The adjustment of voting modalities in the Governing Council

In order to ensure that the Governing Council of the ECB will be able to take decisions in a timely and efficient manner even after a future large-scale enlargement of the euro area, the EU Council, meeting in the composition of Heads of State or Government, recently adopted a decision on the adjustment of voting modalities in the Governing Council on the basis of a Recommendation from the ECB. This article outlines the fundamental terms of the discussion leading to the ECB Recommendation for a new voting system and explains its main features and functioning. Finally, it recalls the procedure that led to the adoption of the new voting system and briefly discusses the arguments put forward by the various European institutions in this context.

1 Introduction

The EU is preparing itself for a substantial enlargement to take in new Member States from central, eastern and southern Europe. Increasing the EU’s membership to the presently envisaged 27 countries will have a profound impact on the operation of its institutions and bodies, including the ECB. Although the new Member States will join the EU with the status of a “Member State with a derogation”, they will be committed to the eventual adoption of the euro. Once they have demonstrated their capability to fulfil the Maastricht convergence criteria in a sustainable manner, they will adopt the euro. Therefore, the Governing Council of the ECB will also have to be prepared for a potentially significant increase in the number of Member States of the euro area and for the resulting participation of the governors of the respective NCBs in the Governing Council.

2 The ECB “enabling clause”

In response to the challenge to maintain the Governing Council’s capacity for efficient and timely decision-making even as its membership increases substantially, the Treaty of Nice contains an ECB “enabling clause”. This takes the form of a new Article 10.6 of the Statute of the European System of Central Banks and of the European Central Bank (“the Statute”), which allows for an adjustment of the voting modalities in the Governing Council of the ECB as laid down in Article 10.2 of the Statute.

According to Article 10.6 of the Statute (see also Box 1), Article 10.2 of the Statute may be amended by way of a unanimous decision of the EU Council, meeting in the composition of Heads of State or Government, either on the basis of a Recommendation from the ECB, and after consulting the European Commission and the European Parliament, or on the basis of a Recommendation from the European Commission, in which case the ECB and the European Parliament are consulted. Article 10.6 of the Statute also prescribes that the ECB Recommendation should be adopted unanimously by the Governing Council. In a declaration annexed to the Final Act of the Intergovernmental Conference preparing the Treaty of Nice, the governments of the Member States expressed their expectation that a Recommendation within the meaning of Article 10.6 would be presented as soon as possible after the Treaty enters into force.

Following the conclusion of the Intergovernmental Conference, the Governing Council extensively discussed possible options for an adjustment of its voting modalities and on 3 February 2003 unanimously adopted the ECB Recommendation 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), which was presented to the EU Council on the same day. On 21 March 2003 the EU Council, meeting in
Box 1

Selected legal provisions related to the adjustment of voting modalities in the Governing Council

Article 10 of the Statute (as amended by the Treaty of Nice)

The Governing Council

10.1. In accordance with Article 112 (1) of this Treaty, the Governing Council shall comprise the members of the Executive Board of the ECB and the governors of the national central banks.

10.2. Subject to Article 10.3, only members of the Governing Council present in person shall have the right to vote. 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 voting for a prolonged period may appoint an alternate as a member of the Governing Council.

Subject to Articles 10.3 and 11.3, each member of the Governing Council shall have one vote. Save as otherwise provided for in this Statute, the Governing Council shall act by a simple majority. 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. If the quorum is not met, the President may convene an extraordinary meeting at which decisions may be taken without regard to the quorum.

10.3. For any decisions to be taken under Articles 28, 29, 30, 32, 33 and 51, the votes in the Governing Council shall be weighted according to the national central banks’ shares in the subscribed capital of the ECB. The weights of the votes of the members of the Executive Board shall be zero. A decision requiring a qualified majority shall be adopted if the votes cast in favour represent at least two thirds of the subscribed capital of the ECB and represent at least half of the shareholders. If a Governor is unable to be present, he may nominate an alternate to cast his weighted vote.

