

EUROPEAN CENTRAL BANK

Recommendation, under Article 10.6 of the Statute of the European System of Central Banks and of the European Central Bank, for a Council Decision on an amendment to Article 10.2 of the Statute of the European System of Central Banks and of the European Central Bank

(ECB/2003/1)

(2003/C 29/07)

(Submitted by the European Central Bank on 3 February 2003)

EXPLANATORY MEMORANDUM

With the Treaty of Nice a new Article 10.6 has been added to the Statute of the European System of Central Banks and of the European Central Bank. It provides: 'Article 10.2 (of the Statute) may be amended by the Council meeting in the composition of the Heads of State or Government, acting unanimously either on a recommendation from the ECB and after consulting the European Parliament and the Commission, or on a recommendation from the Commission and after consulting the European Parliament and the ECB. The Council shall recommend such amendments to the Member States for adoption. These amendments shall enter into force after having been ratified by all the Member States in accordance with their respective constitutional requirements ...' Article 10.6 has to be read in conjunction with the Declaration on Article 10.6 of the Statute of the European System of Central Banks and of the European Central Bank which was annexed to the Treaty of Nice. This Declaration provides: 'The Conference expects that a recommendation within the meaning of Article 10.6 of the Statute of the European System of Central Banks and of the European Central Bank will be presented as soon as possible.'

In view of the above, the ECB submits the present recommendation for a Council Decision on an amendment to Article 10.2 of the Statute. In accordance with the provisions of Article 10.6 of the Statute, the recommendation has been adopted by the Governing Council of the ECB by unanimity. It will be published in the *Official Journal of the European Union*.

1. GENERAL CONSIDERATIONS

Article 10.6 of the Statute provides the legal basis for the adjustment of the voting modalities in the Governing Council. As it restricts any amendments to Article 10.2 of the Statute, any adjustment of the voting modalities is without prejudice to the right of the members of the Governing Council to be present during the Governing

Council meetings (Article 10.1 of the Statute), and as such to participate in the discussions. Moreover, any adjustment of the voting modalities does not have any implications for voting on decisions taken under Articles 28, 29, 30, 32, 33 and 51 of the Statute (Article 10.3 of the Statute).

To maintain the Governing Council's capacity for efficient and timely decision-making in an enlarged euro area, the number of governors having voting rights has to be smaller than the overall number of governors in the Governing Council. A rotation system is an equitable, efficient and acceptable way of assigning voting rights among the governors. The six members of the Executive Board maintain permanent voting rights. Any change to this would be difficult to reconcile with their special status as laid down in the EC Treaty and the Statute. They are the only members of the Governing Council who are appointed at the European level by a Treaty procedure and who operate solely in the euro area context and for the ECB, the competence of which spans the whole euro area. Finally, it has to be taken into account that the President, a member of the Executive Board, also has the casting vote in the event of a tie in the Governing Council.

The design of the rotation system should be guided by five fundamental principles, i.e. 'one member one vote'; 'ad personam participation'; 'representativeness'; 'automaticity/robustness' and 'transparency'.

First, the 'one member one vote' principle, which is the core principle of the ECB/Eurosystem's decision-making, has to be retained for members having a voting right. However, a rotation system necessarily implies that there will no longer be permanent voting rights for all the members of the Governing Council as the number of governors increases.

Second, all members of the Governing Council will continue to participate in its meetings, irrespective of whether they have the voting right or not, in a personal and independent capacity.

