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DECISION OF THE EUROPEAN CENTRAL BANK

of 19 February 2004

adopting the Rules of Procedure of the European Central Bank

(ECB/2004/2)

(2004/257/EC)

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DECISION OF THE EUROPEAN CENTRAL BANK

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(ECB/2004/2)

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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, and in particular to Article 12.3 thereof;

HAS DECIDED AS FOLLOWS:

Sole Article

The Rules of Procedure of the European Central Bank as amended on 22 April 1999, as further amended by Decision ECB/1999/6 of 7 October 1999 amending the Rules of Procedure of the European Central Bank ([1]), shall be replaced by the following which shall enter into force on 1 March 2004.

RULES OF PROCEDURE OF THE EUROPEAN CENTRAL BANK

PRELIMINARY CHAPTER

Article 1

Definitions

These Rules of Procedure shall supplement the Treaty establishing the European Community and the Statute of the European System of Central Banks and of the European Central Bank. The terms in these Rules of Procedure shall have the same meaning as in the Treaty and the Statute. The term 'Eurosystem' shall mean the European Central Bank (ECB) and the national central banks of those Member States whose currency is the euro.

CHAPTER I

THE GOVERNING COUNCIL

Article 2

Date and place of Governing Council meetings

2.1. The Governing Council shall decide on the dates of its meetings on a proposal from the President. The Governing Council shall, in principle, meet regularly following a schedule that it shall determine in good time before the start of each calendar year.

2.2. The President shall convene a meeting of the Governing Council if a request for a meeting is submitted by at least three members of the Governing Council.

2.3. The President may also convene meetings of the Governing Council whenever he/she deems it necessary.

([1]) OJ L 314, 8.12.1999, p. 32.

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2.4. The Governing Council shall normally hold its meetings on the premises of the ECB.

2.5. Meetings may also be held by means of teleconferencing, unless at least three Governors object.

Article 3

Attendance at Governing Council meetings

3.1. Except as provided herein, attendance at meetings of the Governing Council shall be restricted to its members, the President of the Council of the European Union and a member of the Commission of the European Communities.

3.2. Each Governor may normally be accompanied by one person.

3.3. If a Governor is unable to attend, he/she may appoint, in writing, an alternate without prejudice to Article 4. This written communication shall be sent to the President in due time before the meeting. Such an alternate may normally be accompanied by one person.

3.4. The President shall appoint a member of staff of the ECB as Secretary. The Secretary shall assist the Executive Board in preparing the meetings of the Governing Council and shall draft the minutes thereof.

3.5. The Governing Council may also invite other persons to attend its meetings if it deems it appropriate to do so.

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Article 3a

Rotation system

1. Governors shall be allocated to groups as set out in the first and second indents of Article 10.2 of the Statute.

2. Governors shall be ordered in each group, following EU convention, in accordance with a list of their national central banks which follows the alphabetical order of the names of the Member States in the national languages. The rotation of voting rights within each group shall follow this order. The rotation shall start at a random point in the list.

3. The voting rights within each group shall rotate every month, starting on the first day of the first month of the implementation of the rotation system.

4. For the first group, the number of voting rights that rotate in each one month period shall be one; for the second and third groups, the number of voting rights that rotate in each one month period shall be equal to the difference between the number of governors allocated to the group and the number of voting rights assigned to it, minus two.

5. Whenever the composition of the groups is adjusted in accordance with the fifth indent of Article 10.2 of the Statute, the rotation of voting rights within each group shall continue to follow the list referred to in paragraph 2. From the date on which the number of governors reaches 22, the rotation within the third group shall start at a random point in the list. The Governing Council may decide to change the order of rotation for the second and third groups to avoid the situation that certain governors are always without a voting right at the same periods of the year.

6. The ECB shall publish in advance a list of the members of the Governing Council with a voting right on the ECB's website.

7. The share of each national central bank's Member State in the total aggregated balance sheet of the monetary financial institutions shall be calculated on the basis of the annual average of monthly

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average data over the most recent calendar year for which data are available. Whenever the aggregate gross domestic product at market prices is adjusted in accordance with Article 29.3 of the Statute or whenever a country becomes a Member State and its national central bank becomes part of the European System of Central Banks, the total aggregated balance sheet of the monetary financial institutions of the Member States which have adopted the euro shall be recalculated on the basis of the data relating to the most recent calendar year for which data are available.

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Article 4

Voting

4.1. ►M1 In order for the Governing Council to vote, there shall be a quorum of two-thirds of the members with 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.

4.2. The Governing Council shall proceed to vote at the request of the President. The President shall also initiate a voting procedure upon request from any member of the Governing Council.

