

**Compendium
of
Community Monetary Texts**

1989

MONETARY COMMITTEE OF THE EUROPEAN COMMUNITY

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I

EXTRACTS FROM THE TREATY

FOUNDING THE EUROPEAN ECONOMIC COMMUNITY

THE PRINCIPLES: THE ESTABLISHMENT OF THE INTERNAL MARKET

Article 8a¹

The Community shall adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992, in accordance with the provisions of this Article and of Articles 8b, 8c, 28, 57(2), 59, 70(1), 84, 99, 100a and 100b and without prejudice to the other provisions of this Treaty.

The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty.

Article 8b²

The Commission shall report to the Council before 31 December 1988 and again before 31 December 1990 on the progress made towards achieving the internal market within the time-limit fixed in Article 8a.

The Council, acting by a qualified majority on a proposal from the Commission, shall determine the guidelines and conditions necessary to ensure balanced progress in all the sectors concerned.

Article 8c³

When drawing up its proposal with a view to achieving the objectives set out in Article 8a, the Commission shall take into account the extent of the effort that certain economies showing differences in development will have to sustain during the period of establishment of the internal market and it may propose appropriate provisions.

If these provisions take the form of derogations, they must be of a temporary nature and must cause the least possible disturbance to the functioning of the common market.

¹ Article added by Article 13 of the Single European Act.

² Article added by Article 14 of the Single European Act.

³ Article added by Article 15 of the Single European Act.

FREE MOVEMENT OF CAPITAL

Article 67

1. During the transitional period and to the extent necessary to ensure the proper functioning of the common market, Member States shall progressively abolish between themselves all restrictions on the movement of capital belonging to persons resident in Member States and any discrimination based on the nationality or on the place of residence of the parties or on the place where such capital is invested.
2. Current payments connected with the movement of capital between Member States shall be freed from all restrictions by the end of the first stage at the latest.

Article 68

1. Member States shall, as regards the matters dealt with in this chapter, be as liberal as possible in granting such exchange authorizations as are still necessary after the entry into force of this Treaty.
2. Where a Member State applies to the movements of capital liberalized in accordance with the provisions of this chapter the domestic rules governing the capital market and the credit system, it shall do so in a non-discriminatory manner.
3. Loans for the direct or indirect financing of a Member State or its regional or local authorities shall not be issued or placed in other Member States unless the States concerned have reached agreement thereon. This provision shall not preclude the application of Article 22 of the Protocol on the Statute of the European Investment Bank.

Article 69

The Council shall, on a proposal from the Commission, which for this purpose shall consult the Monetary Committee provided for in Article 105, issue the necessary directives for the progressive implementation of the provisions of Article 67, acting unanimously during the first two stages and by a qualified majority thereafter.

Article 70

1. The Commission shall propose to the Council measures for the progressive coordination of the exchange policies of Member States in respect of the movement of capital between those States and third countries. For this purpose the Council shall issue directives, acting unanimously. It shall endeavour to attain the highest possible degree of liberalization.
2. Where the measures taken in accordance with paragraph 1 do not permit the elimination of differences between the exchange rules of Member States and where such differences could lead

persons resident in one of the Member States to use the freer transfer facilities within the Community which are provided for in Article 67 in order to evade the rules of one of the Member States concerning the movement of capital to or from third countries, that State may, after consulting the other Member States and the Commission, take appropriate measures to overcome these difficulties.

Should the Council find that these measures are restricting the free movement of capital within the Community to a greater extent than is required for the purpose of overcoming the difficulties, it may, acting by a qualified majority on a proposal from the Commission, decide that the State concerned shall amend or abolish these measures.

Article 71

Member States shall endeavour to avoid introducing within the Community any new exchange restrictions on the movement of capital and current payments connected with such movements, and shall endeavour not to make existing rules more restrictive.

They declare their readiness to go beyond the degree of liberalization of capital movements provided for in the preceding Articles in so far as their economic situation, in particular the situation of their balance of payments, so permits.

The Commission may, after consulting the Monetary Committee, make recommendations to Member States on this subject.

Article 72

Member States shall keep the Commission informed of any movements of capital to and from third countries which come to their knowledge. The Commission may deliver to Member States any opinions which it considers appropriate on this subject.

Article 73

1. If movements of capital lead to disturbances in the functioning of the capital market in any Member State, the Commission shall, after consulting the Monetary Committee, authorize that State to take protective measures in the field of capital movements, the conditions and details of which the Commission shall determine.

The Council may, acting by a qualified majority, revoke this authorization or amend the conditions or details thereof.