Third, since the introduction of a rotation system could theoretically lead to situations in which the members of the Governing Council having voting rights were from Member States which, taken together, might be perceived as not being sufficiently representative of the euro area economy as a whole, it should be designed in a manner which excludes such outcomes. In order to achieve representativeness, the rotation system has to differentiate between governors with respect to the frequency with which they have voting rights, with governors from larger Member States enjoying more frequent periods with voting rights than those from smaller Member States. Although the introduction of considerations of representativeness marks a departure from the existing provisions for voting in the Governing Council, this is exclusively motivated by the need to accommodate the impact of enlargement on the Governing Council's decision-making. This *ex ante* differentiation between governors should apply exclusively to the prior determination of the frequency with which each governor has the voting right. For all governors having voting rights at any point in time, the 'one member one vote' principle would continue to apply. Consequently, this differentiation should not impact on actual substantive decision-making, but is only relevant in the process of determining who votes when.

Fourth, the rotation system has to be devised in a manner whereby the system itself, any rule on the allocation of governors to different groups, and any rule on the assignment of voting rights to such groups, allow the system to adjust automatically to the process of euro area enlargement. In addition, it has to be capable of accommodating up to 27 Member States, i.e. the current EU Member States and the 12 accession countries listed in the Declaration on the enlargement of the European Union which is annexed to the Treaty of Nice. This 'robustness' principle implies, in particular, the avoidance of situations in which, as a result of the workings of the rotation system, the members of a group of smaller Member States enjoy higher voting frequencies than the members of a group of relatively larger Member States.

Fifth, the design of the rotation system has to be transparent. Consequently, the language of the revised Article 10.2 of the Statute has to be reasonably accessible and meet the requirements of primary Community law.

With these fundamental principles in mind, the adjustment of the Governing Council's voting modalities has been designed as laid down in Article 1.

2. COMMENTS ON THE ARTICLES

Article 1

Within the limits laid down by Article 10.6 of the Statute, Article 1 establishes a system for the rotation of voting rights in the Governing Council. As from the date on which the number of members of the Governing Council exceeds 21 the voting modalities in the Governing Council will be adjusted. In line with the current institutional arrangement,

the total number of voting rights is limited to 21. In view of their special status (see above), the six members of the Executive Board will continue to have permanent voting rights. The governors will share the remaining 15 voting rights which will rotate among them according to pre-established rules. Each member of the Governing Council with a voting right will have one vote to be exercised in a personal and independent capacity only. To ensure that any decisions taken by the Governing Council are representative of the euro area economy as a whole, governors will be allocated to groups which differ with respect to the frequency with which their members may have voting rights. The allocation of governors to groups will be done in accordance with a ranking of their respective NCB's Member State. This ranking will be based on the Member States' shares in the euro area total according to an indicator with two components: (i) the share in the aggregate gross domestic product at market prices (hereinafter GDP mp) of the Member States without a derogation; and (ii) the share in the total aggregated balance sheet of the monetary financial institutions (hereinafter TABS-MFIs) of the Member States without a derogation. The selection of the first and most significant component, GDP mp, is justified on the grounds of its widespread use as the most objective reflection of the size of the overall economy of each participating Member State. The second is justified by the need to recognise the specific relevance of the financial sector of the participating Member States for central bank decisions. A $\frac{5}{6}$ weight is attributed to GDP mp and a $\frac{1}{6}$ weight to TABS-MFIs. This choice of weights is suitable, as this will mean that the financial sector is sufficiently and meaningfully represented.

As regards the operation of the rotation system, two stages, dependent on the sequencing of the enlargement of the euro area, are foreseen:

— as from the date on which the number of governors exceeds 15, until it reaches 22, the governors will be allocated to two groups. For reasons of continuity it is considered appropriate to start with a rotation scheme which represents only a marginal departure from the current voting provisions and which is rather simple. The length of time during which this rotation scheme will be in operation is uncertain since it depends on the sequencing of euro area enlargement. The first group will be composed of the five governors of the NCBs of the Member States with the biggest shares in the euro area total according to the indicator described above. The second group will be composed of all the other governors. The five governors of the first group share four voting rights and the remaining governors of the second group share 11. However, from the start of the rotation system until the number of governors exceeds 18, there is a need for exceptional arrangements in order to avoid that the members of the first group have lower voting frequencies than the members of the second group. This may have an impact on how the 15 voting rights are assigned to the two groups. In order to avoid the situation that governors within any group have a voting frequency of 100 %, the Governing Council may also decide to postpone the start of the rotation system until the number of governors exceeds 18. The implementation of these specific rotation arrangements which are limited in time should be left to the Governing Council.