10.4. The proceedings of the meetings shall be confidential. The Governing Council may decide to make the outcome of its deliberations public.

10.5. The Governing Council shall meet at least 10 times a year.

10.6 The provisions of paragraph 2 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. The amendments shall enter into force after having been ratified by all the Member States in accordance with their respective constitutional requirements.

A recommendation made by the ECB under this paragraph shall require a decision by the Governing Council acting unanimously.

* * *

Declaration to be included in the Final Act of the Conference on Article 10.6 of the Statute of the European System of Central Banks and of the European Central Bank

“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.”
the composition of Heads of State or Government, adopted the decision on this amendment to the Statute, which has now to be ratified by the Member States in accordance with their respective constitutional requirements.

3 The terms of the discussion on a new voting system

A substantial expansion of the membership of the Governing Council will not only have an impact on its decision-making process. It will also influence the public and the markets’ perception of the ECB’s capacity to take decisions in an efficient and timely manner. It was therefore imperative that the Governing Council presented a reform proposal which could safeguard the effectiveness of the ECB’s governance structures following expansion of the euro area.

Five guiding principles

In order to maintain the Governing Council’s decision-making capacity in an enlarged euro area, the Governing Council agreed that the number of governors exercising a voting right would have to be smaller than the overall number of governors in the Governing Council. In the judgement of the Governing Council, a rotation system represents an equitable, efficient and acceptable way in which to allocate voting rights among governors within the Governing Council.

The limits imposed by the ‘enabling clause’

When designing a suitable new voting system, the Governing Council was bound by the limits imposed by the enabling clause. These restrict the reform to a change of the voting modalities as laid down in Article 10.2 of the Statute. As a result, any adjustment of the voting modalities had to be without prejudice to the right of all members of the Governing Council to be present during the Governing Council meetings (Article 10.1 of the Statute), and to participate in the discussions. Moreover, any adjustment of the voting modalities was not to 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). More fundamental reform options, such as changes to the composition of the Governing Council or a different distribution of tasks between the Executive Board and the Governing Council – as mentioned, inter alia, by the European Parliament and the European Commission in their official Opinions (see Section 5) – were, therefore, outside the scope of the enabling clause.

“One member, one vote”

As already outlined in the ECB’s Opinion on the enabling clause of 5 December 2000 (CON/00/30), the Governing Council considers the “one member, one vote” principle to be fundamental to its decision-making. While 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, this principle should nevertheless be retained and apply to those members of the Governing Council who do exercise a voting right. This rules out any reform proposals based on weighted voting. Neither a system of explicitly weighted voting, e.g. along the lines of the provisions of Article 10.3 of the Statute, nor any form of double majority system, with a mechanism to verify whether a simple majority of the governors represents a set percentage of a certain euro area indicator (as suggested, for example, by the European Parliament – see Section 5), would be compatible with the maintenance of the “one member, one vote” principle.

“Ad personam participation”

All members of the Governing Council should continue to participate in the Governing Council’s meetings, and do so in a personal and independent capacity (ad personam participation), irrespective of whether they have the right to vote or not. Therefore, any new voting system based on constituencies or country groupings, where governors select a representative who acts and votes on behalf of the country group/constituency, or based on the delegation of voting in a rotation system, would not be compatible with this principle.

“Representativeness”

The introduction of a rotation of voting rights could lead to situations in which the group of governors with a voting right are from Member States which, taken together, might be perceived as not being sufficiently representative of the euro area economy as a whole. The new voting system, therefore, should be designed in a manner which would safeguard against such outcomes.

In order to achieve representativeness, governors might not be able to exercise the voting right with the same frequency, with governors from the “larger” Member States having the right to vote more frequently than those from “smaller” Member States. At the same time, any reference to the country from which a governor comes should be made exclusively for the purpose of determining the frequency with which each governor exercises the voting right. Although the introduction of considerations of representativeness marks a departure from the existing provisions for voting in the Governing Council, this is solely motivated by the need to accommodate the impact of enlargement on the ECB’s decision-making. For all governors exercising the voting right at any point in time, the “one member, one vote” principle should apply. Consequently, this differentiation should not affect actual substantive decision-making, but should only be relevant in the process of determining who votes when.

