EUROPEAN CENTRAL BANK

DECISION OF THE EUROPEAN CENTRAL BANK

of 16 November 2000

providing for the paying-up of capital and the contribution to the reserves and provisions of the ECB by the Bank of Greece, and for the initial transfer of foreign-reserve assets to the ECB by the Bank of Greece and related matters

(ECB/2000/14)

(2000/823/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

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 Articles 28, 30, 34 and 49 thereof,

Whereas:

(1) Pursuant to Council Decision 2000/427/EC of 19 June 2000 in accordance with Article 122(2) of the Treaty on the adoption by Greece of the single currency on 1 January 2001 [1], Greece fulfils the necessary conditions for the adoption of the single currency, and the derogation in favour of Greece laid down in recital 4 of Council Decision 98/317/EC of 3 May 1998 in accordance with Article 109j(4) of the Treaty [2] shall be abrogated with effect from 1 January 2001. As a result, and with effect from 1 January 2001, the Bank of Greece becomes a national central bank (NCB) of a Member State without a derogation for purposes of this Decision.

(2) Article 28.1 of the Statute provides that the capital of the European Central Bank (ECB), which became operational upon its establishment, shall be EUR 5 000 million. Article 28.2 of the Statute provides that the NCBs of the Member States of the European Union shall be the sole subscribers to and holders of the capital of the ECB and that the subscription of capital shall be according to the key established in accordance with Article 29. As provided in Decision ECB/1998/13 of 1 December 1998 on the NCBs' percentage shares in the key for the capital of the ECB [3] and in accordance with Council Decision (EC) No 382/98 of 5 June 1998 on the statistical data to be used for the determination of the key for subscription of the capital of the European Central Bank [4] the weighting of the Bank of Greece in the key referred to in Article 29.1 of the Statute is 2,0564 %.

(3) Article 49.1 of the Statute provides that the central bank of a Member State whose derogation has been abrogated shall pay up its share of the capital of the ECB to the same extent as the central banks of other Member States without a derogation. Article 28.3 of the Statute provides that the Governing Council of the ECB shall determine the extent to which and the form in which the capital shall be paid up. The Governing Council of the ECB determined in Decision ECB/1998/2 of 9 June 1998 laying down the measures necessary for the paying-up of the capital of the European Central Bank [5] that the subscriptions of the NCBs of the Member States without a derogation shall be paid up in full. The Bank of Greece shall therefore pay up its share of the subscribed capital of the ECB in full.

(4) Article 48 of the Statute provides that, by way of derogation from Article 28.3 of the Statute, the central banks of Member States with a derogation shall not pay up their subscribed capital unless the General Council of the ECB, acting by a majority representing at least two thirds of the subscribed capital of the ECB and at least half of the shareholders, decides that a minimal percentage has to be paid up as a contribution to the operation costs of the ECB. The General Council of the ECB decided in Decision ECB/1998/14 of 1 December 1998 laying down the measures necessary for the paying-up of the capital of the ECB by the non-participating NCBs [6] that the NCBs of Member States with a derogation shall pay up 5 % of their subscription to the ECB's capital. In accordance with Decision ECB/1998/14, the Bank of Greece paid, as at 1 June 1998, an amount of EUR 5 141 000 of its subscribed capital of EUR 102 820 000. The Bank of Greece shall therefore be required to pay up in full the balance of its share of the subscribed capital not already paid up.

[1] OJ L 167, 7.7.2000, p. 19.
[2] OJ L 139, 11.5.1998, p. 30.
[3] OJ L 125, 19.5.1999, p. 33.
[4] OJ L 171, 17.6.1998, p. 33.
[5] OJ L 8, 14.1.1999, p. 33.
[6] OJ L 110, 28.4.1999, p. 33.

(5) Article 30.1 of the Statute, in conjunction with Articles 43.1 and 43.4, provides that the ECB shall be provided by the NCB's of Member States without a derogation with foreign-reserve assets, other than Member States' currencies, euro, IMF reserve positions and special drawing rights (SDRs), up to an amount equivalent to EUR 50 000 million. Article 30.1 of the Statute further provides that the ECB shall have the full right to hold and manage the foreign reserves that are transferred to it and to use them for the purposes set out in the Statute.