A Member State which is in difficulties may, however, on grounds of secrecy or urgency, take the measures mentioned above, where this proves necessary, on its own initiative. The Commission and the other Member States shall be informed of such measures by the date of their entry into force at the latest. In this event the Commission may, after consulting the Monetary Committee, decide that the State concerned shall amend or abolish the measures.

COOPERATION IN ECONOMIC AND MONETARY POLICY (ECONOMIC AND MONETARY UNION)^{1, 2}

*Article 102a*¹

1. In order to ensure the convergence of economic and monetary policies which is necessary for the further development of the Community, Member States shall cooperate in accordance with the objectives of Article 104. In so doing, they shall take account of the experience acquired in cooperation within the framework of the European Monetary System (EMS) and in developing the ecu, and shall respect existing powers in this field.
2. Insofar as further development in the field of economic and monetary policy necessitates institutional changes, the provisions of Article 236 shall be applicable. The Monetary Committee and the Committee of Governors of the Central Banks shall also be consulted regarding institutional changes in the monetary area.

¹ Chapter as inserted in Title II of Part Three of the Treaty by Article 20 of the Single European Act.

² Declaration by the Presidency and the Commission on the monetary capacity of the Community: 'The Presidency and the Commission consider that the provisions inserted in the EEC Treaty with reference to the Community's monetary capacity are without prejudice to the possibility of further development within the framework of the existing powers.'
(Declaration attached to the Single European Act by the Conference of the Representatives of the Governments of the Member States).

CONJUNCTURAL POLICY

Article 103

1. Member States shall regard their conjunctural policies as a matter of common concern. They shall consult each other and the Commission on the measures to be taken in the light of the prevailing circumstances.
2. Without prejudice to any other procedures provided for in this Treaty, the Council may, acting unanimously on a proposal from the Commission, decide upon the measures appropriate to the situation.
3. Acting by a qualified majority on a proposal from the Commission, the Council shall, where required, issue any directives needed to give effect to the measures decided upon under paragraph 2.
4. The procedures provided for in this Article shall also apply if any difficulty should arise in the supply of certain products.

BALANCE OF PAYMENTS

Article 104

Each Member State shall pursue the economic policy needed to ensure the equilibrium of its overall balance of payments and to maintain confidence in its currency, while taking care to ensure a high level of employment and a stable level of prices.

Article 105

1. In order to facilitate attainment of the objectives set out in Article 104, Member States shall coordinate their economic policies. They shall for this purpose provide for cooperation between their appropriate administrative departments and between their central banks.

The Commission shall submit to the Council recommendations on how to achieve such cooperation.

2. In order to promote coordination of the policies of Member States in the monetary field to the full extent needed for the functioning of the common market, a Monetary Committee with advisory status is hereby set up. It shall have the following tasks:

- to keep under review the monetary and financial situation of the Member States and of the Community and the general payments system of the Member States and to report regularly thereon to the Council and to the Commission;
- to deliver opinions at the request of the Council or of the Commission or on its own initiative, for submission to these institutions.

The Member States and the Commission shall each appoint two members of the Monetary Committee.

Article 106

1. Each Member State undertakes to authorize, in the currency of the Member State in which the creditor or the beneficiary resides, any payments connected with the movement of goods, services or capital, and any transfers of capital and earnings, to the extent that the movement of goods, services, capital and persons between Member States has been liberalized pursuant to this Treaty.

The Member States declare their readiness to undertake the liberalization of payments beyond the extent provided in the preceding subparagraph, in so far as their economic situation in general and the state of their balance of payments in particular so permit.

2. In so far as movements of goods, services, and capital are limited only by restrictions on payments connected therewith, these restrictions shall be progressively abolished by applying, *mutatis mutandis*, the provisions of the chapters relating to the abolition of quantitative restrictions, to the liberalization of services and to the free movement of capital.

3. Member States undertake not to introduce between themselves any new restrictions on transfers connected with the invisible transactions listed in Annex III to this Treaty.

The progressive abolition of existing restrictions shall be effected in accordance with the provisions of Articles 63 to 65, in so far as such abolition is not governed by the provisions contained in paragraphs 1 and 2 or by the Chapter relating to the free movement of capital.

4. If need be, Member States shall consult each other on the measures to be taken to enable the payments and transfers mentioned in this Article to be effected; such measures shall not prejudice the attainment of the objectives set out in this Chapter.

Article 107

1. Each Member State shall treat its policy with regard to rates of exchange as a matter of common concern.

2. If a Member State makes an alteration in its rate of exchange which is inconsistent with the objectives set out in Article 104 and which seriously distorts conditions of competition, the Commission may, after consulting the Monetary Committee, authorize other Member States to take for a strictly limited period the necessary measures, the conditions and details of which it shall determine, in order to counter the consequences of such alteration.