“Automaticity”

Given that the sequencing of future euro area expansions is uncertain, the new voting system should be sufficiently robust as to avoid the need to change the rules every time a new Member State enters the euro area. Therefore, the rules of the new voting system should be stipulated in such a way as to allow the system to automatically adjust to the entry of new governors into the Governing Council in the process of euro area enlargement. In addition, the rotation system should be capable of accommodating any conceivable sequencing of euro area enlargement 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 EU annexed to the Treaty of Nice. The automatic functioning of the system should also preclude situations in which, as a result of the workings of the rotation system, governors from “smaller” Member States would enjoy de facto higher voting frequencies than governors from “larger” Member States.
The new voting system should be transparent in order that its main features and functioning can be communicated with relative ease.

Consequently, the necessary Treaty language of a revised Article 10.2 of the Statute should be reasonably accessible and commensurate with the requirements of primary Community law.

4 The new voting system

Seeking to simultaneously fulfil these five principles – while at the same time respecting the limits imposed by the enabling clause – represented an appreciable challenge. This notwithstanding, the Governing Council succeeded in reaching a unanimous agreement on a new voting system with the following key features:

- 15 rotating voting rights for governors;
- six permanent voting rights for Executive Board members

Under the new voting system, the number of governors with a voting right will not exceed 15. This number is implicit in the institutional status quo. Currently, the Treaty stipulates that the members of the Executive Board and the governors of the NCBs of the Member States form the Governing Council. Since no adjustment of the Maastricht provisions was undertaken at the time of the 1995 enlargement (when the EU expanded to 15 Member States), this implies 15 voting rights for NCB governors. Each of the six members of the Executive Board retains a permanent voting right.

NCB governors hold the voting right with different frequencies

In line with the principle of representativeness, governors will exercise their voting right with different frequencies, depending on an indicator of the relative size of the economy, and financial sector, of their respective Member State within the euro area. A rotation system based on groups guarantees that this differentiation between governors in terms of their entitlement to exercise a voting right follows certain clear and transparent rules.

Allocation of governors to groups on the basis of a country ranking

The allocation to groups will be based on a ranking of governors’ respective Member States resulting from their share in the euro area total according to a set indicator of “representativeness”. This allocation determines how often a governor holds a voting right.

Composite indicator to determine the country ranking

This country ranking should be based on a composite indicator consisting of two components:

- **GDP mp**: The first component is the share of a Member State in the aggregate gross domestic product at market prices (“GDP mp”) of the Member States which have adopted the euro. 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.

- **TABS-MFI**: 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 second component is therefore introduced, namely the share of a Member State in the total aggregated balance sheet.
of the monetary financial institutions ("TABS-MFI") of the Member States which have adopted the euro.

As regards the choice of the relative weights of the two components of the composite indicator, a $\frac{5}{6}$ weight for GDP and a $\frac{1}{6}$ weight for TABS-MFI appears suitable in order to ensure that the financial component is sufficiently and meaningfully represented.

Establishment of the rotation system in two stages

In order to ensure a smooth introduction of the rotation system, it will be established in two stages. In principle, the system for the rotation of voting rights will start operating as soon as the 16th Member State enters the euro area, first on the basis of two groups. Once the number of euro area countries has increased to more than 21, there will be three groups.

Rules to allocate governors and voting rights to the groups

During the first stage, governors will be allocated to two groups according to the following rules:

– The first group is composed of five governors from the euro area countries which occupy the highest positions in the country ranking. This group shares four voting rights.

– The second group is composed of all other governors. This group shares 11 voting rights.