4.3. Abstentions shall not prevent the adoption by the Governing Council of decisions under Article 41.2 of the Statute.

4.4. If a member of the Governing Council is prevented from voting for a prolonged period (i.e. more than one month), he/she may appoint an alternate as a member of the Governing Council.

4.5. In accordance with Article 10.3 of the Statute, if a Governor is unable to vote on a decision to be taken under Articles 28, 29, 30, 32, 33 and 51 of the Statute, his/her appointed alternate may cast his/her weighted vote.

4.6. The President may initiate a secret ballot if requested to do so by at least three members of the Governing Council. If members of the Governing Council are personally affected by a proposal for a decision under Articles 11.1, 11.3 or 11.4 of the Statute, a secret ballot shall be held. In such cases the members of the Governing Council concerned shall not participate in the vote.

4.7. Decisions may also be taken by written procedure, unless at least three members of the Governing Council object. A written procedure shall require: (i) normally not less than five working days for consideration by every member of the Governing Council; and (ii) the personal signature of each member of the Governing Council (or his/her alternate in accordance with Article 4.4); and (iii) a record of any such decision in the minutes of the subsequent meeting of the Governing Council. ►M1 Decisions to be taken by written procedure shall be approved by the members of the Governing Council with a voting right at the time of approval. ◄

Article 5

Organisation of Governing Council meetings

5.1. The Governing Council shall adopt the agenda for each meeting. A provisional agenda shall be drawn up by the Executive Board and shall be sent, together with the related documents, to the members of the Governing Council and other authorised participants at least eight days before the relevant meeting, except in emergencies, in which case the Executive Board shall act appropriately having regard to the circumstances. The Governing Council may decide to remove items from or add items to the provisional agenda on a proposal from the President or from any other member of the Governing Council. ►M1 An item shall be removed from the agenda at the request of at least three of the

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members of the Governing Council with a voting right if the related documents were not submitted to the members of the Governing Council in due time. ◄

5.2. ►M1 The minutes of the proceedings of the Governing Council shall be approved at the subsequent meeting (or if necessary earlier by written procedure) by the members of the Governing Council who had a voting right at the meeting to which the minutes refer and shall be signed by the President. ◄

5.3. The Governing Council may lay down internal rules on decision-making in emergency situations.

CHAPTER II

THE EXECUTIVE BOARD

Article 6

Date and place of Executive Board meetings

6.1. The date of the meetings shall be decided by the Executive Board on a proposal from the President.

6.2. The President may also convene meetings of the Executive Board whenever he/she deems it necessary.

Article 7

Voting

7.1. In order for the Executive Board to vote, in accordance with Article 11.5 of the Statute, 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.

7.2. Decisions may also be taken by written procedure, unless at least two members of the Executive Board object.

7.3. Members of the Executive Board personally affected by a prospective decision under Articles 11.1, 11.3 or 11.4 of the Statute shall not participate in the vote.

Article 8

Organisation of Executive Board meetings

The Executive Board shall decide on the organisation of its meetings.

CHAPTER III

THE ORGANISATION OF THE EUROPEAN CENTRAL BANK

Article 9

Eurosystem/ESCB Committees

9.1. The Governing Council shall establish and dissolve committees. They shall assist in the work of the decision-making bodies of the ECB and shall report to the Governing Council via the Executive Board.

9.2. Committees shall be composed of up to two members from each of the Eurosystem NCBs and the ECB, appointed by each Governor and the Executive Board respectively. The Governing Council shall lay down the mandates of the committees and appoint their chairpersons. As a rule, the chairperson shall be a staff member from the ECB. Both the Governing Council and the Executive Board shall have the right to

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request studies of specific topics by committees. The ECB shall provide secretarial assistance to the committees.

9.3. The national central bank of each non-participating Member State may also appoint up to two staff members to take part in the meetings of a committee whenever it deals with matters falling within the field of competence of the General Council and whenever the chairperson of a committee and the Executive Board deems this appropriate.

9.4. Representatives of other Community institutions and bodies and any other third party may also be invited to take part in the meetings of a committee whenever the chairperson of a committee and the Executive Board deems this appropriate.

Article 9a

The Governing Council may decide to establish ad hoc committees in charge of specific advisory tasks.

Article 10

Internal structure

10.1. Having consulted the Governing Council, the Executive Board shall decide upon the number, name and respective competence of each of the work units of the ECB. This decision shall be made public.

10.2. All work units of the ECB shall be placed under the managing direction of the Executive Board. The Executive Board shall decide upon the individual responsibilities of its members with respect to the work units of the ECB, and shall inform the Governing Council, the General Council and the staff of the ECB thereof. Any such decision shall be taken only in the presence of all the members of the Executive Board, and may not be taken against the vote of the President.