Article 108

1. Where a Member State is in difficulties or is seriously threatened with difficulties as regards its balance of payments either as a result of an overall disequilibrium in its balance of payments, or as a result of the type of currency at its disposal, and where such difficulties are liable in particular to jeopardize the functioning of the common market or the progressive implementation of the common commercial policy, the Commission shall immediately investigate the position of the State in question and the action which, making use of all the means at its disposal, that State has taken or may take in accordance with the provisions of Article 104. The Commission shall state what measures it recommends the State concerned to take.

If the action taken by a Member State and the measures suggested by the Commission do not prove sufficient to overcome the difficulties which have arisen or which threaten, the Commission shall, after consulting the Monetary Committee, recommend to the Council the granting of mutual assistance and appropriate methods therefor.

The Commission shall keep the Council regularly informed of the situation and of how it is developing.

2. The Council, acting by a qualified majority, shall grant such mutual assistance; it shall adopt directives or decisions laying down the conditions and details of such assistance, which may take such forms as:

- (a) a concerned approach to or within any other international organizations to which Member States may have recourse;
- (b) measures needed to avoid deflection of trade where the State which is in difficulties maintains or reintroduces quantitative restrictions against third countries;
- (c) the granting of limited credits by other Member States, subject to their agreement.

During the transitional period, mutual assistance may also take the form of special reductions in customs duties or enlargements of quotas in order to facilitate an increase in imports from the State which is in difficulties, subject to the agreement of the States by which such measures would have to be taken.

3. If the mutual assistance recommended by the Commission is not granted by the Council or if the mutual assistance granted and the measures taken are insufficient, the Commission shall authorize the State which is in difficulties to take protective measures, the conditions and details of which the Commission shall determine.

Such authorization may be revoked and such conditions and details may be changed by the Council acting by a qualified majority.

Article 109

1. Where a sudden crisis in the balance of payments occurs and a decision within the meaning of Article 108 (2) is not immediately taken, the Member State concerned may, as a precaution, take the necessary protective measures. Such measures must cause the least possible disturbance in the functioning of the common market and must not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen.

2. The Commission and the other Member States shall be informed of such protective measures not later than when they enter into force. The Commission may recommend to the Council the granting of mutual assistance under Article 108.

3. After the Commission has delivered an opinion and the Monetary Committee has been consulted, the Council may, acting by a qualified majority, decide that the State concerned shall amend, suspend or abolish the protective measures referred to above.

**WEIGHTING OF COUNTRIES' VOTES
IN COUNCIL PROCEEDINGS
REQUIRING A QUALIFIED MAJORITY**

Article 148

1. Save as otherwise provided in this Treaty, the Council shall act by a majority of its members.
2. Where the Council is required to act by a qualified majority, the votes of its members shall be weighted as follows:

Belgium	5
Denmark.....	3
FR of Germany.....	10
Greece	5
Spain	8
France.....	10
Ireland	3
Italy	10
Luxembourg	2
The Netherlands.....	5
Portugal.....	5
United Kingdom.....	10

For their adoption, acts of the Council shall require at least:

- 54 votes in favour where this Treaty requires them to be adopted on a proposal from the Commission,
 - 54 votes in favour, cast by at least eight members, in other cases.
3. Abstentions by members present in person or represented shall not prevent the adoption by the Council of acts which require unanimity.

II

COORDINATION OF ECONOMIC POLICIES

COUNCIL DECISION¹

of 18 February 1974

**on the attainment of a high degree of convergence of the economic policies
of the Member States of the European Economic Community**

(74/120/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 103 and 145 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament,

Having regard to the Opinion of the Economic and Social Committee,

Whereas there can be no gradual attainment of economic and monetary union unless the economic policies pursued by the Member States henceforth converge and unless a high degree of convergence is maintained;

Whereas, for this purpose, the coordination procedures at present used must be substantially strengthened and improved; whereas, in particular, permanent consultation machinery must be instituted, covering both general economic policy and those policies for which the central banks are responsible in monetary matters;

Whereas such permanent consultation machinery must be supported by economic policy guidelines established at Community level; whereas such guidelines cannot be confined only to short-term policy, but must also cover medium-term policy; whereas no short-term action can suitably be implemented reconciling the development processes of nine national economies if it is not guided by and towards common objectives established over a longer period; whereas, consequently, medium-term guidelines are an indispensable instrument of a coherent short-term economic policy and thus a measure appropriate to such a policy;

Whereas monitoring of the implementation and effects of the national economic policies is necessary for the maintenance of consistency between these policies, so that any deviation from the guidelines adopted at Community level can be promptly corrected;

Whereas, in respect of currency exchange relations within the Community, the greater convergence of economic policies must be accompanied by specific and effective prior consultation machinery for any decision by a Member State relating to the conditions under which its currency is exchanged for the currencies of other Member States and of third countries,

¹ Text incorporating the amendments contained in the Council Decisions of 18 December 1975 (75/787/EEC) and of 6 February 1979 (79/136/EEC).