As Table 1 shows, this allocation of voting rights to the two groups might be changed if there are 16, 17 or 18 governors in the Governing Council. This temporary adjustment might become necessary in order to ensure that the voting frequency of the governors in the first group is not lower than the voting frequency of those in the second group, as called for by the principle of automaticity. As a result, the governors in the first group would – temporarily – have a voting frequency of 100%. Whether or not this issue will arise at all depends on the sequencing of future euro area enlargement, that is, whether a number of countries will enter the euro area at the same time, or whether they will enter one by one. In any case, should the Governing Council so decide, by a two-thirds majority of all its members – both those with and those without a voting right – such a situation could be avoided altogether by postponing the start of the rotation system until the date on which the number of governors exceeds 18.

As soon as the 22nd Member State enters the euro area, the system will operate on the basis of three groups, according to the following rules:

– The first group is composed of the five governors from the euro area countries

<table>
<thead>
<tr>
<th>Table 1</th>
<th>Two-group rotation system (first stage) – voting frequencies of governors in each group</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of governors</td>
<td>Number of governors in the Governing Council</td>
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<tr>
<td>1st group</td>
<td>16</td>
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<tr>
<td>No. of voting rights</td>
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<tr>
<td>No. of governors</td>
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<tr>
<td>Voting frequency</td>
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<tr>
<td>2nd group</td>
<td>10/11</td>
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<tr>
<td>No. of voting rights</td>
<td>91%</td>
</tr>
<tr>
<td>No. of governors</td>
<td></td>
</tr>
<tr>
<td>Voting frequency</td>
<td></td>
</tr>
<tr>
<td>Σ voting rights</td>
<td>15</td>
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</tbody>
</table>
Three-group rotation system (second stage) – voting frequencies of governors in each group

<table>
<thead>
<tr>
<th>Group</th>
<th>No. of governors</th>
<th>No. of voting rights/ group</th>
<th>Voting frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td></td>
<td>4/5</td>
<td>80%</td>
</tr>
<tr>
<td>2nd</td>
<td></td>
<td>8/11</td>
<td>73%</td>
</tr>
<tr>
<td>3rd</td>
<td></td>
<td>3/6</td>
<td>50%</td>
</tr>
<tr>
<td>Σ voting rights</td>
<td></td>
<td>15</td>
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</tr>
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</table>

First stage: Rotation system with two groups

<table>
<thead>
<tr>
<th>Group</th>
<th>No. of governors</th>
<th>No. of voting rights/ group</th>
<th>Voting frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
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</tr>
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<td>73%</td>
</tr>
<tr>
<td>3rd</td>
<td></td>
<td>3/6</td>
<td>50%</td>
</tr>
<tr>
<td>Σ voting rights</td>
<td></td>
<td>15</td>
<td></td>
</tr>
</tbody>
</table>

Data for the calculation of the composite indicator

The relevant data for the calculation of the shares in GDP at market prices will be provided by the Commission under the rules adopted by the Council on the basis of Article 29.2 of the Statute for the calculation of the key for subscription of the ECB’s capital. The relevant data for the calculation of the TABS-MFI shares will be provided by the ECB in accordance with the statistical framework applying in the EU.

The size and/or composition of the groups of governors will be adjusted whenever the shares of each NCB’s Member State in the aggregate GDP mp and in the TABS-MFI of the Member States which have adopted the euro are adjusted in accordance with Article 29.3 of the Statute (regular adjustments) or
whenever a new governor enters the Governing Council (non-regular adjustments). The new size and/or composition of the groups resulting from the regular adjustments will then apply as from the first day of the following year. The new size and/or composition of the groups resulting from 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 acting by a two-thirds majority of all its members, with and without a voting right.

5 The discussions in the EU institutions

With the formal submission of the ECB Recommendation to the EU Council, the ECB set in motion the procedure for an amendment of Article 10.2, as foreseen by the enabling clause. In addition, ECB representatives used the meetings of the Eurogroup, the ECOFIN Council and the Economic and Financial Committee to present and explain in detail the recommended new voting system to the representatives of the Member States and the European Commission.