(6) Article 30.1 of the Statute further provides that the Governing Council of the ECB shall decide on the proportion to be called up by the ECB following its establishment and the amounts to be called up at later dates. The Governing Council of the ECB decided in the Guideline of 3 November 1998, as amended by Guideline ECB/2000/15 of 16 November 2000, on the composition, valuation and modalities for the initial transfer of foreign-reserve assets, and the denomination and remuneration of equivalent claims, attached as Annex to this Decision, that the NCBs of the Member States which adopted the single currency on 1 January 1999 transfer to the ECB foreign-reserve assets equivalent to the aggregate euro amount of EUR 39 468 950 000. It is considered appropriate, for reasons of transparency, to publish Guideline ECB/2000/15 as Annex to this Decision on the occasion of the initial transfer of foreign reserve assets to the ECB by the Bank of Greece.

(7) Article 30.2 of the Statute, in conjunction with Article 43.6, provides that the contribution of each NC shall be fixed in proportion to its share in the capital of the ECB subscribed by the NCB's of Member States without a derogation.

(8) Article 49.1 of the Statute provides that 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. Article 49.1 of the Statute further provides 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 NCB concerned and the number of shares already paid up by the other NCBs. The 'foreign-reserves assets which have already been transferred to the ECB in accordance with Article 30.1' of the Statute comprise assets in or denominated in US dollars, Japanese yen and gold in the form of London Good Delivery Bars which were transferred to the ECB in accordance with the provisions of Guideline ECB/2000/15, attached as Annex to this Decision, by the NCB's of the Member States which adopted the single currency on 1 January 1999. The number of shares paid up by the other NCBs' shall, in view of Article 30.2 of the Statute in conjunction with Article 43.6, be taken to refer to the number of shares paid up by the other central banks of Member States without a derogation. The resulting sum is the aggregate euro-equivalent amount of foreign reserves which are required to be transferred under Article 49.1 of the Statute.

(9) Article 30.6 of the Statute provides that the Governing Council of the ECB shall take all other measures necessary for the application of Article 30 of the Statute. The Governing Council of the ECB considers that the Bank of Greece should, in compliance with the requirements set forth in recital 8, transfer the same amounts of foreign-reserve assets in or denominated in US dollars, Japanese yen and gold that would have been transferred to the ECB by the Bank of Greece if the Bank of Greece had been a NCB of a Member State without a derogation on 1 January 1999. The Governing Council of the ECB notes that the aggregate amount of these US dollar, Japanese yen and gold amounts of foreign-reserve assets shall be equal to the euro-equivalent amount of foreign-reserve assets that is required to be transferred by the Bank of Greece to the ECB pursuant to Article 49.1 of the Statute.

(10) Article 30.3 of the Statute provides that each NCB shall be credited by the ECB with a claim equivalent to its contribution; Article 30.3 of the Statute further provides that the Governing Council of the ECB shall determine the denomination and remuneration of such claims. The Governing Council of the ECB has determined the denomination and remuneration of such claims credited to the NCBs whose Member States adopted the single currency on 1 January 1999 in Guideline ECB/2000/15, attached as Annex to this Decision. Subject to the specifications provided for in this Decision, the provisions of Guideline ECB/2000/15 shall be applicable to the denomination and remuneration of the claim required to be credited by the ECB to the Bank of Greece in accordance with Article 30.3 of the Statute.

(11) Article 49.2 of the Statute provides that in addition to the payment to be made in accordance with Article 49.1, the central bank of a Member State whose derogation has been abrogated shall contribute to the reserves of the ECB, to those provisions equivalent to reserves, and to the amount still to be appropriated to the reserves and provisions corresponding to the balance of the profit and loss account as at 31 December of the year prior to the abrogation of the derogation. Article 49.2 of the Statute further provides that the sum to be contributed shall be determined by multiplying the amount of the reserves, as defined above and as stated in the approved balance sheet of the ECB, 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 central banks. Article 33.1, in conjunction with Article 43.5 of the Statute, provides that following the transfer of up to 20 % of the net profit of the ECB to the general reserve fund, the remaining net profit shall be transferred to the central banks of Member States without a derogation in proportion to their paid-up shares. The 'number of shares already paid up by the other central banks' shall, in view of Article 33.1, in conjunction with Article 43.5 of the Statute, be taken to refer to the number of shares paid up by the other central banks of Member states without a derogation.

(12) Article 10.3 of the Statute, in conjunction with Article 43.4, provides that for any decisions to be taken under Articles 28 and 30 of the Statute, the votes in the Governing Council of the ECB shall be weighted according to the shares in the capital of the ECB subscribed by the central banks of Member States without a derogation.

(13) In accordance with Article 3.4 of the ECB Rules of Procedure, the Governor of the Bank of Greece has attended the meeting of the Governing Council adopting this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Definitions

For the purposes of this Decision:

— 'cash' shall mean the lawful currency of the United States (US dollar) or Japan (Japanese yen),

— 'foreign-reserve assets' shall mean securities, gold or cash,

— 'gold' shall mean fine troy ounces of gold in the form of London Good Delivery Bars, as specified by the London Bullion Market Association,

— 'securities' shall mean any eligible security or financial instrument as specified by the ECB.