— As from the date on which the number of governors reaches 22, the governors will be allocated to three groups. The first group will be composed of the five governors of the NCBs of the Member States with the biggest shares in the euro area total according to the indicator described above. The second group will be composed of half of the total number of governors rounded up where necessary and taking into consideration the robustness principle so as to ensure a degree of continuity in the frequency of voting rights of the second group. Governors in this group will come from the NCBs of the Member States holding the subsequent positions in the country ranking based on the above criteria. The third group will be composed of the remaining governors. Four voting rights are assigned to the first group, eight to the second and three to the third. When there are 27 euro area Member States, the voting frequency of the first group will be 80 %, that of the second 57 % and that of the third 38 %.

The rotation of the voting rights among governors will also be governed by the principle that within each group the governors will have their voting rights for equal amounts of time. The measures necessary for the implementation of this principle, which are of an operational nature only, will be taken by the Governing Council.

The composition of the groups will be adjusted whenever the aggregate GDP mp is adjusted in accordance with Article 29.3 of the Statute, or whenever the number of governors increases as a consequence of the enlargement of the euro area. The data for the calculation of the shares in the aggregate GDP mp will be provided by the Commission in accordance with the rules adopted by the Council under Article 29.2 of the Statute. The data for the calculation of the shares in the TABS-MFIs will be calculated in accordance with the statistical framework applying in the European Community at the time of calculation. As a consequence, they will be calculated by the ECB within the framework decided by the Council under Article 5.4 of the Statute, i.e. Council Regulation (EC) No 2533/98 of 23

November 1998 concerning the collection of statistical information by the European Central Bank ⁽¹⁾, and as further detailed by the ECB by Regulation (EC) No 2423/2001 of the European Central Bank of 22 November 2001 concerning the consolidated balance sheet of the monetary financial institution sector ⁽²⁾ as amended by Regulation (EC) No 2174/2002 ⁽³⁾.

The abovementioned quinquennial adjustment follows the rationale of Article 29.3 of the Statute. The new shares resulting from such adjustments will apply as from the first day of the following year. Upon one or more new governors becoming members of the Governing Council, the reference periods to be used to calculate the shares of their respective NCB's Member State in the aggregate GDP mp and in the TABS-MFIs of the Member States without a derogation should be identical to those used for the latest quinquennial adjustment of the shares. The new shares resulting from such irregular adjustments will apply as from the day on which the new governor(s) join(s) the Governing Council. These details will be part of the implementing provisions to be adopted by the Governing Council.

Any decision which is necessary to implement the operational details of the rotation system will, as an exception to the new voting modalities, be adopted by all members of the Governing Council — irrespective of whether or not they hold a voting right at the time of the decision — by a two-thirds majority.

Article 2

The Council Decision amending Article 10.2 of the Statute has to be recommended to the Member States for adoption. The amendment will only enter into force once it has been ratified by all Member States in accordance with their respective constitutional requirements. The timing of the entry into force has been framed on the same model as the final provisions of the Treaty of Nice.

⁽¹⁾ OJ L 318, 27.11.1998, p. 8.

⁽²⁾ OJ L 333, 17.12.2001, p. 1.

⁽³⁾ OJ L 330, 6.12.2002, p. 29.