HAS ADOPTED THIS DECISION:

Article 1

The Council shall set aside each month a specific day, chosen in advance, for meetings on economic and monetary matters. Within this framework, the Council shall hold three meetings yearly to examine the economic situation in the Community. On the basis of a communication from the Commission accompanied, where appropriate, by proposals for decisions, directives or recommendations, the Council shall adopt guidelines on economic policy which the Community and each Member State are to follow in order to achieve harmonious economic development.

Article 2

The first examination shall take place as soon as possible during the first quarter.

On this occasion, on a proposal from the Commission, the Council shall adjust the economic policy guidelines for the current year as required by economic developments.

The proposals from the Commission shall be accompanied by a summary account of the economic policy pursued in the preceding year and by five-year forecasts covering the main macroeconomic variables.

Article 3

A second examination shall take place during the second quarter. On that occasion the Council shall lay down appropriate guidelines for the main elements of the preliminary economic budgets. Within this framework, quantitative guidelines for the draft public budgets for the following year shall be fixed before these budgets are finally adopted and shall cover developments in government expenditure and revenue, the nature and extent of budget surpluses and deficits and the way the latter are to be financed or used. The guidelines figures for the draft public budgets shall not be published at this juncture.

Article 4

A third examination shall take place during the fourth quarter. At this stage, the Council shall, acting on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, adopt an annual report on the economic situation in the Community and shall establish the guidelines to be followed by each Member State in its economic policy for the following year.

Article 4a

At two-and-a-half-year intervals, coinciding every other time with the examination of medium-term economic policy programmes and starting in 1980 on the occasion of the third annual examination referred to in Article 4, the Council, after consulting the European Parliament and the Economic and Social Committee, shall examine a periodic report on the situation and socio-economic developments in the regions of the Community drawn up by the Commission in close collaboration with the Regional Policy Committee.

On the basis of this report, the Council shall discuss the priorities and guidelines proposed by the Commission.

Article 5

As soon as this annual report has been adopted by the Council, governments shall bring it to the attention of their national parliaments so that it can be taken into account during the debate on the budget.

Article 6

On the basis of the preliminary draft prepared by the Economic Policy Committee, the Commission shall at regular intervals and at least once every five years establish a draft medium-term economic policy programme whose purpose shall be, in the context of economic and monetary union, to facilitate and guide structural changes — sectoral, regional and social — and to ensure the convergence of overall economic policies.

The draft shall indicate those points on which it departs from the preliminary draft of the Economic Policy Committee.

The Commission shall forward the draft programme to the Council, which shall forthwith place it before the European Parliament and the Economic and Social Committee, for consultation.

The programme shall be adopted by the Council and by the Governments of the Member States.

By adopting the programme, the Council and the Governments of the Member States shall express their intention of acting, in the field covered by the programme, in accordance with the guidelines laid down therein.

Parallel to the adoption of the programme, the Council shall, where appropriate and on a proposal from the Commission, unanimously adopt any decisions, directives or recommendations necessary to achieve the objectives set out in the programme and to implement the measures for which it provides.

Article 7

Any Member State intending *de jure* or *de facto*, to change, discontinue or re-establish the parity, central rate or intervention points of its currency shall initiate a prior consultation.

The consultation procedures, which shall be secret and urgent, shall take place in accordance with practical rules adopted by the Council after receiving an Opinion from the Monetary Committee.

Article 8

In addition to the consultations which are held by the Monetary Committee and by the Coordinating Committee on Short-term Economic and Financial Policies, the central banks shall be invited to promote by means of regular and frequent consultations, within the framework of the Council Decision of 22 March 1971 on the strengthening of cooperation between the central banks of the Member States of the European Economic Community, the continual coordination of their monetary policies especially as regards the development of the money supply and bank liquidity, the conditions for granting credit and the level of interest rates.

Article 9

Standing consultations on the general economic policy measures envisaged by the Member States and on their conformity with the economic policy guidelines laid down by the Council according to the

procedure laid down in Articles 1 to 5 shall take place within the coordinating group referred to in Title I, paragraph 2, of the Resolution of the Council and the Representatives of the Governments of the Member States of 21 March 1972 on the application of the Resolution of 22 March 1971 on the attainment by stages of economic monetary union in the Community.

The Chairmen of the Economic Policy Committee, of the Monetary Committee and of the Committee of the Governors of the Central Banks shall, as appropriate, attend the meetings of the group.

These meetings must involve prior consultation and cover the most significant measures being taken with a view to the convergence of economic policy within the Community.