Consultation of the European Commission

In line with the procedure foreseen by Article 10.6 of the Statute, the European Commission presented its opinion on 19 February 2003. The Commission considered the new voting system as recommended by the ECB to "constitute an important step in the adjustment of the [Governing Council's] decision-making capacity in view of enlargement". Against the background of this positive overall evaluation, the Commission
also proposed “possible enhancements of the three-group rotation model”, inter alia:

– a lower number of governors with voting rights than the 15 recommended by the ECB, since this would further increase the speed and efficiency of decision-making;

– the introduction of a measure of population into the indicator for the country ranking (e.g. by using the ECB capital key), in order to ensure that the allocation of governors to the groups can be considered neutral and unbiased by both existing and future Member States;

– improved specification of the measures needed to put the system into operation (such as the time period between rotations, etc.); and

– clarification regarding the precise starting-point of the rotation system.

Finally, the Commission recognised that the limits imposed by the enabling clause clearly restricted the range of possible reform options. In view of this, the Commission pointed out that any potentially more comprehensive adaptations, for example with regard to decision-making in the area of monetary policy, and the role of the Executive Board in this respect, would have to be realised in the wider framework of the Convention on the future of Europe and the forthcoming Intergovernmental Conference.

Adoption by the Council and follow-up

On 21 March 2003, the EU Council, meeting in the composition of Heads of State or Government, unanimously adopted the “Decision on an amendment to Article 10.2 of the Statute of the ESCB and the ECB” concerning the voting modalities of the Governing Council of the ECB. Unanimous approval was possible after two Member States (Finland and the Netherlands) withdrew certain reservations they had previously expressed. However, they insisted that the forthcoming Intergovernmental Conference should revisit the issue of ECB governance, and put these comments on the record. Furthermore, on the initiative of the Netherlands, the Council agreed to record in the minutes a statement stipulating that the model established for the ECB’s Governing Council “should not be seen as a precedent.
Box 2

The new voting system of the Governing Council – Article 10.2 of the Statute as amended by the EU Council Decision of 21 March 2003

10.2 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 which have adopted the euro. 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 tele conferencing. 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.

for the future composition and decision-making process of other Community Institutions”.

The new Article 10.2 of the Statute is reproduced in Box 2. Following the adoption of the EU Council Decision, the amendment to the Statute needs to be ratified by the Member States in accordance with their respective constitutional requirements. It is generally expected that no referenda will be held in any of the Member States.

6 Concluding remarks

The ratification of the amendment to Article 10.2 of the Statute, as adopted by the EU Council, would equip the Governing Council with a new voting system which guarantees its capacity for timely and efficient decision-making, even in a substantially enlarged euro area. That said, in reviewing the comments and suggestions put forward by the different institutions involved in the procedure, as well as those raised by outside observers, the following considerations should be taken into account.

The new voting system – like any rotation system – is inevitably characterised by a degree of complexity which is a consequence of the aim to simultaneously fulfil a number of principles. It can be noted that the new voting system is similar to the one used in the Federal Open Market Committee in the United States, where the Presidents of the Federal Reserve Bank are also assigned to groups and exercise their voting right with different frequencies. Moreover, while the participation of all governors at the meetings of the Governing Council will not necessarily make the deliberations easier, the new voting system clearly enhances the efficiency of decision-taking. Finally, although the new voting system introduces considerations of representativeness, it does so exclusively to determine who votes when. The principle of ad personam participation of governors remains valid and the “one member, one vote” principle applies to all members exercising a voting right. All of this will ensure that, also in an enlarged Governing Council, it is the force of arguments that counts in the deliberations and not the country of origin of a governor, or whether that country is large or small.

Overall, the new voting system retains the tried-and-tested elements of the current institutional framework of the Eurosystem and, in this way, ensures that the Governing Council will be able to take its decisions from a clear euro area perspective, also following expansion of the euro area.