded as prohibiting such operations, provided that they do not result overall in a credit for the public sector;

Whereas the holding by the central banks of coins issued by the public sector and credited to the public sector constitutes an interest-free form of credit for the public sector; whereas, however, if only limited amounts are involved, this practice does not interfere with the principle of Article 104 of the Treaty; whereas, therefore, in view of the difficulties which would arise from total prohibition of this form of credit, it may be permitted within the limits laid down in this Regulation;

Whereas, following unification, the Federal Republic of Germany has particular difficulty in complying with the limit set on such assets; whereas it is appropriate in those circumstances to authorize a higher percentage for a limited period;

Whereas the financing by the central banks of obligations falling upon the public sector *vis-à-vis* the International Monetary Fund or resulting from the implementation of the medium-term financial assistance facility set up within the Community results in foreign claims which have all the characteristics of reserve assets; whereas it is, therefore, appropriate to authorize them;

Whereas public undertakings are covered by the prohibition in Articles 104 and 104b (1); whereas they are defined in Commission Directive 80/723/EEC of 25 June 1980 on the transparency of financial relations between Member States and public undertakings<sup>(1)</sup>,

HAS ADOPTED THIS REGULATION:

### *Article 1*

1. For the purposes of Article 104 of the Treaty:

- (a) 'overdraft facilities' means any provision of funds to the public sector resulting or likely to result in a debit balance;
- (b) 'other type of credit facility' means:
  - (i) any claim against the public sector existing at 1 January 1994, except for fixed-maturity claims acquired before that date;
  - (ii) any financing of the public sector's obligations *vis-à-vis* third parties;
  - (iii) without prejudice to Article 104 (2) of the Treaty, any transaction with the

<sup>(1)</sup> OJ L 195, 29.7.1980, p. 35. Directive as last amended by Directive 93/84/EEC (OJ L 254, 12.10.1993, p. 16).

public sector resulting or likely to result in a claim against that sector.

2. The following shall not be regarded as 'debt instruments' within the meaning of Article 104 of the Treaty: securities acquired from the public sector to ensure the conversion into negotiable fixed-maturity securities under market conditions of:

- fixed-maturity claims acquired before 1 January 1994 which are not negotiable or not under market conditions, provided that the maturity of the securities is not subsequent to that of the aforementioned claims;
- the amount of the 'ways and means' facility maintained by the United Kingdom Government with the Bank of England until the date, if any, on which the United Kingdom moves to stage three of EMU.

### *Article 2*

1. During stage two of EMU, purchases by the national central bank of one Member State of marketable debt instruments issued by the public sector of another Member State shall not be considered direct purchases within the meaning of Article 104 of the Treaty, provided that such purchases are conducted for the sole purpose of managing foreign exchange reserves.

2. During stage three of EMU, the following purchases conducted for the sole purpose of managing foreign exchange reserves shall not be considered direct purchases within the meaning of Article 104 of the Treaty:

- purchases by the national central bank of a Member State not participating in stage three of EMU, from the public sector of another Member State, of marketable debt instruments of the latter,
- purchases by the European Central Bank or the national central bank of a Member State participating in stage three of EMU, from the public sector of a Member State not

participating in stage three, of marketable debt instruments of the latter.

### *Article 3*

For the purposes of this Regulation, 'public sector' means Community institutions or bodies, central governments, regional, local or other public authorities, other bodies governed by public law or public undertakings of Member States.

'National central banks' means the central banks of the Member States and the Luxembourg Monetary Institute.

### *Article 4*

Intra-day credits by the European Central Bank or the national banks to the public sector shall not be considered as a credit facility within the meaning of Article 104 of the Treaty, provided that they remain limited to the day and that no extension is possible.

### *Article 5*

Where the European Central Bank or the national central banks receive from the public sector, for collection, cheques issued by third parties and credit the public sector's account before the drawee bank has been debited, this operation shall not be considered as a credit facility within the meaning of Article 104 of the Treaty if a fixed period of time corresponding to the normal period for the collection of cheques by the central bank of the Member State concerned has elapsed since receipt of the cheque, provided that any float which may arise is exceptional, is of a small amount and averages out in the short term.

