

EUROPEAN CENTRAL BANK

European Central Bank recommendation for a Council Regulation (EC) concerning further calls of foreign reserve assets by the European Central Bank

(ECB/1999/1)

(1999/C 269/08)

EXPLANATORY MEMORANDUM

I. INTRODUCTION

Article 123(1) of the Treaty establishing the European Community (hereinafter referred to as the Treaty) requires the Council of the European Union (the EU Council), immediately after 1 July 1998, to adopt the complementary legislation referred to in Article 107(6) of the Treaty and Article 42⁽¹⁾ of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the Statute). A special procedure is foreseen within the Treaty for the adoption of the provisions referred to in Article 107(6): the EU Council shall adopt them either on a proposal from the Commission or on a recommendation from the European Central Bank (ECB). To avoid any duplication of effort, the ECB and the Commission have agreed that the ECB will prepare a recommendation for the Council Regulation referred to in Article 30(4) of the Statute.

II. GENERAL CONSIDERATIONS

Article 30(4)⁽²⁾ of the Statute stipulates that further calls of foreign reserve assets beyond the limit set in Article 30(1) may be effected by the ECB. It is further required that the Council sets the limits and conditions for these further calls of foreign reserve assets under the procedure laid down in Article 42. In this respect it is important that the secondary legislation foresees a pre-established limit for such further calls of foreign reserve assets. By merely setting a ceiling to the amount of foreign reserve assets in the secondary legislation, rather than stipulating specific conditions, it is intended to enhance the necessary financial independence of the ECB and the convenience to provide flexibility for different possible scenarios which should not be reflected in a Council Regulation. The assessment for the need to effect further calls

⁽¹⁾ Article 42 of the Statute states:

'In accordance with Article 106(6) of this Treaty, immediately after the decision on the date for the beginning of the third stage, the Council, acting by a qualified majority either on a proposal from the Commission and after consulting the European Parliament and the ECB or on a recommendation from the ECB and after consulting the European Parliament and the Commission, shall adopt the provision referred to in Articles 4, 5(4), 19(2), 20, 28(1), 29(2), 30(4) and 34(3) of this Statute.'

⁽²⁾ Article 30(4) states:

'Further calls of foreign reserve assets beyond the limit set in Article 30(1) may be effected by the ECB, in accordance with Article 30(2), within the limits and under the conditions set by the Council under the procedure laid down in Article 42.'

within the overall limit to be established in the proposed secondary legislation should be left to the decision of the Governing Council, under the voting procedures provided for in Article 10(3) of the Statute.

To ensure that the complementary legislation concerning further calls of foreign reserve assets by the ECB is directly enforceable in participating Member States on identical terms, it needs to be adopted in the form of an EU Council Regulation.

III. COMMENTS ON THE ARTICLES

Article 1 — Definitions

This Article contains definitions of the terms 'participating Member State', 'national central bank' and 'foreign reserve assets', as used in the recommendation.

The definition of 'foreign reserve assets' is consistent with the foreign reserve assets that may be provided to the ECB by the national central banks in accordance with Article 30(1) of the Statute, which excludes Member States' currencies, IMF reserve positions and SDRs. In addition, 'foreign reserve assets' have been defined to include official foreign reserves, consistent with the wording of Article 105(2), third indent, of the Treaty establishing the European Community.

Article 2 — Further calls of foreign reserve assets

This Article stipulates that the ECB may effect further calls of foreign reserve assets from the national central banks beyond the limit set in Article 30(1) of the Statute of the European System of Central Banks and of the European Central Bank up to an amount equivalent to an additional EUR 50 000 million. It is considered that an amount equivalent to the limits set for the initial transfer, i.e., EUR 50 000 million, is appropriate for the time being, but that the ceiling might be increased at a later stage, following the same procedure, once the possible needs of the ECB have been more clearly established.

Article 2 further provides that the central bank of a Member State whose derogation has been abrogated, or who is treated on the same basis as the central bank of a Member State whose derogation has been abrogated, shall transfer to the ECB a sum of foreign reserve assets determined by multiplying the euro

value at current exchange rates of the foreign reserve assets which have already been transferred to the ECB by way of further calls, by the ratio between the number of shares subscribed by the central bank concerned and the number of shares already paid up by the other national central banks. This provision is designed to ensure that the same methodology for calculating the level of foreign reserves to be transferred by Member States that may adopt the euro in the future is used

for further calls as is stipulated for the initial call of foreign reserve assets in accordance with Article 49(1) of the Statute.