The group shall meet often enough to ensure the standing nature of the consultations, and in any event, at least once a month.

Article 10

Any Member State or the Commission may request consultations within the Council:

- (i) if, in the course of the consultation referred to in Articles 8 and 9, it appears that any measure or decision contemplated by one or more Member States is the subject of serious reservations;
- (ii) or if economic developments in a Member State constitute a considerable danger for other Member States of the Community as a whole.

The Council shall meet within eight days.

Article 11

Where a Member State is pursuing economic, monetary and budgetary policies departing from the guidelines laid down by the Council or entailing economic risks for the Community as a whole, the Commission may send a recommendation to the State concerned. Within 15 days of receipt of this recommendation, the Member State concerned shall provide the Commission with all the appropriate information.

The Commission or a Member State may request an emergency meeting of the Coordinating Committee on Short-term Economic and Financial Policies and possibly an examination within the Council. The latter shall take a decision on the basis of proposals which the Commission shall submit to it, where appropriate.

Article 12

On the basis of a report submitted by the Commission, the Council shall examine once a year, at its meeting held in the first quarter, as provided for in Article 2 above, the application of this Decision and the conformity of the policies pursued with the objectives set. The Commission's report shall also be laid before the European Parliament.

Article 13

The following decisions are hereby repealed:

- (i) the Council Decision of 17 July 1969 on the coordination of short-term economic policies of the Member States;
- (ii) the Council Decision of 16 February 1970 on the appropriate procedures for the consultation arrangements provided for in the Council Decision of 17 July 1969;

- (iii) the Council Decisions of 22 March 1971 on the strengthening of the coordination of short-term economic policies of the Member States of the European Economic Community:

Article 14

This Decision is addressed to the Member States.

Done at Brussels, 18 February 1974.

For the Council
The President
H. SCHMIDT

COUNCIL DECISION

of 22 March 1971

on the strengthening of cooperation between the central banks of the Member States
of the European Economic Community

(71/142/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 105 (1) thereof,

Having regard to the final communiqué of the Conference of Heads of State or Government held at The Hague on 1 and 2 December 1969, and in particular item 8 thereof,

Having regard to the Resolution of the Council and of the Representatives of the Governments of the Member States of 22 March 1971 on the phased establishment of economic and monetary union in the Community, and in particular item III (5) thereof,

Having regard to the Recommendation of the Commission,

Having regard to the Opinion of the European Parliament,

Whereas the Resolution referred to above provides for a strengthening of cooperation between central banks,

HAS ADOPTED THIS DECISION:

Article 1

Member States shall coordinate their monetary and credit policies having regard to the guidelines on general economic policy laid down by the Council.

Article 2

Within this framework, the central banks shall be invited, within the limits of their powers and the scope of their respective responsibilities:

- (a) to coordinate their policies in monetary and credit matters, within the Committee of Governors of Central Banks;
- (b) to establish general guidelines to be followed by each of them, in particular as regards the trend of bank liquidity, the terms for supply of credit and the level of interest rates;
- (c) to lay down practical methods for the application of this procedure.

III

ECONOMIC AND MONETARY UNION

**RESOLUTION OF THE COUNCIL AND OF THE REPRESENTATIVES OF THE
GOVERNMENTS OF THE MEMBER STATES**

of 22 March 1971

on the attainment by stages of economic and monetary union in the Community

THE COUNCIL OF THE EUROPEAN COMMUNITIES AND THE REPRESENTATIVES OF
THE GOVERNMENTS OF THE MEMBER STATES,

Having regard to the financial communiqué of the Conference of Heads of State or Government held on 1 and 2 December 1969 at The Hague, and in particular point 8 in which they expressed their wish to see the Community develop into an economic and monetary union through the implementation of a phased plan,

Having regard to the joint conclusions of the interim report of the Group set up by the Council Decision of 6 March 1970 under the chairmanship of Mr Pierre Werner, President and Minister for Finance of the Luxembourg Government, which were adopted by the Council at its 116th meeting on 8 and 9 June 1970, namely that:

- (i) the ultimate objective, as laid down by the Conference of Heads of State or Government, appears to be one that can be attained within the present decade, provided that it continues to enjoy the political support of the governments;
- (ii) economic and monetary union means that the main economic policy decisions will be taken at Community level and therefore that the necessary powers will be transferred from the national to the Community level. The adoption of a single currency could be the final stage of this union, ensuring the irreversibility of the process;
- (iii) throughout the process, action will have to be taken simultaneously and progressively on a number of fronts. Certain measures will require amendment of the Treaty of Rome, and the preparatory work for this should therefore be completed during the first stage. However, the existing provisions already allow substantial progress to be made;
- (iv) the first stage should begin on 1 January 1971 and be completed within a specified period, practical considerations suggest that a three-year period would be appropriate. This stage will be devoted to increasing the effectiveness of the instruments employed by the Community and to taking the first steps in establishing the Community's identity within the international monetary system;
- (v) the first stage should not be considered as an end in itself; it cannot be dissociated from the overall process of economic and monetary integration. It should, therefore, be embarked upon with determination to attain the ultimate objective;
- (vi) the first stage should include a strengthening of consultation procedures by methods yet to be determined; the budgetary policy of Member States should be conducted in accordance with Community objectives: some degree of fiscal harmonization should be carried out; monetary and credit policies should be closely coordinated and the capital markets further integrated;
- (vii) the Community should progressively adopt common standpoints in its monetary relations with third countries and international organizations; in particular, it should not avail itself in matters of exchange rates between Member States of any arrangements which might lead to a weakening of the international exchange system;

Having regard to the suggestions put forward by the Group in its final report, and sharing the views expressed on the factors which are essential for the existence of an economic and monetary union and on the results of such a union in terms of economic policy.

Recognizing the profound political significance which the attainment of economic and monetary union has for the Community and its Member States;

Desiring to reaffirm the irreversible nature of the action which Heads of State or Government have decided to take for the creation of an economic and monetary union;

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament,

HAVE ADOPTED THIS RESOLUTION:

I

In order to achieve simultaneously within the Community a satisfactory rate of growth, full employment and stability, to correct the structural or regional imbalances arising therein and to strengthen the Community's contribution to international economic and monetary cooperation and thereby to achieve a Community enjoying stability and growth, the Council and the Representatives of the Governments of the Member States express their political will to establish an economic and monetary union, during the coming decade, in accordance with a plan by stages beginning on 1 January 1971.

The steps to be taken must be such that, at the conclusion of this process, the Community will:

1. Constitute an area within which persons, goods, services and capital may move freely and without distortion of competition, without, however, giving rise to structural or regional imbalances, under conditions permitting economic activity to expand on a Community scale;
2. Form a single currency area within the international system, characterized by the total and irreversible convertibility of currencies, the elimination of margins of fluctuation of exchange rates, the irrevocable locking of parities — all of which are essential preconditions for the creation of a single currency — and including a Community organization of the central banks;
3. Possess such powers and responsibilities in economic and monetary matters as will enable its institutions to administer the union. To this end the requisite decisions on economic policy shall be taken at Community level and the necessary powers shall be conferred upon the institutions of the Community.

Powers and responsibilities shall be distributed between Community institutions on the one hand and Member States on the other in accordance with what is necessary for the cohesion of the union and for the effectiveness of Community action.

The institutions of the Community shall be put in a position to exercise their responsibilities in economic and monetary matters efficiently and with speed.

Community policies pursued within the framework of the economic and monetary union shall be subject to debate and control by the European Parliament.

The Community organization of the central banks shall, within its field of responsibility, assist in achieving stability and growth within the Community.

The principles set out above shall be applied to the following:

- (i) the internal monetary and credit policies of the union;
- (ii) monetary policy towards the outside world;

- (iii) policy with regard to the unified capital market and capital movements to and from the countries;
- (iv) budgetary and fiscal policies as related to the policy of stability and growth; as regards budgetary policy proper, the margins within which the essential elements of public budgets as a whole should lie, in particular the variation of their amount, and the size, mode of financing and use of balances, shall be determined at Community level;
- (v) the structural and regional measures which are also necessary, as part of a properly supported Community policy, to promote the balanced development of the Community and resolve the major problems.

II

As progress is made towards the ultimate objective, Community instruments shall be created as necessary to replace or to supplement national instruments.

The measures to be taken in each sector shall be interdependent, each reinforcing the other; in particular, progress towards monetary union must be accompanied by parallel progress in the alignment and ultimate unification of economic policies.

III

In order to attain these objectives, the Council and the Representatives of the Governments of the Member States agree to set in motion from 1 January 1974 a series of measures to be carried out during a first stage lasting three years;

1. Acting on a proposal from the Commission, the Council shall lay down such provisions for strengthening the coordination of short-term economic policies as will make coordination really effective, in particular by making more intensive and widespread use of the obligatory prior consultation procedures. This coordination of short-term economic policies shall take into account the guidelines under the medium-term economic policy programmes.

To this end the Council has agreed that, acting on a proposal made by the Commission after consultation with both sides of industry through the Economic and Social Committee or by other means, it will lay down the broad outlines of economic policy at Community level and quantitative guidelines for the essential elements of public budgets.