### *Article 6*

The holding by the European Central Bank or the national central banks of coins issued by the public sector and credited to the public sector

shall not be regarded as a credit facility within the meaning of Article 104 of the Treaty where the amount of these assets remains at less than 10 % of the coins in circulation.

Until 31 December 1996, this figure shall be 15 % for Germany.

### *Article 7*

The financing by the European Central Bank or the national central banks of obligations falling upon the public sector *vis-à-vis* the International Monetary Fund or resulting from the implementation of the medium-term financial assistance facility set up by Regulation (EEC) No 1969/88 <sup>(1)</sup> shall not be regarded as a credit facility within the meaning of Article 104 of the Treaty.

### *Article 8*

1. For the purposes of Articles 104 and 104b (1) of the Treaty, 'public undertaking' shall be defined as any undertaking over which the State or other regional or local authorities may directly or indirectly exercise a dominant influence by virtue of their ownership of it, their financial participation therein or the rules which govern it.

A dominant influence on the part of the public authorities shall be presumed when these authorities, directly or indirectly in relation to an undertaking:

- (a) hold the major part of the undertaking's subscribed capital;
- (b) control the majority of the votes attaching to shares issued by the undertaking; or
- (c) can appoint more than half of the members of the undertaking's administrative, managerial or supervisory body.

2. For the purposes of Articles 104 and 104b (1) of the Treaty, the European Central Bank and the national central banks do not form part of the public sector.

### *Article 9*

This Regulation shall enter into force on 1 January 1994.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 December 1993.

*For the Council*

*The President*

Ph. MAYSTADT

<sup>(1)</sup> Council Regulation (EEC) No 1969/88 of 24 June 1988 establishing a single facility providing medium-term financial assistance for Member States' balances of payments (OJ L 178, 8.7.1988, p. 1).

**Council Regulation (EC) No 3604/93  
of 13 December 1993  
specifying definitions for the application of the prohibition of  
privileged access referred to in Article 104a of the Treaty (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 104a (2) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

In cooperation with the European Parliament <sup>(2)</sup>,

Whereas the prohibition of privileged access to financial institutions, as laid down in Article 104a of the Treaty, forms an essential element of the submission of the public sector in its financing operations to the discipline of the market mechanism and so makes a contribution to the strengthening of budgetary discipline; whereas, moreover, it places the Member States on an equal footing as regards public sector access to financial institutions;

Whereas the Council must specify definitions for the application of such prohibition;

Whereas the Member States and the Community must act with due regard for the principle of an open market economy in which there is free competition;

Whereas, in particular, this Regulation cannot affect the methods for organizing markets complying with that principle;

Whereas this Regulation does not seek to interfere with any operation of public financial institutions complying with the same principle;

Whereas Article 104a of the Treaty prohibits measures establishing privileged access; whereas the types of acts concerned by this prohibition should be specified; whereas the commitments freely made by financial institutions in the framework of contractual relations unquestionably cannot be affected;

Whereas the same Article provides that prudential considerations may justify departure from the principle of this prohibition; whereas laws, regulations or administrative actions may not, however, under the cover of prudential consideration, be used to establish disguised privileged access;

Whereas public undertakings are covered by the same prohibition; whereas they are defined in Commission Directive 80/723/EEC of 25 June 1980 on the transparency of financial relations between the Member States and public undertakings <sup>(3)</sup>;

Whereas, for reasons of monetary policy, financial institutions and, in particular, credit institutions may be obliged to hold claims against the European Central Bank and/or national central banks;

Whereas the European Central Bank and national central banks may not, as public authorities, take measures establishing privileged access; whereas the rules on mobilization or pledging of debt instruments enacted by the

(\*) OJ L 332, 31.12.1993, pp. 4-6.

<sup>(1)</sup> OJ C 324, 1.12.1993, p. 7; and OJ C 340, 17.12.1993, p. 6.

<sup>(2)</sup> OJ C 329, 6.12.1993 and Decision of 2 December 1993 (not yet published in the Official Journal).

<sup>(3)</sup> OJ L 195, 29.7.1980, p. 35. Directive as last amended by Directive 93/84/EEC (OJ L 254, 12.10.1993, p. 16).

