

28th November 1990

Confidential

Statement by President Pöhl on the Statute of the ESCB
and of the ECB at the informal ECOFIN meeting in Milan
on 2nd December 1990

You may recall that at the informal ECOFIN meeting in early September I gave you a detailed account of the progress in the Committee of Governors' work on the draft Statute of the European System of Central Banks and of the European Central Bank. Apart from a few open questions this work has now been concluded and the Statute, together with a Commentary on individual Articles and an Introductory Report, have been transmitted to the Italian Presidency, and copies have been sent to all of you.

Having already provided you with a rather comprehensive assessment, and given the fact that you should have all received a copy of the Statute and the accompanying texts, I will limit my remarks to some broad aspects and underlying considerations of the proposed System. Of course, I will gladly provide you with explanations on any particular detail should you so wish.

The Statute lays down the necessary provisions for a System which will have the full and undivided responsibility for the monetary policy of the Community. The primary objective of the System, as described in Article 2, is the maintenance of price stability but it will also, without prejudice to this primary objective, support the general economic policies of the Community. In accordance with Article 7, the necessary policy decisions to attain these objectives shall be taken without instructions from political authorities. Other provisions recognise that an independent System must be democratically legitimate and accountable. A important safeguard to enable the System to achieve its objectives is described in Article 21 which

rules out the possibility of any kind of direct monetary financing of public sector entities. Another important consideration is that, in accordance with the principle of subsidiarity, there is a presumption for executing many operations, including those arising in the context of monetary policy, through the national central banks. These fundamental principles have been unanimously endorsed by all members of the Committee of Governors. It should be pointed out, however, that the Governor of the Bank of England has stated that the UK authorities do not accept the case for a single currency and monetary policy.

In order to give practical effect to these basic principles, the Statute encompasses a large number of provisions which specify the legal and institutional structure of the System, as well as its operational and functional features. The System, as stated in Article 1, consists of a new central institution, the European Central Bank (ECB) endowed with its own legal personality, and the central banks of the Member States which retain their own legal personality. Both the ECB and the national central banks form integral parts of the System and are governed by a common set of rules and committed to the objectives and tasks entrusted to it. The decision-making bodies are the Council and the Executive Board, which are located inside the ECB but, as laid down in Article 8, their authority covers the System as a whole. The composition of these two bodies, their powers, their voting procedures, as well as the methods for appointing their members, the terms of office and the conditions under which they can be relieved from office are clearly set out in the Statute.

Various provisions establish the operational foundations of the System, define the policy instruments and specify, to the extent necessary, the System's role in all fields of central banking, including participation in policies relating to prudential supervision and the stability of the financial system, as well as advisory functions and statistical tasks. The Statute also ensures the financial autonomy of the System and determines the methods for endowing the ECB with sufficient

capital and foreign reserve assets in accordance with a single key which is to be established on the basis of objective indicators. As mentioned earlier, both the fundamental and the more technical features of the System are described in detail in the Commentary and the Introductory Report which complement the Statute.

I indicated to you at the beginning that a few questions remain open. In part this is attributable to the fact that the Committee of Governors has so far focused its attention entirely on the final stage of Economic and Monetary Union and, consequently, the Statute does not yet address the complex issues of transitional arrangements, such as the preparatory steps in Stage Two, the transition to Stage Three and the implications of full participation in the System by some of the Member States at different dates. Moreover, certain aspects of a more technical nature, especially those relating to the distribution of income, and some legal questions are still under consideration. The Committee of Governors will present the relevant provisions in the course of the Intergovernmental Conference.

A few provisions have been put between square brackets. These concern, in particular, the responsibility for the exchange rate policy, and the holding and management of official foreign reserves, the procedure for giving operational powers to the Executive Board and the embodiment of the principle of subsidiarity in the Statute. In these areas no full agreement has been reached.

The Committee of Governors is aware that the entry into force of the proposed Statute will radically transform the monetary regime in the Community and will require far-reaching changes in all participating countries. This is most obviously the case with regard to the statutes of national central banks which will have to be made compatible with the Statute and the EEC Treaty, but the same applies to many other areas of national legislation. The establishment of the proposed System will also involve the pooling of an adequate amount of foreign assets in the books of the ECB and there is a need to bring all official foreign reserve assets into the System, i.e. to transfer them to

the national central banks. But most importantly, the enactment of the Statute implies that national authority over monetary policy will be relinquished and be attributed to the decision-making bodies of the System.

In preparing the Statute the Committee of Governors has assumed that there is a clear political will and a strong commitment to proceed to Economic and Monetary Union. The relevant political decisions have now to be taken in the context of the Intergovernmental Conference. If, in this Conference, a consensus is reached to implement in the foreseeable future Economic and Monetary Union, it is the firm view of the Committee of Governors that the proposed Statute provides the appropriate institutional and operational basis for meeting the monetary policy requirements of such a Union and the Committee would greatly welcome the proposal being fully supported by all Ministers of Finance. The Committee of Governors is not part of the political negotiation process but it understands that, in accordance with Article 102a of the EEC Treaty, it will be consulted regarding any proposal made during the Intergovernmental Conference for institutional changes in the monetary area. The Committee of Governors stands ready to offer its expertise and advise whenever such questions are discussed in this Conference.