Article 11

Staff of the ECB

11.1. Each member of the staff of the ECB shall be informed of his/her position within the structure of the ECB, his/her reporting line and his/her professional responsibilities.

11.2. Without prejudice to Articles 36 and 47 of the Statute, the Executive Board shall enact organisational rules (hereinafter referred to as Administrative Circulars) which are binding on the staff of the ECB.

11.3. The Executive Board shall adopt and up-date a Code of Conduct for the guidance of its members and of the members of staff of the ECB.

CHAPTER IV

INVOLVEMENT OF THE GENERAL COUNCIL IN THE TASKS OF THE EUROPEAN SYSTEM OF CENTRAL BANKS

Article 12

Relationship between the Governing Council and the General Council

12.1. The General Council of the ECB shall be given the opportunity to submit observations before the Governing Council adopts:

— opinions under Articles 4 and 25.1 of the Statute,

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— recommendations in the statistical field, under Article 42 of the Statute,

— the annual report,

— the rules on the standardisation of accounting rules and reporting of operations,

— the measures for the application of Article 29 of the Statute,

— the conditions of employment of the staff of the ECB,

— in the context of the preparations for the irrevocable fixing of exchange rates, an ECB opinion either under Article 123(5) of the Treaty or concerning Community legal acts to be adopted when a derogation is abrogated.

12.2. Whenever the General Council is requested to submit observations under the first paragraph of this Article, it shall be given a reasonable period of time within which to do so, which may not be less than ten working days. In a case of urgency to be justified in the request, the period may be reduced to five working days. The President may decide to use the written procedure.

12.3. The President shall inform the General Council, in accordance with Article 47.4 of the Statute, of decisions adopted by the Governing Council.

Article 13

Relationship between the Executive Board and the General Council

13.1. The General Council of the ECB shall be given the opportunity to submit observations before the Executive Board:

— implements legal acts of the Governing Council for which, in accordance with Article 12.1 above, the contribution of the General Council is required,

— adopts, by virtue of powers delegated by the Governing Council in accordance with Article 12.1 of the Statute, legal acts for which, in accordance with Article 12.1 of these Rules, the contribution of the General Council is required.

13.2. Whenever the General Council is requested to submit observations under the first paragraph of this Article, it shall be given a reasonable period of time within which to do so, which may not be less than ten working days. In a case of urgency to be justified in the request, the period may be reduced to five working days. The President may decide to use written procedure.

CHAPTER V

SPECIFIC PROCEDURAL PROVISIONS

Article 14

Delegation of powers

14.1. The delegation of powers of the Governing Council to the Executive Board under the last sentence of the second paragraph of Article 12.1 of the Statute shall be notified to the parties concerned, or published if appropriate, where decisions taken by means of delegation have legal effects on third parties. The Governing Council shall be promptly informed of any act adopted by way of delegation.

14.2. The Book of Authorised Signatories of the ECB, established pursuant to decisions adopted under Article 39 of the Statute, shall be circulated to interested parties.

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Article 15

Budgetary procedure

15.1. The Governing Council, acting upon a proposal from the Executive Board in accordance with any principles laid down by the former, shall adopt, before the end of each financial year, the budget of the ECB for the subsequent financial year.

15.2. For assistance in matters related to the budget of the ECB, the Governing Council shall establish a Budget Committee and lay down its mandate and composition.

Article 16

Reporting and annual accounts

16.1. The Governing Council shall adopt the annual report required under Article 15.3 of the Statute.

16.2. The competence to adopt and publish the quarterly reports under Article 15.1 of the Statute, the weekly consolidated financial statements under Article 15.2 of the Statute, the consolidated balance sheets under Article 26.3 of the Statute and other reports shall be delegated to the Executive Board.

16.3. The Executive Board shall, in accordance with the principles established by the Governing Council, prepare the annual accounts of the ECB within the first month of the subsequent financial year. These shall be submitted to the external auditor.

16.4. The Governing Council shall adopt the annual accounts of the ECB within the first quarter of the subsequent year. The external auditor's report shall be submitted to the Governing Council before their adoption.

Article 17

Legal instruments of the ECB

17.1. ECB Regulations shall be adopted by the Governing Council and signed on its behalf by the President.

17.2. ECB Guidelines shall be adopted by the Governing Council, and thereafter notified, in one of the official languages of the European Communities, and signed on the Governing Council's behalf by the President. They shall state the reasons on which they are based. Notification of the national central banks may take place by means of telefax, electronic mail or telex or in paper form. Any ECB Guideline that is to be officially published shall be translated into the official languages of the European Communities.