European Central Bank or by national central banks must not be used as a means of circumventing the prohibition of privileged access;

Whereas, in order to avoid any circumvention of the prohibition, the definitions in Community law of the various types of financial institution should be supplemented by a reference to those institutions engaging in financial activities which have not yet been harmonized at Community level, such as, for instance, branches of third-country establishments, holding and factoring companies, uncoordinated undertakings for collective investment in transferable securities (UCITS), institutions for retirement provision, etc.,

HAS ADOPTED THIS REGULATION:

### *Article 1*

1. For the purposes of Article 104a of the Treaty, 'any measure establishing privileged access' shall be defined as any law, regulation or any other binding legal instrument adopted in the exercise of public authority which:

- obliges financial institutions to acquire or to hold liabilities of Community institutions or bodies, central governments, regional, local or other public authorities, other bodies governed by public law or public undertakings of Member States (hereinafter referred to as 'public sector'), or
- confers tax advantages which may benefit only financial institutions or financial advantages which do not comply with the principles of a market economy, in order to encourage the acquiring or the holding by those institutions of such liabilities.

2. Privileged access shall not be regarded as being established by those measures which give rise to:

- obligations for funding social housing under special terms such as, *inter alia*, an

obligation to centralize funds with public financial institutions, when the funding terms prevailing for the public sector are identical to those for funding of the same nature granted to private borrowers for the same purposes,

- the obligation to centralize funds with a public credit institution, in so far as such a constraint is an integral part, as at 1 January 1994, of the organization of a particular network of credit institutions or of specific savings arrangements designed for households and intended to provide the whole of the network or the specific arrangements with financial security. The use of such centralized funds must be determined by the management bodies of the public credit institution concerned and comply with the principle of a market economy where there is free competition,
- obligations to finance the repair of disaster damage, provided that the conditions for financing repairs are not more favourable when damage is sustained by the public sector than when it is sustained by the private sector.

### *Article 2*

For the purposes of Article 104a of the Treaty, 'prudential considerations' shall be those which underlie national laws, regulations or administrative actions based on, or consistent with, EC law and designed to promote the soundness of financial institutions so as to strengthen the stability of the financial system as a whole and the protection of the customers of those institutions.

### *Article 3*

1. For the purposes of Article 104a of the Treaty, 'public undertaking' shall be defined as any undertaking over which the State or other regional or local authorities may exercise directly or indirectly a dominant influence by

virtue of their ownership of it, their financial participation therein or the rules which govern it.

A dominant influence on the part of the State or other regional or local authorities shall be presumed when these authorities, directly or indirectly in relation to an undertaking:

- (a) hold the major part of the undertaking's subscribed capital;
- (b) control the majority of the votes attaching to shares issued by the undertaking; or
- (c) can appoint more than half of the members of the undertaking's administrative, managerial or supervisory body.

2. Without prejudice to their obligation as public authorities not to take measures establishing privileged access within the meaning of Article 104a of the Treaty, the European Central Bank and the national central banks shall not, for the purposes of this Article, be considered as forming part of the public sector.

3. 'National central banks' means the central banks of the Member States and the Luxembourg Monetary Institute.

#### *Article 4*

1. For the purposes of Article 104a of the Treaty, 'financial institutions' means:

— credit institutions as defined in the first indent of Article 1 of Directive 77/780/EEC<sup>(1)</sup>,

(1) Council Directive 77/780/EEC of 12 December 1977 on the coordination of the laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of credit institutions (OJ L 322, 17.12.1977, p. 30). Directive as last amended by Directive 89/646/EEC (OJ L 386, 30.12.1989, p. 1).

(2) Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life insurance (third Directive on insurance other than life insurance) (OJ L 228, 11.8.1992, p. 1).

— insurance undertakings as defined in Article 1, point (a) of Directive 92/49/EEC<sup>(2)</sup>,

— assurance undertakings as defined in Article 1, point (a) of Directive 92/96/EEC<sup>(3)</sup>,

— UCITS as defined in Article 1 (2) of Directive 85/611/EEC<sup>(4)</sup>,

— investment firms as defined in Article 1 (2) of Directive 93/22/EEC<sup>(5)</sup>,

— other undertakings the activities of which are similar to those of the undertakings referred to in the previous indents or the principal activity of which is to acquire holdings of financial assets or to transform financial claims.

