

12th April 1991

Dear Mr. President,

As you know, on 27th November 1990, in my capacity as Chairman of the Committee of Governors, I presented to your predecessor as President of the Council of the European Communities the draft Statute of the European System of Central Banks and of the European Central Bank. At that time I pointed out that some questions were still open and that the Committee of Governors had the intention of submitting the missing provisions in the course of the Intergovernmental Conference.

I now have the honour of presenting to you the complete text of the Statute addressing Stage Three of Economic and Monetary Union, together with a revised commentary. The amended Statute has so far been prepared only in English; versions in [French and German] [the other official Community languages] will follow in due course.

Apart from minor editorial changes the Statute has been amended in three major respects: the financial provisions have been completed, the Chapter on general provisions has been revised, and proposals for a simplified amendment procedure and complementary Community legislation have been added. The Statute does not yet contain provisions concerning the transitional arrangements; the Committee intends to present these at a later stage of the Intergovernmental Conference.

The Committee of Governors wishes to emphasise that the proposed Statute establishes the foundations of a consistent and coherent System designed to perform the functions and tasks necessary for the attainment of its primary objective of price stability. A change in one of the principal elements might therefore call into question the Statute's internal consistency and the capacity of the System to achieve its objectives.

As mentioned in my previous letter the Committee of Governors notes that in accordance with Article 102a of the Treaty, it shall be consulted regarding institutional changes in the monetary area. Furthermore, it may also on its own initiative wish to give further consideration to certain provisions of the draft Statute.

I have taken the opportunity of sending copies of this letter and the amended Statute and the accompanying commentary to your colleagues on the ECOFIN Council and to the President of the EC Commission.

Yours sincerely,

Karl Otto Pöhl

Enclosures

Relevant provisions of the ESCB Statute

TASKS OF THE ESCB

ARTICLE 12

12.1To 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 with form part of the tasks of the ESCB.

ARTICLE 14

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 to be given to it.

ARTICLE 16

Bank notes

In accordance with Article 105a(1) of this Treaty, the Governing Council shall have the exclusive right to authorise the issue of bank notes within the Community.

The ECB and the national central banks may issue such notes. The bank notes 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 bank notes.

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:

- *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.*

ARTICLE 19

Minimum reserves

19.1 Subject to Article 2, the ECB may require credit institutions established in Member States to hold minimum reserves 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.

ARTICLE 21

Operations with public entities

21.1 In accordance with Article 104 of this Treaty, overdrafts of 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.

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 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.

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 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.