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Secretariat

DRAFT STATUTE

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This note has been prepared for the Alternates' meeting on 9th September 1990. Its main purpose is to take stock of the points of agreement and disagreement.

1. POINTS OF AGREEMENT

There is full agreement on the following issues:

- the objectives to be pursued by the System (Article 2) and broadly in its tasks (Article 3);
- the independence of the System, i.e.:
  - the System and members of its governing bodies are independent of instructions from Community institutions, national governments or any other bodies (Article 8);
  - appropriate security of tenure of the members of the Executive Board (Article 10) and of the national central bank Governors (Article 13);
  - appropriate instruments (Chapter IV);
  - no interference with monetary policy objectives through the obligation of public sector borrowing requirements (Article 19.1);
- the indivisibility of monetary policy whose formulation and implementation will be entrusted to the governing bodies of the System, i.e. Council and Executive Board respectively (Article 11).

## 2. POINTS OF DISAGREEMENT

There is disagreement about the following points:

- the distribution of responsibilities between the Council and the Executive Board in the decision-making process with regard to the conduct of the single monetary policy (Article 11);
- the degree to which the execution of operations may be decentralised without impairing the indivisibility of monetary policy.

The first issue needs to be reviewed by the Governors. The second issue is dealt with in Section 3 below.

## 3. CENTRALISATION VERSUS DECENTRALISATION

### 3.1. Possible solutions

(a) At one end of the spectrum - i.e. the most centralistic approach - would be a full integration of the national central banks into the System. This would imply that national central banks would become branches of the System and would require far-reaching changes in the present draft Statute; for instance concerning the legal personality, the status of national central banks in the internal organisation of the System, and the financial provisions.

A less radical, but nonetheless strongly centralistic solution, would be to allow national central banks to act only as agents of the central institution. This would not require the merging of national central banks into the System, i.e. they could maintain their separate legal personality but their capacity to act on their own would virtually be abolished. Under this solution, again, a number of Articles, such as those dealing with the role of the national central banks and the financial provisions would have to be reviewed.

(b) At the opposite end of the spectrum of possible solutions, each national central bank would become part of the System and keep - basically unchanged - its balance sheet. The central institution would not need legal personality and would not have a balance sheet of its own; the expenses of the centre would be funded by contributions from the national central banks (as is the case in the Federal Reserve System). However, the System's powers to give instructions to the

national central banks would have to be laid down clearly in the Statute. Consequently, in executing the instructions of the Council/Executive Board the national central banks would act as principal, i.e. operations would be for their account. However, as monetary policy decisions would have to be made on the basis of the balance-sheet position of all national central banks a consolidated balance sheet would be required to account for the System's operations.

A possible alternative to this solution, with only minor implications for the Statute, would be to give legal personality to the central institution but limit its capacity to act in its own name on matters of administration. A small balance sheet comprising buildings, pension funds and a modest capital base would be needed.

These two options would not entail substantive alteration of the draft Statute as presently drafted, although consideration would have to be given to additional provisions which would enable the System to perform its tasks in an equitable manner. For instance, how should interventions in the foreign exchange market be shared out among the different central banks? As regards the financial provisions, there would be no need for a mechanism for transferring assets and liabilities from national central banks to the central institution (Article 26), and the capital structure of the central institution would be simplified (Article 24). The profits and losses would be for the account of the national central banks, although a mechanism for pooling them could be devised.

(c) Between these two extreme solutions various combinations of centralised and decentralised execution of monetary policy operations are conceivable. According to one of these hybrid approaches (supported by several Alternates and as presented in Mr. Lagayette's note), all external operations would be centralised and recorded in the central institution's balance sheet, whereas the execution of domestic operations would remain the responsibility of national central banks. If this approach were followed, again Articles relating to the role of the national central banks and the financial provisions would have to be reconsidered.

### 3.2. How to conceive an evolutionary approach?

The present draft Statute attempts to accommodate an evolutionary approach whereby responsibilities for the execution of operations would gradually be transferred to the central institution. Given the uncertainties on the gradual path towards greater centralisation, it would be considered wise to leave the decisions about steps towards centralisation to the governing bodies of the System. The transfer of responsibilities in this gradual process, would entail little change in the right to dispose of assets, nor would it necessarily affect the earnings of the national central banks (which would be shareholders or depositors with the central institution). However, the transfer of responsibility in this gradual process would imply changes in ownership of assets which, in particular with respect to foreign exchange reserves, might raise sensitive political issues.

If the - necessary - flexibility of managing the System in the course of Stage Three is to be presumed, but if at the same time it is accepted that politically sensitive decisions need the confirmation of the Member States, there appear to be two approaches.

The first solution would be to specify in the Statute which of the decisions that will have to be taken on the way to the end of Stage Three should be subject to approval by the political authorities (i.e. decisions under secondary legislation). But even if the right of initiative were given to the System's governing bodies, this approach could mean a loss of flexibility and interference by political authorities in the evolution of the System's structure.

The alternative would be to draft the Statute mainly with a view to the situation at the end of Stage Three, i.e. when there will exist a high degree of centralisation. This would not necessarily mean that at the beginning of Stage Three the System would have to work on a fully centralised basis since transitional provisions could ensure a gradual progression to the final situation foreseen in the System's Statute.

The main difference in comparison with the first solution is that by describing clearly in the Statute the final structure of the System, this political approval in the form of Treaty notification may allow the System's governing bodies a more decisive role in determining the transitional arrangements.