

**OPINION OF THE EUROPEAN CENTRAL BANK****of 5 July 2007****at the request of the Council of the European Union on the opening of an Intergovernmental Conference to draw up a Treaty amending the existing Treaties****(CON/2007/20)**

(2007/C 160/02)

1. On 27 June 2007, the European Central Bank (ECB) received a request from the Council of the European Union for an opinion on the opening of a conference of representatives of the governments of the Member States (Intergovernmental Conference or IGC) to draw up a Treaty amending the existing Treaties (Reform Treaty).
2. The ECB's competence to deliver an opinion is based on Article 48 of the Treaty on European Union. In accordance with the first sentence of Article 17(5) of the Rules of Procedure of the ECB, the Governing Council of the ECB has adopted this Opinion.
3. The mandate of the IGC was agreed by the Brussels European Council of 21-23 June 2007 and is attached as an Annex to the Presidency Conclusions (IGC Mandate). The IGC Mandate states that it is the exclusive basis and framework for the IGC <sup>(1)</sup>. The IGC is mandated to draw-up a Reform Treaty which will introduce the innovations resulting from the 2004 IGC into the Treaty on European Union (TEU) and into the Treaty establishing the European Community (TEC) which is to be renamed the Treaty on the Functioning of the Union (TFU) <sup>(2)</sup>.
4. The ECB welcomes the opening of the IGC. The ECB understands that, except as indicated in the IGC Mandate, the text of the TEU will remain unchanged <sup>(3)</sup>. In particular, the ECB welcomes the confirmation in the IGC Mandate that price stability is one of the Union's objectives <sup>(4)</sup> and that monetary policy is expressly listed as one of the Union's exclusive competences. The ECB also welcomes the revision of the article on the Union's objectives so as to include the establishment of an economic and monetary union whose currency is the euro <sup>(5)</sup>.
5. The IGC Mandate specifically refers to improvements to the governance of the euro, stating that innovations, as agreed at the 2004 IGC, will be inserted into the TFU 'by way of specific modifications in the usual manner' <sup>(6)</sup>. The ECB is specifically mentioned, and the IGC is mandated <sup>(7)</sup> to insert the provisions on the ECB in Section 4bis of Part Five of the TFU. The IGC is also mandated to annex a Protocol to the Reform Treaty to amend existing Protocols in line with the changes agreed at the 2004 IGC <sup>(8)</sup>. This includes, inter alia, changes to the Protocol on the Statute of the European System of Central Banks and of the European Central Bank.
6. The ECB understands that, as regards the status, mandate, tasks and legal regime of the ECB, the Eurosystem and the European System of Central Banks, the changes to the current Treaties to be introduced by the IGC will be limited to and will comprise all the innovations agreed at the 2004 IGC <sup>(9)</sup>.
7. With regard to the innovations agreed at the 2004 IGC on the governance of the euro, the Annex to this Opinion refers to some that are of particular relevance to the ECB and, where appropriate, sets out the ECB's understanding of how these could be introduced into the TFU without going beyond the scope of the IGC Mandate.

<sup>(1)</sup> Preamble of the IGC Mandate.

<sup>(2)</sup> Point 4 of the IGC Mandate. On point 17 of the IGC Mandate it is termed 'Treaty on the Functioning of the European Union'.

<sup>(3)</sup> Point 5 of the IGC Mandate.

<sup>(4)</sup> Annex 1, point 3 of the IGC Mandate.

<sup>(5)</sup> Annex 1, point 3 of the IGC Mandate.

<sup>(6)</sup> Point 18 of the IGC Mandate.

<sup>(7)</sup> Annex 2(B), point 16 of the IGC Mandate.

<sup>(8)</sup> Point 22 of the IGC Mandate.

<sup>(9)</sup> In connection with the 2004 IGC, the ECB issued ECB Opinion CON/2003/20 of 19 September 2003 at the request of the Council of the European Union on the draft Treaty establishing a Constitution for Europe (OJ C 229, 25.9.2003, p. 7).

8. The ECB stands ready to contribute to the IGC at any time during its work and, once a text has been drawn up, to provide an opinion on the matters which are within its fields of competence.

Done at Frankfurt am Main, 5 July 2007.

*The President of the ECB*

Jean-Claude TRICHET

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## ANNEX

**A. Provisions on the ECB**

1. The IGC is mandated <sup>(1)</sup> to insert the innovations agreed at the 2004 IGC concerning the ECB into the TFU, together with the articles on the Court of Auditors and the Union's advisory bodies. In the TFU, the text of the provisions on the ECB will be identical to those agreed at the 2004 IGC, except for the necessary amendments to cross-references. This means, inter alia, that the 2004 IGC innovation of defining the ECB as an (other) institution will be incorporated into the Treaties, along with the introduction of the term 'Eurosystem' and the express confirmation of the ECB's financial independence.
2. While the article on the ECB will appear in the TFU <sup>(2)</sup>, the IGC Mandate states that the TEU and the TFU will have the same legal value <sup>(3)</sup>. This means that the new Article 1 of the TFU, which should set out the relationship between the TFU and the TEU <sup>(4)</sup>, will neither establish a hierarchy between the two Treaties nor introduce differences between the amending procedures for the core provisions dealing with the ECB/ESCB and those dealing with the EU institutions. On this basis, the ECB understands that, even if the article on the ECB will appear in the TFU, the ECB will benefit from the same legal standing as the EU institutions which are referred to in the TEU.

**B. Updating of the terminology used in the Treaties with respect to the single currency**

3. Further to the IGC Mandate <sup>(5)</sup>, the Reform Treaty will replace the term 'Community' with 'Union' and 'ECU' with 'euro' throughout the Treaties, and introduce a series of changes to outdated references to the 'stages' of economic and monetary union. Necessary changes will be made to the Protocols on Denmark and the UK.
4. Following the agreement of the Reform Treaty, the name of the single currency will appear in the primary law of the Union. The ECB considers that, for reasons of legal certainty and clarity, the uniform spelling of the term 'euro' should be respected in all the linguistic and alphabetical versions of the Reform Treaty and, therefore in the TEU and the TFU, and this requires the spelling to be *euro* in the Latin alphabet, *ευρώ* in the Greek alphabet and *еуро* in the Cyrillic alphabet.

**C. Abrogation of the EMI Protocol**

5. The text agreed at the 2004 IGC abrogated the Protocol on the Statute of the European Monetary Institute ('the EMI Protocol'), and thus the EMI Protocol will be deleted. While the ECB welcomes such deletion, some of the functions carried out under its provisions are still relevant for the Member States with a derogation. Under Articles 44 and 47(1) of the Statute of the ESCB, such functions are currently performed by the General Council of the ECB. The ECB understands that the deletion of the EMI Protocol will be complemented by an amendment to Article 117(2) of the TEC <sup>(6)</sup> so that such functions will continue to be performed by the ECB.

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<sup>(1)</sup> Annex 2(B), point 16 of the IGC Mandate.

<sup>(2)</sup> Point 12 of the IGC Mandate.

<sup>(3)</sup> Point 19(a) of the IGC Mandate.

<sup>(4)</sup> Point 19(a) of the IGC Mandate.

<sup>(5)</sup> Point 18 of the IGC Mandate.

<sup>(6)</sup> I.e. along the lines of the adaptation agreed at the 2004 IGC.