17.3. The Governing Council may delegate its normative powers to the Executive Board for the purpose of implementing its regulations and guidelines. The regulation or guideline concerned shall specify the issues to be implemented as well as the limits and scope of the delegated powers.

17.4. ECB Decisions and Recommendations shall be adopted by the Governing Council or the Executive Board in their respective domain of competence, and shall be signed by the President. ECB Decisions imposing sanctions on third parties shall be signed by the President, the Vice-President or any two other members of the Executive Board. ECB Decisions and Recommendations shall state the reasons on which they are based. The Recommendations for secondary Community legislation under Article 42 of the Statute shall be adopted by the Governing Council.

17.5. Without prejudice to the second paragraph of Article 44 and the first indent of Article 47.1 of the Statute, ECB opinions shall be adopted

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by the Governing Council. However, in exceptional circumstances and unless not less than three Governors state their wish to retain the competence of the Governing Council for the adoption of specific opinions, ECB opinions may be adopted by the Executive Board, in line with comments provided by the Governing Council and taking into account the contribution of the General Council. ECB opinions shall be signed by the President.

17.6. ECB Instructions shall be adopted by the Executive Board, and thereafter notified, in one of the official languages of the European Communities, and signed on the Executive Board's behalf by the President or any two Executive Board members. Notification of the national central banks may take place by means of telefax, electronic mail or telex or in paper form. Any ECB Instruction that is to be officially published shall be translated into the official languages of the European Communities.

17.7. All ECB legal instruments shall be numbered sequentially for ease of identification. The Executive Board shall take steps to ensure the safe custody of the originals, the notification of the addressees or consulting authorities, and the publication in all the official languages of the European Union in the *Official Journal of the European Union* in the case of ECB Regulations, ECB opinions on draft Community legislation and those ECB legal instruments whose publication has been expressly decided.

17.8. The principles of Council Regulation (EC) No 1 determining the language to be used by the European Economic Community [1] of 15 April 1958 shall apply to the legal acts specified in Article 34 of the Statute.

Article 18

Procedure under Article 106(2) of the Treaty

The approval provided for in Article 106(2) of the Treaty shall be adopted for the following year by the Governing Council in a single decision for all participating Member States within the final quarter of every year.

Article 19

Procurement

19.1. Procurement of goods and services for the ECB shall give due regard to the principles of publicity, transparency, equal access, non-discrimination and efficient administration.

19.2. Except for the principle of efficient administration, derogations may be made from the above principles in cases of urgency; for reasons of security or secrecy; where there is a sole supplier; for supplies from the national central banks to the ECB; to ensure the continuity of a supplier.

Article 20

Selection, appointment and promotion of staff

20.1. All members of staff of the ECB shall be selected, appointed and promoted by the Executive Board.

20.2. All members of staff of the ECB shall be selected, appointed and promoted with due regard to the principles of professional qualification, publicity, transparency, equal access and non-discrimination. The rules and procedures for recruitment and for internal promotion shall be further specified by means of Administrative Circulars.

[1] OJ 17, 6.10.1958, p. 385.

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Article 21

Conditions of Employment

21.1. The Conditions of Employment and the Staff Rules shall determine the employment relationship between the ECB and its staff.

21.2. The Governing Council, upon a proposal from the Executive Board and following consultation of the General Council shall adopt the Conditions of Employment.

21.3. The Executive Board shall adopt the Staff Rules, that shall implement the Conditions of Employment.

21.4. The Staff Committee shall be consulted before the adoption of new Conditions of Employment or Staff Rules. Its opinion shall be submitted to the Governing Council or the Executive Board respectively.

Article 22

Communications and announcements

General communications and announcements of decisions taken by the decision-making bodies of the ECB may be published on the ECB website, in the *Official Journal of the European Union*, or by means of wire services common to financial markets or any other media.

Article 23

Confidentiality of and access to ECB documents

23.1. The proceedings of the decision-making bodies of the ECB and of any committee or group established by them shall be confidential unless the Governing Council authorises the President to make the outcome of their deliberations public.

23.2. Public access to documents drawn up or held by the ECB shall be governed by a decision of the Governing Council.

23.3. Documents drawn up by the ECB shall be classified and handled in accordance with the rules laid down in an Administrative Circular. They shall be freely accessible after a period of 30 years unless decided otherwise by the decision making bodies.

CHAPTER VI

FINAL PROVISION

Article 24

Amendments to these Rules of Procedure

The Governing Council may amend these Rules of Procedure. The General Council may propose amendments and the Executive Board may adopt supplementary rules within its field of competence.