2. The following institutions do not form part of the financial institutions defined in paragraph 1:

— the European Central Bank and national central banks,

— post office financial services when they form part of the general government sector defined in accordance with the European System of Integrated Economic Accounts or when their main activity is to act as the financial agent of government, and

— the institutions which are part of the general government sector defined in ac-

(3) Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance (third Directive on life insurance) (OJ L 360, 9.12.1992, p. 1).

(4) Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 375, 31.12.1985, p. 3). Directive as amended by Directive 88/220/EEC (OJ L 100, 19.4.1988, p. 31).

(5) Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field (OJ L 141, 11.6.1993, p. 27).



cordance with the European System of Integrated Economic Accounts or the liabilities of which correspond completely to a public debt.

*Article 5*

This Regulation shall enter into force on 1 January 1994.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 December 1993.

*For the Council*

*The President*

Ph. MAYSTADT

**Council Regulation (EC) No 3605/93  
of 22 November 1993  
on the application of the Protocol on the excessive deficit procedure  
annexed to the Treaty establishing the European Community (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the third subparagraph of Article 104c (14) thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Whereas the definitions of 'government', 'deficit' and 'investment' are laid down in the Protocol on the excessive deficit procedure by reference to the European System of Integrated Economic Accounts (ESA) (3); whereas precise definitions referring to the classification codes of ESA are required; whereas these definitions may be subject to revision in the context of the necessary harmonization of national statistics or for other reasons; whereas any revision of ESA will be decided by the Council in accordance with the rules on competence and procedure laid down in the Treaty;

Whereas the definition of 'debt' laid down in the Protocol on the excessive deficit procedure needs to be amplified by a reference to the classification codes of ESA;

Whereas Council Directive 89/130/EEC, Euratom of 13 February 1989 on the harmonization of the compilation of gross national product at

market prices (4) provides an adequate, detailed definition of gross domestic product at market prices;

Whereas, pursuant to the terms of the Protocol on the excessive deficit procedure, the Commission is required to provide the statistical data to be used in that procedure;

Whereas detailed rules are required to organize the prompt and regular reporting by the Member States to the Commission of their planned and actual deficits and of the levels of their debt;

Whereas, pursuant to Article 104c (2) and (3) of the Treaty, the Commission is to monitor the development of the budgetary situation and of the stock of government debt in the Member States and to examine compliance with budgetary discipline on the basis of criteria relating to government deficit and government debt; whereas, if a Member State does not fulfil the requirements under one or both criteria, the Commission must take into account all relevant factors; whereas the Commission has to examine whether there is a risk of an excessive deficit in a Member State,

HAS ADOPTED THIS REGULATION:

#### SECTION 1

#### DEFINITIONS

##### *Article 1*

1. For the purposes of the Protocol on the excessive deficit procedure and of this Regula-

(\*) OJ L 332, 31.12.1993, pp. 7-9.

(1) OJ C 324, 1.12.1993, p. 8; and OJ C 340, 17.12.1993, p. 8.

(2) OJ C 329, 6.12.1993.

(3) Statistical Office of the European Communities, *European System of Integrated Economic Accounts (ESA)*, second edition.

(4) OJ L 49, 21.2.1989, p. 26.

tion, the terms given in the following paragraphs are defined according to the European System of Integrated Economic Accounts (ESA). The codes in brackets refer to ESA, second edition.

2. 'Government' means the sector of general government (S60), that is central government (S61), local government (S62) and social security funds (S63), to the exclusion of commercial operations, as defined in ESA.

The exclusion of commercial operations means that the sector of general government (S60) comprises only institutional units producing non-market services as their main activity.

3. 'Government deficit (surplus)' means the net borrowing (net lending) (N5) of the sector of general government (S60), as defined in ESA. The interest comprised in the government deficit is the sum of interest (R41), as defined in ESA.

4. 'Government investment' means the gross fixed capital formation (P41) of the sector of general government (S60), as defined in ESA.

5. 'Government debt' means the total gross debt at nominal value outstanding at the end of the year of the sector of general government (S60), with the exception of those liabilities the corresponding financial assets of which are held by the sector of general government (S60).

Government debt is constituted by the liabilities of general government in the following categories: currency and deposits (F20 and F30), bills and short-term bonds (F40), long-term bonds (F50), other short-term loans (F79) and other medium and long-term loans (F89) as defined in ESA.