Article 2

Payment of capital

The Bank of Greece shall pay up 95 % of its subscription to the ECB's capital in an amount equal to EUR 97 679 000. The amounts required to be paid by the Bank of Greece shall be due as of 1 January 2001. The Bank of Greece shall, in due course, give instructions for the transfer of such amount, and of accrued interest thereon, on 2 January 2001, through Target (Trans-European automated real-time settlment express transfer system) or to an account of the ECB at the Bank of International Settlements, as specified by the ECB. Accured interest shall be calculated at a rate equal to the marginal interest rate used by the ESCB in its most recent main refinancing operation, and the calculation of interest shall be effected on a daily basis, using the actual over-360-day method of calculation.

Article 3

Transfer of foreign-reserve assets

1. The Bank of Greece shall transfer the same amounts of foreign-reserve assets in or denominated in US dollars, Japanese yen and gold that would have been transferred to the ECB by the Bank of Greece if the Bank of Greece had been a NCB of a Member State without a derogation on 1 January 1999.

2. The Bank of Greece shall transfer to the ECB a portfolio of securities and cash in or denominated in US dollars or Japanese yen within deviation bands around the modified durations of the tactical benchmark portfolios as are specified by the ECB, and in conformity with such credit limits as are specified by the ECB.

3. The settlement dates for securities and cash to be transferred to the ECB shall be specified by the ECB, and in due course the Bank of Geece shall give instructions for the transfer of the ownership of securities and for the transfer of cash to the ECB on the settlement dates. The value of all securities shall be calculated on the basis of prices designated by the ECB, and the Bank of Greece shall transfer securities and cash to such accounts as are specified by the ECB.

4. The Bank of Greece shall transfer gold on such dates, to such accounts and at such locations as are specified by the ECB.

Article 4

Denomination, remuneration and maturity of the claim equivalent to the Bank of Greece's contribution, and transtional regime of foreign-exchange losses

1. Subject to the specifications provided for in this Decision, the provisions of Articles 3 and 4 of Guideline ECB/2000/15, attached as Annex to this Decision, shall be applicable with effect from 1 January 2001 to the claim required to be credited by the ECB to the Bank of Greece in accordance with Article 30.3 of the Statute.

2. For purposes of calculating the claim required to be credited by the ECB to the Bank of Greece in accordance with Article 30.3 of the Statute and Article 3.1 of Guideline ECB/2000/15, the aggregate euro equivalent value of the foreign-reserve assets transferred by the Bank of Greece shall be calculated on the basis of the exchange rates between the euro and the US dollar or Japanese yen established as a result of the daily concertation teleconference procedure on 29 December 2000 among those central banks that participate in such procedure and, in the case of gold, on the basis of the US dollar price of gold per fine troy ounce established in the London gold fixing at 10.30 a.m., London time, on 29 December 2000. The amount so calculated shall be confirmed by the ECB to the Bank of Greece as soon as possible on 29 December 2000.

Article 5

Contribution to reserves and provisions of the ECB

1. In accordance with Article 49.2 of the Statute, the Bank of Greece shall contribute to the reserves of the ECB, to those provisions equivalent to reserves, and to the amount still to be appropriated to the reserves and provisions corresponding to the balance of the profit and loss account as at 31 December of the financial year ending 31 December 2000. The sum to be contributed by the Bank of Greece shall be determined by multiplying the amount of the reserves, as defined above and as stated in the aprpoved balance sheet of the ECB as at 31 December 2000, by the ratio between the number of shares subscribed by the Bank of Greece and the number of shares already paid up by the other central banks of Member States without a derogation.

2. For the purposes of paragraph 1 above, 'reserves of the ECB' and 'provisions equivalent to reserves' shall, without limiting the generality of the foregoing, include the general reserve fund of the ECB and the provisions equivalent to reserves for valuation losses with respect to foreign-exchange rates and market prices.

3. The amounts required to be paid by the Bank of Greece in accordance with paragraph 1 shall be due as of 1 January 2001. The ECB shall, in due course, calculate and confirm to the Bank of Greece the amounts required to be contributed by the Bank of Greece to the ECB in accordance with paragraph 1, and the Bank of Greece shall give instructions for the transfer to the ECB on 30 March 2001 of any such amounts, and of accrued interest thereon, through Target or to an account of the ECB at the Bank for International Settlements, as specified by the ECB. Accrued interest shall be calculated from 1 January through 30 March 2001 at a rate equal to the marginal interest rate used by the ESCB in its most recent main refinancing operation, and the calcuation of interest shall be effected on a daily basis, using the actual over-360-day method of calculation.