Let me conclude by quoting what is said at the end of our Introductory Report to the Statute. "The Committee of Governors wishes to emphasise that the success of the System in performing its functions and tasks does not solely depend on its operational and institutional features. As has been pointed out in the Delors Report "economic union and monetary union form two integral parts of a single whole" and have to be implemented in parallel. Indeed, only if adequate progress has been made in the economic field, in particular with regard to ensuring budgetary discipline, will the System be able to operate in an environment in which it can successfully attain its primary objective of price stability."

28th November 1990

Note for a press briefing by President Pöhl

Confidential

The main aspects of the Statute of the European System
of Central Banks and of the European Central Bank

1. The organisational structure of the System and its legal foundations.
2. The objectives and tasks of the System.
3. Indivisibility of monetary policy decisions and subsidiarity in the execution of operations.
4. Composition and voting and appointment procedures for the decision-making bodies.
5. Independence and democratic legitimacy and accountability.
6. Operational features of the System.
7. Financial arrangements.
8. Areas where the Statute needs to be completed.
9. Points of disagreement.

1. The organisational structure of the System and its legal foundations

- Article 1 states that the proposed System consists of a central institution - the European Central Bank (ECB) - and the central banks of the Member States. Both form integral parts of the System and are governed by a common set of rules and committed to the objectives and tasks entrusted to it. The decision-making bodies are the Council (Article 10) and the Executive Board (Article 11), which are located inside the ECB, but their authority extends to the whole System (Article 8).

- The ECB has legal personality (Article 9) whereas the national central banks retain their legal personality in accordance with national law. However, the statutes of the national central banks - as well as other national legislation - are to be made compatible with the Statute and the EEC Treaty (Article 14).

- It is proposed not to classify the ECB or the System as a Community institution under Article 4, §1 of the EEC Treaty; instead, it should be considered an institution sui generis and therefore be mentioned separately in a new paragraph of this Article.

- The Statute is to be annexed as a Protocol to the EEC Treaty and thus is given the status of primary Community law; however, to allow for the amendment of certain more technical provisions the Statute will contain in Article 40 a simplified amendment procedure; this will be drafted after the decisions on the future legislative process of the Community have emerged from the Intergovernmental Conference on Political Union.

2. The objectives and tasks of the System

- The primary objective is, in accordance with Article 2, to maintain price stability; without prejudice to this objective, the System shall also support the general economic policies of the Community.

- The tasks are listed in Article 3 and comprise the formulation and implementation of monetary policy; the conduct of foreign exchange operations in accordance with the exchange rate regime; holding and management of official foreign reserves (here is an issue; see point 9); ensuring a smoothly operating payment system; participation in policies relating to prudential supervision and the stability of the financial system.

- The role to be performed by the System in these various fields of central banking activity is specified further in a number of Articles; in addition, Articles 4, 5 and 6 confer upon the ECB and the national central banks advisory functions, statistical tasks and a role in international co-operation, respectively.

3. Indivisibility of monetary policy decisions and subsidiarity in the execution of operations

- The responsibility for the formulation and implementation of monetary policy is vested with the System and formally attributed to the Council and the Executive Board.

- The Council is the supreme decision-making body; this involves also the strategic monetary policy decisions, including those on intermediate monetary objectives, key interest rates and the supply of reserves in the System (Article 12.1).

- The daily management of monetary policy is in the hands of the Executive Board, which shall act in accordance with the decisions and guidelines established by the Council (Article 12.2) (here is an issue; see point 9).

- There is a general presumption to apply the principle of subsidiarity in the execution of the System's operations and to involve the national central banks. This applies to several areas, such as the collection of statistics (Article 5), but also to monetary policy operations (Article 14.4) (here is an issue; see point 9).

4. Composition and voting and appointment procedures for the decision-making bodies

- Council comprises the Governors of the national central banks, the President, the Vice President and the - four - other members of the Executive Board (Article 10.1).

- Except for decisions on financial matters, where weighted voting applies (Article 28), the principle of "one person - one vote" applies to all decisions (Article 10.2).

- The Governors of national central banks are appointed by the national authorities of the respective Member States after consultation with the Council of the ECB; their term of office shall be no less than five years; a decision to relieve him from office is only possible for a serious cause resting in his person and may be referred to the Court of Justice (Article 14.2).

- The President and the Vice President are to be appointed for a term of eight years by the European Council, after the Council of the ECB has given its opinion and after consultation with the European Parliament (Article 11.2); for other members of the Executive Board no consultation with the European Parliament is required (Article 11.3); dismissal procedure are broadly similar to that for national central bank governors.

5. Independence and democratic legitimacy and accountability

- Article 7 states that the ECB, the national central banks and their decision-making bodies shall act independently of instructions from political authorities.