The nominal value of a liability outstanding at the end of the year is the face value.

The nominal value of an index-linked liability corresponds to its face value adjusted by the index-related capital uplift accrued to the end of the year.

Liabilities denominated in foreign currencies shall be converted into the national currency at the representative market exchange rate prevailing on the last working day of each year.

### *Article 2*

Gross domestic product means gross domestic product at market prices (GDP mp), as defined in Article 2 of Directive 89/130/EEC, Euratom.

### *Article 3*

1. Planned government deficit figures mean the figures established for the current year by the Member States consistent with the most recent decisions of their budgetary authorities.
2. Actual government deficit and government debt level figures mean estimated, provisional, half-finalized or final results for a past year.

## SECTION 2

### **RULES AND COVERAGE OF REPORTING**

#### *Article 4*

1. As from the beginning of 1994, Member States shall report to the Commission their planned and actual government deficits and levels of government debt twice a year, the first time before 1 March of the current year (year n) and the second time before 1 September of year n.
2. Before 1 March of year n, Member States:
  - shall report to the Commission their planned government deficit for year n, an up-to-date estimate of their actual government deficit for year n-1 and their actual government deficits for years n-2, n-3 and n-4,
  - shall simultaneously provide the Commission for years n, n-1 and n-2 with their corresponding public accounts budget def-

icits according to the definition which is given most prominence nationally and with the figures which explain the transition between this public accounts budget deficit and their government deficit. The figures explaining this transition which are provided to the Commission shall include, in particular, the figures for net borrowing of the subsectors S61, S62 and S63,

— shall report to the Commission their estimate of the level of actual government debt at the end of year n-1 and their levels of actual government debt for years n-2, n-3 and n-4,

— shall simultaneously provide the Commission for years n-1 and n-2 with the figures which explain the contributions of their government deficit and the other relevant factors contributing to the variation in the level of their government debt.

3. Before 1 September of year n, Member States shall report to the Commission:

— their updated planned government deficit for year n and their actual government deficits for years n-1, n-2, n-3 and n-4 and shall comply with the requirements of the second indent of paragraph 2,

— their actual level of government debt for years n-1, n-2, n-3 and n-4, and shall comply with the requirements of the fourth indent of paragraph 2.

4. The figures for the planned government deficit reported to the Commission in accordance with paragraphs 2 and 3 shall be expressed in national currency and in budget years.

The figures for actual government deficit and actual government debt level reported to the Commission in accordance with paragraphs 2 and 3 shall be expressed in national currency and in calendar years, with the exception of the up-to-date estimates for year n-1, which may be expressed in budget years.

Where the budget year differs from the calendar year, Member States shall also report to the Commission their figures for actual government deficit and actual government debt level in budget years for the two budget years preceding the current budget year.

#### *Article 5*

Member States shall, in accordance with the procedure laid down in Article 4 (1), (2) and (3), provide the Commission with the figures for their government investment expenditure and interest expenditure.

#### *Article 6*

Member States shall provide the Commission with a forecast of their gross domestic product for year n and the actual amount of their gross domestic product for years n-1, n-2, n-3 and n-4, under the same timing conditions as those indicated in Article 4 (1).

#### *Article 7*

In the event of a revision of ESA to be decided on by the Council in accordance with the rules on competence and procedure laid down in the Treaty, the Commission shall introduce the new references to ESA into Articles 1 and 4.

#### *Article 8*

This Regulation shall enter into force on 1 January 1994.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 November 1993.

*For the Council*

*The President*

Ph. MAYSTADT

**Council Regulation (EC) No 2494/95  
of 23 October 1995  
concerning harmonised indices of consumer prices (\*)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 213 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the European Monetary Institute <sup>(3)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(4)</sup>,

Whereas Article 109j of the Treaty requires the Commission and the EMI to report to the Council on the progress made by the Member States in the fulfilment of their obligations regarding the achievement of economic and monetary union in respect of a high degree of price stability;

Whereas Article 1 of the Protocol on the convergence criteria referred to in Article 109j of the Treaty states that the required sustainable price performance for Member States should be in terms of inflation measured by means of the consumer price index on a comparable basis, taking into account differences in national definitions; whereas existing consumer price

indices are not compiled on a directly comparable basis;