Article 6

Final provisions

Guideline ECB/2000/15 is hereby attached as Annex to this Decision for reasons of transparency.

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Frankfurt am Main, 16 November 2000.

The President of the ECB

Willem F. DUISENBERG

ANNEX

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 3 November 1998

as amended by the Guideline of 16 November 2000

on the composition, valuation and modalities for the initial transfer of foreign-reserve assets, and the denomination and remuneration of equivalent claims

(ECB/2000/15)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

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 Articles 12.1, 14.3, 30 and 32 thereof,

Whereas:

(1) Article 30.1 of the Statute, in conjunction with Articles 43.1 and 43.4, provides that the European Central Bank (ECB) shall be provided by the national central banks (NCBs) of Member States which have adopted the single currency in accordance with the Treaty establishing the European Community (participating NCBs) with foreign-reserve assets, other than Member States' currencies, euro, IMF reserve positions and special drawing rights (SDRs), up to an amount equivalent to EUR 50 000 million. Article 30.1 of the Statute further provides that the Governing Council of the ECB shall decide on the proportion to be called up by the ECB following its establishment and the amounts to be called up at later dates. Article 30.1 of the Statute further provides that the ECB shall have the full right to hold and manage the foreign reserves that are transferred to it and to use them for the purposes set out in the Statute.

(2) Article 30.2 of the Statute, in conjunction with Article 43.6, provides that the contribution of each participating NCB shall be fixed in proportion to its share in the capital of the ECB subscribed by the NCBs of Member States without a derogation.

(3) Article 30.3 of the Statute provides that each NCB shall be credited by the ECB with a claim equivalent to its contribution. Article 30.3 of the Statute further provides that the Governing Council of the ECB shall determine the denomination and remuneration of such claims.

(4) Article 30.6 of the Statute provides that the Governing Council of the ECB shall take all other measures necessary for the application of Article 30 of the Statute.

(5) Article 33.2 of the Statute provides that in the event of a loss incurred by the ECB the shortfall may be offset against the general reserve fund of the ECB and, if necessary, against the monetary income of the relevant financial year in proportion and up to the amounts allocated to the participating NCBs in accordance with Article 32.5 of the Statute. In accordance with Article 32.5 of the Statute, the Governing Council of the ECB adopted the Decision of 3 November 1998 on the allocation of monetary income of the national central banks of participating Member States and losses of the ECB for the financial years 1999 to 2001 [1].

(6) Article 32.7 of the Statute provides that the Governing Council of the ECB shall take all other measures necessary for the application of Article 32 of the Statute.

(7) Article 10.3 of the Statute, in conjunction with Article 43.4, provides 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 NCBs' shares in the capital of the ECB subscribed by the central banks of Member States without a derogation.

(8) In accordance with Articles 12.1 and 14.3 of the Statute, ECB Guidelines form an integral part of Community law,

HAS ADOPTED THIS GUIDELINE:

Article 1

Definitions

For the purposes of this Guideline:

— 'cash' shall mean the lawful currency of the United States (US dollar) or Japan (Japanese yen),

— 'foreign-reserve assets' shall mean securities, gold or cash,

[1] See page 119 of this Official Journal.

— 'gold' shall mean fine troy ounces of gold in the form of London Good Delivery Bars, as specified by the London Bullion Market Association,

— 'participating Member States' shall mean those Member States which adopted the single currency on 1 January 1999 in accordance with the Treaty,

— 'participating NCBs' shall mean national central banks of participating Member States,

— 'securities' shall mean any eligible security or financial instrument as specified by the ECB,

— 'transitional period' shall mean the period between 1 January 1999 and 31 December 2001.

Article 2

Transfers of foreign-reserve assets by participating NCBs

1. Each participating NCB shall transfer to the ECB foreign-reserve assets in or denominated in US dollars, Japanese yen and gold equivalent to the euro amounts set out in the Appendix to this Guideline.

2. The US dollar amount, the Japanese yen amount and the gold amount (in fine troy ounces) equivalent to the euro amounts set out in the Appendix to this Guideline shall be calculated on the basis of the exchange rates between the ecu and the US dollar or Japanese yen established as a result of the concertation teleconference procedure at 11.30 a.m., Brussels time, on 31 December 1998 among those central banks that participate in such procedure and, in the case of gold, on the basis of the US dollar price of gold per fine troy ounce established in the London gold fixing at 10.30 a.m., London time, on 31 December 1998. The amounts so calculated shall be confirmed by the ECB to the participating NCBs as soon as possible on 31 December 1998.

