

23rd January 1991

To the members of the Committee of Alternates

Further to my telefax of 22nd January 1991, please find attached for your consideration the Deutsche Bundesbank's comments on Articles 32 to 39 of the draft Statute.

With kind regards,

A handwritten signature in cursive script, appearing to read "Gunter Baer".

Gunter D. Baer

23.01.1991 15:11

Dr. Hans Tietmeyer  
Mitglied des Direktoriums  
Deutsche Bundesbank

Frankfurt am Main, 21.01.1991

M. J.J. Rey  
Directeur  
Banque Nationale de Belgique  
Brüssel

cc:

Herrn Dr. G. Baer  
~~Generalsekretar~~ des  
Ausschusses der EG-Notenbankgouverneure  
c/o BIZ  
Basel

Dear M. Rey,

In response to Dr. Baer's message dated 11th Jan. 1991 please find hereafter my written contribution for the forthcoming discussion among the Alternates on a number of open question relating to the draft Statute.

Art. 32

As I indicated in previous discussions I regard the first version in the draft dated Oct. 25, 1990 as adequately balanced. My first option would therefore be to simply delete the square brackets.

In an effort to take account of the preoccupations of other Alternates I could, however, visualize including a number of new ideas into the text.

- In order not to let the provisions of Art. 32.2 appear too rigid the opening sentence could be rephrased as follows:  
"Unless the Council unanimously decides otherwise the following items are excluded ..."

- I could also visualize that the list of types of income exempted from pooling could be extended. Thus a fourth indent could be added reading:  
"an average return on the equivalent of a central bank's holdings of private ECUs and other national EC-currencies as of the date of entry into the final stage of EMU;"
- To forestall an excessive income orientation in the administration of residual reserves a sentence could be added to Art. 32.2 reading:  
"Any participating Central Bank materially changing the composition of its reserves or the average maturity of its investments for income reasons undertakes to inform the other members of the System without delay."

Art. 33

From my point of view both the wording of Art. 33.1. in the draft mentioned as well as the Belgian version for the wording of Art. 33.2. would appear to be acceptable.

Art. 34

Sanctions to be imposed by the ECB should be stipulated in the Statutes. Art. 19 from my perspective already provides a basis for them. If the enforcement were to become the subject of a separate provision I propose to formulate: "The ECB and national central banks shall be entitled to impose..."

Art. 35 to 39

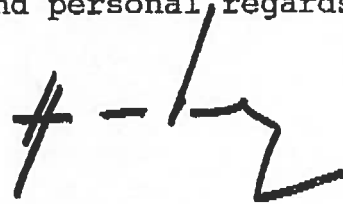
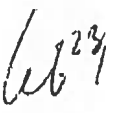
As I see it the respective versions in the draft dated Oct. 25, 1990 should be retained.

In Art. 39, however, I could visualize restricting the President's authority to individually commit the ECB legally to administrative matters. If that were to be agreeable the ECB in all other matters could exclusively be bound legally by two members of the Executive Board resp. duly authorized members of the staff.

In case of agreement the provision in question could be phrased:

"The ECB shall be legally committed vis-a-vis third parties in respect of administrative matters by the signature of the President or - as in all other matters - by the signature of two members of the Executive Board..."

With kind personal regards

A handwritten signature in black ink, consisting of a stylized 'H' followed by a horizontal line and a vertical line that curves downwards and to the right.Handwritten initials in the bottom right corner, appearing to be 'LW' with a date '12/23' written next to them.