Whereas there is a need for the Community and particularly its fiscal and monetary authorities to have regular and timely consumer price indices for the purpose of providing comparisons of inflation in the macro-economic and international context as distinct from indices for national and micro-economic purposes;

Whereas it is recognized that inflation is a phenomenon manifesting itself in all forms of market transactions including capital purchases, government purchases, payments to labour as well as purchases by consumers; whereas it is recognized that a range of statistics, of which consumer price indices form an essential part, is relevant for an understanding of the inflationary process at national level and between the Member States;

Whereas comparable indices of consumer prices may be produced instead of or in addition to similar indices of consumer prices already produced or to be produced in future by Member States;

Whereas the production of comparable indices will involve costs to be allocated between the Community and Member States;

Whereas, according to the principle of subsidiarity, the creation of common statistical standards for consumer price indices is a task that can be dealt with effectively only at Community level and whereas the collection of data and compilation of comparable consumer price indices will be implemented in each Member State under the aegis of the

(\*) OJ L 257, 27.10.1995, pp. 1-4.

(1) OJ C 84, 6.4.1995, p. 7.

(2) OJ C 249, 25.9.1995.

(3) Opinion delivered on 31 March 1995 (OJ C 236, 11.9.1995, p. 11).

(4) OJ C 236, 11.9.1995, p. 11.

organizations and institutions responsible for compiling official statistics at national level;

Whereas, with a view to the achievement of economic and monetary union, a consumer price index will be needed for the Community as a whole;

Whereas the Statistical Programme Committee (SPC), established by Council Decision 89/382/EEC, Euratom <sup>(1)</sup>, has given a favourable opinion on the draft Regulation,

HAS ADOPTED THIS REGULATION:

### *Article 1*

#### **Aim**

The aim of this Regulation is to establish the statistical bases necessary for arriving at the calculation of comparable indices of consumer prices at Community level.

### *Article 2*

#### **Definitions**

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

- (a) Harmonized index of consumer prices (HICP): the comparable index of consumer prices produced by each Member State;
- (b) European index of consumer prices (EICP): the consumer price index produced for the Community by the Commission (Eurostat), based on the HICPs of Member States;
- (c) Monetary Union index of consumer prices (MUICP): the consumer price index produced in the context of Economic and Monetary Union by the Commission (Eurostat) based on the HICPs of Member States without a derogation under Article 109k of the Treaty, as long as such derogations exist.

### *Article 3*

#### **Scope**

The HICP shall be based on the prices of goods and services available for purchase in the economic territory of the Member State for the purposes of directly satisfying consumer needs. Questions concerning weighting shall be decided on by the Commission under the procedure laid down in Article 14.

### *Article 4*

#### **Comparability**

HICPs shall be considered to be comparable if they reflect only differences in price changes or consumption patterns between countries.

HICPs which differ on account of differences in the concepts, methods or practices used in their definition and compilation shall not be considered comparable.

The Commission (Eurostat), shall adopt rules to be followed to ensure the comparability of HICPs under the procedure laid down in Article 14.

### *Article 5*

#### **Timetable and derogations therefrom**

1. The measures necessary to achieve comparable indices of consumer prices shall be implemented in stages, as follows:

##### (a) *Stage I:*

By March 1996 at the latest, the Commission (Eurostat), shall, in collaboration with Member States, produce for the purposes of the report referred to in Article 109j of the Treaty ('convergence criteria') an interim set of indices of consumer prices for each Member State. These indices shall be based wholly on data underlying existing national consumer price indices, adjusted in particular as follows:

<sup>(1)</sup> OJ L 181, 28.6.1989, p. 47.

- (i) to exclude owner-occupied housing;
- (ii) to exclude health and educational services;
- (iii) to exclude certain other items not covered or treated differently by a number of Member States.

(b) *Stage II:*

The HICP shall start with the index for January 1997. The common index reference period shall be the year 1996. The estimates of price changes for the twelve months prior to January 1997 and subsequent months shall be established on the basis of the indices for 1996.

2. Where necessary the Commission (Eurostat) may, at the request of a Member State and after consulting the EMI, grant derogations from the provisions of paragraph 1 not exceeding a period of one year where the Member State concerned has to make significant adjustments to its statistical system in order to fulfil its obligations under this Regulation.

