



Copenhagen, March 20, 1991

Mr. Gunter D. Baer
Bank for International Settlements
P.O. Box 262
4002 Basle
Schweiz

Dear Mr. Baer,

Referring to your letter dated March 12, 1991, please find attached my comments to the Secretariat's note on "Simplified Procedure for Amending the Statute of the ESCB and Complementary Community Legislation" and to its note on "Suggestions for Amendments to General Provisions".

With kind regards,

Bodil Nyboe Andersen
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**I Comments to the Secretariat's Note on
"Simplified Procedure for Amending ..."**

1. Simplified amendment procedure

The ECB and the Commission (after consulting the ECB) should be given the right of initiative.

The Council may act by a qualified majority if it decides in conformity with a request or opinion of the ECB, and by unanimity if the Council amends the request or opinion of the ECB.

The procedure should be laid down both in the Treaty and the Statute.

**2. List of provisions subject to the
simplified amendment procedure**

All fundamental features of the System should definitively be excluded from the simplified amendment procedure, and it may be appropriate to specify that no such amendments should affect the scope of the non-amendable provisions, in particular the fundamental provisions referring i.a. to the objectives and the independence of the System. Thus, the provisions subject to the simplified amendment procedure should mainly be those of a more technical nature.

I can agree to the list proposed on p.4 in the Secretariat's note. It seems appropriate not in advance to exclude the use of other operational methods of monetary control than those mentioned in the Statute. Thus, it should be considered whether Article 20 should be subject to the simplified amendment procedure.

3 Conveyance to IGC

The opinion of the Committee of Governors should be conveyed to the IGC in the form of elaborated draft articles.

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II Comments to the Secretariat's Note on
"Suggestions for Amendments to General Provisions"

33.1: Amended version preferable.

33.2: Amended version preferable.

34: I would strongly argue in favour of maintaining the original version ("According to Community legislation the ECB ...") as a minimum, the reason being that the amended version might conflict with Danish constitutional legislation. Legal experts are presently considering the scope of the original version.

35.6: For reasons given in the Secretariat's Comments I can support the suggested addition to Article 35.

36: I would consider it an improvement if the wording "Staff" of Article 38 be extended to all relevant Articles. Hence, the following is suggested:

36.1: "The Council of the ECB, on a proposal from the Executive Board, shall lay down the Regulations of the Staff of the ECB. The ...". The rest remains as suggested by the Secretariat.

38.1: Amended version preferable.

39: The following formulation is suggested: "The ECB shall be legally committed vis-à-vis third parties by the signatures of two members of the Executive Board or two members ..."

40: In accordance with my suggestion in 36.1 I would prefer the following "..., the members of its decision-making bodies and its Staff to the extent necessary ...".

Bodil Nyboe Andersen