Recommendation of the European Central Bank for a

COUNCIL DECISION

on an amendment to Article 10.2 of the Statute of the European System of Central Banks and of the European Central Bank

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular to Article 10.6 thereof,

Having regard to the recommendation from the European Central Bank ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Commission ⁽³⁾,

Whereas:

- (1) The enlargement of the euro area will lead to an increase in the number of members of the Governing Council of the European Central Bank (ECB). There is a need to maintain the Governing Council's capacity for efficient and timely decision-making in an enlarged euro area, irrespective of the number of Member States that adopt the euro. In order to do so, the number of governors having voting rights will have to be smaller than the overall number of governors in the Governing Council. A rotation system is an equitable, efficient and acceptable way of assigning voting rights among the governors in the Governing Council. A number of 15 voting rights for the governors strikes an appropriate balance between, on the one hand, continuity with the existing set-up including a balanced assignment of voting rights between the six members of the Executive Board and the other members of the Governing Council and, on the other hand, the need to ensure efficient decision-making in a substantially enlarged Governing Council.
- (2) In view of their appointment at European level by a Treaty procedure and their role at the ECB, the competence of which spans the whole euro area, each member of the Executive Board has to maintain a permanent voting right in the Governing Council.
- (3) The voting modalities in the Governing Council are adjusted on the basis of Article 10.6 of the Statute. As this Article only concerns amendments to Article 10.2 of the Statute, any adjustment of the voting modalities has no implications for voting on decisions taken in accordance with Articles 10.3, 10.6 and 41.2 of the Statute.
- (4) Five fundamental principles are reflected in the constitutive elements of the chosen rotation system. The 'one member one vote' principle, which is the Governing Council's core decision-making principle, continues to apply to all members of the Governing Council having a voting right. All members of the Governing Council continue to

participate in its meetings in a personal and independent capacity, irrespective of whether they have a voting right or not. The rotation system is robust in the sense that it is able to accommodate any euro area enlargements up to the currently envisaged maximum number of Member States. Moreover, the rotation system avoids producing situations in which those governors having a voting right are from the national central banks (NCBs) of Member States which, taken together, are perceived as unrepresentative of the euro area economy as a whole. Finally, the rotation system is transparent.

- (5) The allocation of governors to groups and the assignment of specific numbers of voting rights to these groups are designed to ensure that those governors having a voting right are from the NCBs of Member States which, taken together, are representative of the euro area economy as a whole. Governors will exercise their voting right with different frequencies depending on the relative size of their NCB's Member State's economy within the euro area. The allocation of governors to groups is thus dependent on a ranking of their NCB's Member State based on an indicator with two components: the size of the share of their NCB's Member State (i) in the aggregate gross domestic product at market prices (hereinafter GDP mp) of the Member States without a derogation; and (ii) in the total aggregated balance sheet of the monetary financial institutions (hereinafter TABS-MFIs) of the Member States without a derogation. The economic weight of a Member State as reflected in its GDP mp is an appropriate component as the impact of central bank decisions is greater in Member States with larger economies than in those with smaller economies. At the same time, the size of a Member State's financial sector also has a particular relevance for central bank decisions, since the counterparties of central bank operations belong to this sector. A $\frac{5}{6}$ weight is attributed to GDP mp and a $\frac{1}{6}$ weight to TABS-MFIs. This choice of weights is suitable, as this will mean that the financial sector is sufficiently and meaningfully represented.
- (6) In order to provide for the smooth introduction of the rotation system, its establishment takes place in two stages. In the first stage the governors will be allocated to two groups as soon as their number exceeds 15. The frequency of voting rights of the governors allocated to the first group will not be lower than the frequency of voting rights of those of the second group. When a significant number of new Member States have entered the euro area, i.e. the number of governors exceeds 21, they will be allocated to three groups. Within each group governors have a voting right for equal amounts of time. The detailed implementing provisions regarding the two principles as well as any possible decision to postpone the start of the rotation system so as to avoid the situation that governors within any group have a voting frequency of 100 % are to be adopted by the Governing Council, acting by a two-thirds majority of all its members, with and without a voting right.

⁽¹⁾ OJ ...

⁽²⁾ OJ ...

⁽³⁾ OJ ...