3. The implementing measures for this Regulation which are necessary for ensuring the comparability of HICPs and for maintaining and improving their reliability and relevance shall be adopted, after consultation of the EMI, in accordance with the procedure laid down in Article 14.

### *Article 6*

#### Basic information

The basic information shall be those prices and weightings of goods and services which it is necessary to take into account in order to achieve comparability of indices as defined in Article 4.

That information shall be obtained from statistical units as defined in Council Regulation (EEC) No 696/93 of 15 March 1993 on

the statistical units for the observation and analysis of the production system in the Community<sup>(1)</sup> or from other sources, provided that the comparability requirements for indices referred to in Article 4 of this Regulation are met.

### *Article 7*

#### Sources

The statistical units called upon by the Member States to cooperate in the collection or provision of price data shall be obliged to allow observation of the prices actually charged and to give honest and complete information at the time it is requested.

### *Article 8*

#### Frequency

1. The HICP, EICP and MUICP shall be compiled each month.

2. The required frequency of price collection shall be once a month. Where less frequent collection does not preclude production of an HICP which meets the comparability requirements referred to in Article 4, the Commission (Eurostat) may allow exceptions to monthly collection. This paragraph shall not preclude more frequent price collection.

3. The weightings of the HICP shall be updated with a frequency sufficient to meet the comparability requirement laid down in Article 4. This paragraph shall not require family budget surveys to be carried out more frequently than once every five years, except in Member States which, under the procedure in Article 14, are acknowledged as experiencing changes in consumption patterns such as to make more frequent surveys necessary.

<sup>(1)</sup> OJ L 76, 30.3.1993, p. 1.

### Article 9

#### Production of results

Member States shall process the data collected in order to produce the HICP, which shall be a Laspeyres-type index, covering the categories of the Coicop international classification (classification of individual consumption by purpose)<sup>(1)</sup>, which shall be adapted under the procedure in Article 14 to establish comparable HICPs. The methods, procedures and formulae to ensure that the comparability requirements are met shall be determined by the same procedure.

### Article 10

#### Transmission of results

Member States shall transmit the HICPs to the Commission (Eurostat) within a period which shall not exceed thirty days from the end of the calendar month to which the indices relate.

### Article 11

#### Publication

The HICP, the EICP, the MUICP and corresponding subindices for a set of categories within those referred to in Article 9, selected by the procedure laid down in Article 14, shall be published by the Commission (Eurostat) within a period which shall not exceed five working days from the end of the period referred to in Article 10.

### Article 12

#### Comparability of data

Member States shall provide the Commission (Eurostat) at its request with information, *inter alia* that collected pursuant to Article 6, at the level of detail necessary to evaluate compliance

with the comparability requirements and the quality of the HICPs.

### Article 13

#### Funding

The implementing measures for this Regulation shall be adopted taking the greatest account of cost-effectiveness and on condition that no major additional resources are needed in a Member State, unless the Commission (Eurostat) bears two-thirds of the additional costs until the end of the second year of implementation of those measures.

### Article 14

#### Procedure

1. The Commission shall be assisted by the Statistical Programme Committee, (hereinafter referred to as 'the Committee').

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

<sup>(1)</sup> Published by the United Nations, series F No 2, revision 3, table 6.1, amended by the OECD (DES/NI/86.9), Paris 1986.



If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

### *Article 15*

#### Review

After consulting the Committee, the Commission (Eurostat) shall, within two years of the date of entry into force of this Regulation and again within two years thereafter, submit a report to the Council on the HICPs established pursuant to this Regulation and in particular on their reliability and compliance with the comparability requirements.

In those reports, the Commission shall state its views on the operation of the procedure described in Article 14 and shall propose any amendments it considers appropriate.

### *Article 16*

#### Entry into force

This Regulation shall enter into force on the twentieth day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 23 October 1995.

*For the Council*

*The President*

P. SOLBES MIRA

European Commission

**Economic and monetary union — Compilation of Community legislation  
June 1999**

Luxembourg: Office for Official Publications of the European Communities

1999 — 258 pp. — 17.6 x 25 cm

ISBN 92-828-4310-6

Price (excluding VAT) in Luxembourg: EUR 20