To facilitate coordination of economic policies the Council has agreed that, acting on a proposal from the Commission and after obtaining the opinions of the Committees concerned, it will take the necessary measures for progressive harmonization of the instruments of economic policy, and in particular for the synchronization of national budgetary procedures.

2. In order that effectively free movement of persons, goods, services and capital and progress in interpenetration of economics may be achieved at a faster rate, the Council, acting on a proposal from the Commission and having regard to the need to preserve a balance, shall decide on measures concerning:

- (i) Community rules determining the uniform basis for assessing the value-added tax within the meaning of the Decision of 21 April 1970 on the replacement of financial contributions from the Member States by the Communities' own resources;
- (ii) the harmonization of the scope, basis of assessment and the mode of levying excise duties, in particular those which have an appreciable influence on trade;
- (iii) the harmonization of those kinds of tax which are likely to have a direct influence on capital movements within the Community, in particular the taxation of interest from fixed-interest securities, and dividends;

- (iv) the further harmonization of the taxation of companies and firms;
- (v) the progressive extension of duty-free concessions granted to private individuals crossing frontiers within the Community.

Before the end of the first stage the Council shall examine the results of research on the alignment of rates of value-added tax and excise duties and the proposals of the Commission in this field.

3. With a view to encouraging the free movement of capital, the Council, acting on a proposal from the Commission, shall:

- (i) adopt a Directive laying down procedures for progressive liberalization whereby issues of securities on the capital market will be authorized without discrimination and abolishing any differential treatment in the introduction on the market of securities issued by residents of other Member States;
- (ii) establish a procedure for the progressive coordination of the policies of Member States in respect of capital markets.

4. In order to reduce, by means of regional and structural measures, any tensions that could prejudice the ultimate attainment of economic and monetary union, the Council, acting on a proposal from the Commission, shall decide on the measures necessary for a first step towards resolving the most urgent questions, bearing in mind the directions contained in the third medium-term economic policy programme, and in particular by providing the Community with the necessary means under the Treaties in force.

5. With a view to strengthening the coordination of the monetary and credit policies of Member States, the Council has agreed that:

- (i) more stress shall be laid in the Monetary Committee and the Committee of Governors of central banks on obligatory prior consultation;
- (ii) the central banks shall be invited, within the limits of their powers and several responsibilities, to coordinate their policies in the Committee of Governors of Central Banks, while observing the guidelines for general economic policy issued by the Council;
- (iii) the Monetary Committee and the Committee of Governors of Central Banks shall work closely together in the harmonization of the instruments of monetary policy,

6. The Council has agreed that the Community shall progressively adopt common standpoints in monetary relations with third countries and with international organizations; in particular, it shall not avail itself in matters of exchange rates between Member States of any arrangements which might lead to a weakening of the international exchange system.

7. The Council and the Member States shall invite the central banks of Member States, from the beginning of the first stage and on an experimental basis, to hold exchange rate fluctuations between the currencies of Member States within margins narrower than those resulting from the application of the margins in force for the US dollar, by means of concerted action with respect to that currency.

The Council has agreed that, depending on circumstances and on the results obtained in the harmonization of economic policies, further measures may be taken, consisting of a transition from a *de facto* to a *de jure* system, of intervention in the currencies of Member States and of successive reductions in the margins of fluctuation between the currencies of Member States. The Committee of Governors of Central Banks shall report twice yearly to the Council and to the Commission on the effect of the concerted action by the central banks on the exchange market, and whether there is a need for further measures in this field.

8. The Council shall invite the Monetary Committee and the Committee of Governors of Central Banks to draw up, in close collaboration and by 30 June 1972 at the latest, a report on the organization, functions and statutes of a European Monetary Cooperation Fund, to be integrated at a later stage into the Community organization of the central banks provided for in Section 1 (2), with a

view to the possible establishment of this Fund during the first stage, if the results obtained in reducing margins and aligning economic policies so justify. They shall submit this report to the Council and to the Commission.

9. In order to promote the harmonious implementation of the plan for economic and monetary union and, above all, to ensure that economic measures keep sufficiently in step with monetary measures, the monetary provisions, that is to say those of Section III (7) and (8), and the mechanism for medium-term financial assistance shall be operative for five years from the beginning of the first stage. After agreement has been reached to proceed to the second stage, the provisions mentioned above shall continue in force.

IV

The Council takes note that the Commission will submit to it before 1 May 1973 :

- (i) an assessment of the progress made during the first stage, given that coordination of economic policies and progress in monetary matters within the Community must proceed in parallel;
- (ii) a report, drawn up in collaboration with the advisory committees concerned, on the redistribution of powers and responsibilities between the institutions of the Community and the Member States which, particularly in the fields of conjunctural policy, monetary and credit policy, and budgetary policy, may be necessary for the efficient functioning of an economic and monetary union.