Article 3 — Final provisions

This Regulation is set to take effect immediately after its publication in the *Official Journal of the European Communities*.

Council Regulation (EC) concerning further calls of foreign reserve assets by 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 (hereinafter referred to as the Statute) and in particular to Article 30(4) thereof,

Having regard to the recommendation of the European Central Bank (ECB),

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Commission of the European Communities,

Acting in accordance with the procedure foreseen in Article 107(6) of the Treaty establishing the European Community (hereinafter referred to as the Treaty) and Article 42 of the Statute and under the conditions set out in Article 122(5) and paragraph 7 of Protocol No 11 on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland,

(1) Whereas Article 30(1) of the Statute requires that the ECB be provided by the national central banks of participating Member States with foreign reserve assets, other than Member States' currencies, euro, IMF reserve positions and SDRs, up to an amount equivalent to EUR 50 000 million;

(2) Whereas Article 30(4) of the Statute requires the Council to specify the limits and conditions under which further calls of foreign reserve assets beyond the limit set in Article 30(1) of the Statute may be effected by the ECB;

(3) Whereas Article 30(4) of the Statute requires that such further calls be effected in accordance with Article 30(2) of the Statute; whereas Article 30(2) in conjunction with Article 43(6) of the Statute and paragraph 10(b) of Protocol No 11 on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland requires that the contributions of each national central bank shall be fixed in proportion to its share of the capital of the ECB subscribed by the national central banks of participating Member States;

(4) Whereas Article 10(3) in conjunction with Article 43(4) of the Statute requires that for any decisions to be taken under Article 30 of the Statute, the votes in the Governing Council of the ECB shall be weighted according to the shares of the national central banks of participating Member States in the subscribed capital of the ECB;

(5) Whereas Article 30(4) of the Statute, in conjunction with Articles 43(4) and 43(6) of the Statute and paragraph 8 of Protocol No 11 on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland and paragraph 2 of Protocol No 12 on certain provisions relating to Denmark, shall not confer any rights or impose any obligations on the non-participating Member States;

(6) Whereas Article 49(1) of the Statute in conjunction with paragraph 10(b) of Protocol No 11 on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland requires that the central bank of a Member State whose derogation has been abrogated, or who is treated on the same basis as the central bank of a Member State whose derogation has been abrogated, shall transfer to the ECB foreign reserve assets in accordance with Article 30(1) of the Statute; whereas Article 49(1) of the Statute requires that the sum to be transferred shall be determined by multiplying the euro value at current exchange rates of the foreign reserve assets which have already been transferred to the ECB in accordance with Article 30(1), by the ratio between the number of

shares subscribed by the national central bank concerned and the number of shares already paid up by the other national central banks;

(7) Whereas all references to amounts in euro in the aforementioned provisions of the Treaty, in this Regulation and in any call of or request by the ECB for foreign reserve assets are references to nominal amounts in euro at the time a call of such foreign reserve assets by the ECB is effected;

(8) Whereas it is deemed appropriate that, in case of need, the ECB may effect further calls of foreign reserve assets from the national central banks beyond the limit set in Article 30(1) of the Statute, up to an amount equivalent to an additional EUR 50 000 million; the amount of foreign reserve assets that may additionally be called by the ECB from the national central banks may be increased by the Council acting in accordance with the procedure laid down in Article 42 of the Statute,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purpose of this Regulation:

— 'foreign reserve assets' shall mean any official foreign reserve assets of the participating Member States held by national central banks that are denominated in, or comprise, currencies, units of account or gold other than Member States' currencies, euro, IMF reserve positions and SDRs,

— 'national central bank' shall mean the central bank of a participating Member State, and

— 'participating Member State' shall mean a Member State which has adopted the single currency in accordance with the Treaty.

Article 2

Further calls of foreign reserve assets

1. The ECB may effect further calls of foreign reserve assets from the national central banks beyond the limit set in Article 30(1) of the Statute, up to an amount equivalent to an additional EUR 50 000 million, in case of need for such foreign reserve assets.

2. The central bank of a Member State whose derogation has been abrogated, or who is treated on the same basis as the central bank of a Member State whose derogation has been abrogated, shall transfer to the ECB a sum of foreign reserve assets determined by multiplying the euro value at current exchange rates of the foreign reserve assets which have already been transferred to the ECB in accordance with paragraph 1 of this Article, by the ratio between the number of shares subscribed by the central bank concerned and the number of shares already paid up by the other national central banks.

Article 3

Final provisions

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.