3. Each participating NCB shall transfer to the ECB a portfolio of securities and cash in or denominated in US dollars or Japanese yen within deviation bands around the modified durations of the tactical benchmark portfolios as are specified by the ECB, and in conformity with such credit limits as are specified by the ECB.

4. The settlement dates for securities and cash to be transferred to the ECB shall be specified by the ECB, and in due course each participating NCB shall give instructions for the transfer of the ownership of securities and for the transfer of cash to the ECB on the settlement dates. The value of all securities shall be calculated on the basis of prices designated by the ECB, and each participating NCB shall transfer securities and cash to such accounts as are specified by the ECB.

5. Each participating NCB shall transfer gold on such dates, to such accounts and at such locations as are specified by the ECB.

Article 3

Denomination, remuneration and maturity of claims equivalent to participating NCBs' contributions

1. The ECB shall credit each participating NCB with a claim denominated in euro-equivalent to the aggregate euro amount of each participating NCB's contribution of foreign-reserve assets.

2. The aggregate euro equivalent values of the foreign-reserve assets transferred by each participating NCB shall be as set out in the Appendix to this Guideline.

3. The claim credited by the ECB to each participating NCB shall be remunerated at a rate that shall be equivalent to 85 % of the marginal interest rate used by the ESCB in its main refinancing operations. The calculation of interest on each participating NCB's claim shall be effected by the ECB on a daily basis, using the actual over-360-day method of calculation.

4. The claim shall be remunerated at the end of each financial year. The ECB shall inform the NCBs on a quarterly basis of the cumulative amounts.

5. The claims are not redeemable.

Article 4

Transitional regime for foreign exchange losses

1. Each participating NCB shall waive the claim credited to such participating NCB by the ECB to the extent set out in paragraphs 2 and 4 in the event that the ECB incurs an unrealised loss in any financial year during the transitional period owing to a decline in the euro-equivalent value of the ECB's foreign-reserve assets resulting solely from exchange rate or gold price fluctuations, provided that such shortfall cannot be offset in accordance with Article 33.2 of the Statute.

2. In the event of any unrealised losses as referred to in paragraph 1, the shortfall resulting solely from such losses for the relevant financial year shall be offset by each participating NCB waiving a part of the original value of its claim corresponding to its share of such losses in an amount up to the limit set out in paragraph 4.

3. The offsetting of losses in accordance with paragraph 2 shall take place on an annual basis, together with the calculation of the monetary income of the ESCB for the corresponding financial year.

4. Waivers of the value of each participating NCB's claim shall be fixed in proportion to each participating NCB's share in the capital of the ECB subscribed by the central banks of Member States without a derogation. The maximum cumulative waivers of the value of each participating NCB's claim during the transitional period shall not exceed 20 % of the original value of the claim.

Article 5

Final provisions

This Guideline is addressed to the national central banks of participating Member States.

This Guideline shall be published in the *Official Journal of the European Communities*.

Done at Frankfurt am Main, 3 November 1998, and amended and approved for publication in the *Official Journal of the European Communities* on 16 November 2000.

On behalf of the Governing Council of the ECB

The President

Willem F. DUISENBERG

Appendix

Euro-equivalent amounts of foreign reserve assets to be transferred by each participating NCB whose Member State shall have adopted the single currency on 1 January 1999

National central bank	Euro-equivalent amounts of US dollar and Japanese yen securities and cash	Euro-equivalent amounts of gold	Aggregate euro-equivalent amounts of foreign-reserve assets
Nationale Bank van België/Banque Nationale de Belgique	1 217 965 000	214 935 000	1 432 900 000
Deutsche Bundesbank	10 409 737 500	1 837 012 500	12 246 750 000
Banco de España	3 779 737 500	667 012 500	4 446 750 000
Banque de France	7 154 322 500	1 262 527 500	8 416 850 000
Central Bank of Ireland	361 080 000	63 720 000	424 800 000
Banca d'Italia	6 330 375 000	1 117 125 000	7 447 500 000
Banque centrale du Luxembourg	63 410 000	11 190 000	74 600 000
De Nederlandsche Bank	1 818 150 000	320 850 000	2 139 000 000
Österreichische Nationalbank	1 002 745 000	176 955 000	1 179 700 000
Banco de Portugal	817 360 000	144 240 000	961 600 000
Suomen Pankki	593 725 000	104 775 000	698 500 000
Total	**33 548 607 500**	**5 920 342 500**	**39 468 950 000**