(7) The shares of each NCB's Member State in the aggregate GDP mp and in the TABS-MFIs of the Member States without a derogation are to be adjusted whenever the aggregate GDP mp is adjusted in accordance with Article 29.3 of the Statute or whenever the number of governors in the Governing Council increases. The new shares resulting from the regular adjustments will apply as from the first day of the following year. Upon one or more governors becoming members of the Governing Council, the reference periods to be used to calculate the shares of their respective NCB's Member State in the aggregate GDP mp and in the TABS-MFI of the Member States without a derogation should be identical to those used for the latest quinquennial adjustment of the shares. The new shares resulting from such non-regular adjustments will apply as from the day on which the governor(s) join(s) the Governing Council. These operational details are part of the implementing provisions to be adopted by the Governing Council,

HAS DECIDED AS FOLLOWS:

Article 1

The Statute is amended as follows:

Article 10.2 is replaced by the following:

‘Each member of the Governing Council shall have one vote. As from the date on which the number of members of the Governing Council exceeds 21, each member of the Executive Board shall have one vote and the number of governors with a voting right shall be 15. The latter voting rights shall be assigned and shall rotate as follows:

- as from the date on which the number of governors exceeds 15, until it reaches 22, the governors shall be allocated to two groups, according to a ranking of the size of the share of their national central bank's Member State in the aggregate gross domestic product at market prices and in the total aggregated balance sheet of the monetary financial institutions of the Member States without a derogation. The shares in the aggregate gross domestic product at market prices and in the total aggregated balance sheet of the monetary financial institutions shall be assigned weights of $\frac{5}{6}$ and $\frac{1}{6}$, respectively. The first group shall be composed of five governors and the second group of the remaining governors. The frequency of voting rights of the governors allocated to the first group shall not be lower than the frequency of voting rights of those of the second group. Subject to the previous sentence, the first group shall be assigned four voting rights and the second group 11 voting rights;

- as from the date on which the number of governors reaches 22, the governors shall be allocated to three groups according to a ranking based on the above criteria. The first group shall be composed of five governors and shall be assigned four voting rights. The second group shall be composed of half of the total number of governors, with any fraction rounded up to the nearest integer, and shall be assigned eight voting rights. The third group shall be composed of the remaining governors and shall be assigned three voting rights;

- within each group, the governors shall have their voting rights for equal amounts of time;

- for the calculation of the shares in the aggregate gross domestic product at market prices Article 29.2 shall apply. The total aggregated balance sheet of the monetary financial institutions shall be calculated in accordance with the statistical framework applying in the European Community at the time of the calculation;

- whenever the aggregate gross domestic product at market prices is adjusted in accordance with Article 29.3, or whenever the number of governors increases, the size and/or composition of the groups shall be adjusted in accordance with the above principles;

- the Governing Council, acting by a two-thirds majority of all its members, with and without a voting right, shall take all measures necessary for the implementation of the above principles and may decide to postpone the start of the rotation system until the date on which the number of governors exceeds 18.

The right to vote shall be exercised in person. 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 attending meetings of the Governing Council for a prolonged period may appoint an alternate as a member of the Governing Council.

The provisions of the previous paragraphs are without prejudice to the voting rights of all members of the Governing Council, with and without a voting right, under Articles 10.3, 10.6 and 41.2.

Save as otherwise provided for in this Statute, the Governing Council shall act by a simple majority of the members having a voting right. 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 having a voting right. If the quorum is not met, the President may convene an extraordinary meeting at which decisions may be taken without regard to the quorum.'

Article 2

Final provision

1. This Decision is to be ratified by all Member States in accordance with their respective constitutional requirements. The instruments of ratification are to be deposited with the Government of the Italian Republic.

2. This Decision shall enter into force on the first day of the second month following that in which the instrument of ratification is deposited by the last signatory State to fulfil that formality.

Done at Brussels, ...

For the Council

The President

...