- Independence is reinforced by the security of tenure for Council members (Articles 14.2, 11.2 and 11.3) and by provisions establishing functional and financial autonomy.

- Democratic legitimacy is ensured by the fact that the Statute will have to be approved by Member States and ratified by their parliaments; moreover, the powers entrusted to the decision-making bodies and their responsibility are clearly defined and the members of the Council are to be appointed by the appropriate political authorities.

- Accountability is ensured by several provisions aimed at creating a transparent System; Article 15 calls for the preparation of the annual report which shall be presented by the President to the European Council, the Council of Ministers and the European Parliament; in addition, the President of the Council of Ministers and a member of the Commission may attend meetings of the Council of the ECB and the ECB is obliged to report regularly and publicly on the activities of the System.

6. Operational features of the System

- Article 21 denies the ECB and the national central banks to provide monetary financing to public sector entities; this is an important functional safeguard for the attainment of the System's primary objective.

- While the responsibility for decisions concerning the Community's exchange rate regime rests with the political authorities, Article 4.3 establishes the obligation to consult the ECB with a view to reaching consensus consistent with the objective of price stability prior to any decision relating to the exchange rate regime (here is an issue; see point 9).

- Articles 18 and 19 vest the ECB and the national central banks with the classical instruments of monetary policy (open market and credit operations and minimum reserves); Article 20 enables the Council to use other operational methods of monetary control.

7. Financial arrangements

- The System is financially autonomous; the budgetary provisions of the EEC Treaty applicable to other Community institutions do not apply to the System (Article 27.2).

- The ECB will be endowed with capital (Article 29), part of which might be paid up in gold.

- In addition, the ECB will be endowed with foreign reserve assets up to a predetermined amount (Article 30); such transfers will consist of convertible foreign currencies and possibly gold; the Council will be entitled to call up - in successive steps - up to the predetermined limit foreign reserve assets from the national central banks; for further contributions beyond that limit it will be necessary to establish a legal basis through Community law.

- The capital subscriptions and the transfer of reserve assets will be based on a single key; this key will be determined on the basis of objective criteria, such as GNP and possibly population and financial criteria.

- Amounts for capital of the ECB or total of pooled foreign reserve assets have not yet been fixed; but agreement that volume of foreign assets in the hands of the ECB should be high enough to make the exchange rate policy credible.

- Foreign reserve assets which have not been pooled must be held and used in a manner consistent with the Community's exchange rate and monetary policies (Article 31); this makes it necessary to bring all official reserve holdings into the System, i.e., where applicable, transfer them before Stage Three from Treasury accounts to the national central bank (here is an issue; see point 9).

8. Areas where the Statute needs to be completed

- Statute addresses so far only Stage Three; the transitional provisions (to be included in Chapter VIII) will deal with the necessary preparatory steps to be implemented in Stage Two; the transition to Stage Three; the start-up procedures and the implications of full participation in the System by some Member States at different dates.

- A number of technical aspects are still under consideration, especially the distribution of income; this may have implications for other financial provisions.

- Some legal aspects, especially with regard to the General Provisions (Chapter VII), may need to be reconsidered.

- The key needs to be determined.

- The simplified amendment provisions (Chapter IX) need to be drafted; this will only be possible after the future legislative process in the Community has been decided in the context of the Intergovernmental Conference on Political Union.

9. Points of disagreement

- Article 1 refers to "participating" central banks; there is no agreement on the definition of "participating"; most but not all Governors consider that a participating central bank would be one whose Member State has become a member of the Economic and Monetary Union or has fully accepted this objective and pledged to join as soon as possible; the United Kingdom considers that participation should also cover acceptance of membership of the System before entry into Stage Three.

- Responsibility for formulation of exchange rate policy (Article 4.3); most Governors accept that this is decided by the political authorities but that the ECB should be consulted with a view to reaching a consensus; other Governors wish to make decisions on the exchange rate policy dependent upon the consent of the ECB.

- Embodiment of the principle of subsidiarity in the Statute (Article 14.4); there is consensus that there is a presumption for executing monetary policy operations through the national central banks, but there is disagreement whether this should be presented in the Statute as a generally applicable principle or whether the Executive Board should decide on the extent to which use is made of the national central banks.

- Procedure for conferring to the Executive Board the power to implement monetary policy (Article 12.1); there is agreement that the Executive Board should be responsible for the daily management of monetary policy, but views differ as to whether the authority should be delegated by the Council or whether the Statute should explicitly give to the Executive Board the competence for implementing monetary policy.

- Lending by the ECB and the national central banks (Article 18.1): views differ whether this should be with or without collateral; reasons are different regimes in individual

countries and that those who favour the possibility of lending without collateral wish to be able to assist more freely credit institutions in order to ward off systemic risks.

- Article 31 requires that all official foreign reserve assets are brought under the control of the System; this implies that foreign reserve assets held by official bodies (such as Treasuries) are transferred to the national central banks before Stage Three; the United Kingdom does not share this view.

- The UK authorities have stated their general reservation against the entire approach, since they do not accept the case for a single currency and monetary policy.

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