The Council and, where appropriate, the Representatives of the Governments of the Member States, acting on a proposal from the Commission, shall, before the end of the first three-year stage adopt measures which will lead, after transition to the second stage, to the attainment of full economic and monetary union :

- (i) either on the basis of the existing provisions of the Treaty;
- (ii) or on the basis of Article 235 of the Treaty;
- (iii) or on the basis of Article 236 of the Treaty.

**EXTRACTS FROM THE FINAL COMMUNIQUÉ
OF THE
CONFERENCE OF HEADS OF STATE OR GOVERNMENT OF MEMBER STATES
AND FUTURE MEMBERS OF THE EUROPEAN COMMUNITIES**

Paris, 19 to 21 October 1972

Economic and monetary policy

1. The Heads of State or Government reaffirm the resolve of the Member States of the enlarged Community to move irrevocably to Economic and Monetary Union, by confirming all the details of the Acts passed by the Council and by the Member States' representatives on 22 March 1971 and 21 March 1972.

The required decisions will have to be taken during 1973 to allow transition to the second stage of the economic and monetary union on 1 January 1974 and in view of its complete realization by 31 December 1980 at the latest.

The Heads of State or Government reaffirmed the principle of parallel progress in the various fields of the economic and monetary union.

2. They declared that fixed but adjustable parities between their currencies are an essential basis for achieving the union and expressed their resolve to set up mutual defence and support mechanisms within the Community, which will allow the Member States to ensure that they are honoured.

They decided to set up officially a European Monetary Cooperation Fund before 1 April 1973. Based on the EEC Treaty, the Fund will be run by the Governors' Committee of the Central Banks within the overall guidelines of economic policy adopted by the Council of Ministers. In its early stage the Fund will function on the following basis:

- (i) concertation between the central banks over the required shrinkage of fluctuation margins between their currencies;
- (ii) multilateralizing of positions arising from interventions in Community currencies and multilateralizing intra-Community rules;
- (iii) utilization for the above of a European monetary unit of account;
- (iv) administration of short-term monetary support between the central banks;
- (v) the very short-term financing of the Agreement on shrinking the margins and short-term monetary support, will be regrouped within the Fund through an updated mechanism. For this, the short-term monetary support will be adjusted technically without changing its basic character or the consultation procedures involved.

The competent Community agencies will have to submit reports:

- (i) on short-term aid dealings by 30 September at the latest;
- (ii) on terms for progressive pooling of reserves by 31 December 1973.

3. The Heads of State or Government insisted on the need for closer coordination of Community economic policies and adopting more effective procedures for same.

In the present economic situation, they consider that the anti-inflation campaign and stabilization of prices must get priority. They officially briefed their authorized Ministers, when the enlarged Council meets on 30 and 31 October 1972, to take specific measures in the various areas ripe for effective and realistic short-term moves to attain these objectives allowing for the different conditions in the countries of the enlarged Community.

4. The Heads of State or Government express their resolve that the Member States of the enlarged Community will contribute through a joint outlook in guiding the reform of the international monetary system towards the adoption of a lasting equitable order.

They consider that the system should be based on the following principles :

- (i) fixed but adjustable parities;
- (ii) an overall convertibility of currencies;
- (iii) an effective international regulation of world liquidity supply;
- (iv) curtailing the role of national currencies as reserve resources;
- (v) an equitable and effective adjustment process;
- (vi) equality of rights and obligations for all under the system;
- (vii) the need to reduce the unbalancing effects of short-term capital movements;
- (viii) consideration of the developing countries' interests.

Such a system would be completely suitable for achieving economic and monetary union.

IV

EUROPEAN MONETARY SYSTEM

A. Basic texts

ANNEX TO THE CONCLUSIONS OF THE PRESIDENCY OF THE EUROPEAN COUNCIL

Bremen, 6 and 7 July 1978

1. In terms of exchange rate management the European Monetary System (EMS) will be at least as strict as the 'snake'. In the initial stages of its operation and for a limited period of time member countries currently not participating in the snake may opt for somewhat wider margins around central rates. In principle, interventions will be in the currencies of participating countries. Changes in central rates will be subject to mutual consent. Non-member countries with particularly strong economic and financial ties with the Community may become associate members of the system. The European currency unit (ecu)¹ will be at the centre of the system; in particular, it will be used as a means of settlement between EEC monetary authorities.

2. An initial supply of ecus (for use among Community central banks) will be created against deposits of US dollars and gold on the one hand (e.g. 20% of the stock currently held by member central banks) and member currencies on the other hand in an amount of a comparable order of magnitude.

The use of ecus created against member currencies will be subject to conditions varying with the amount and the maturity; due account will be given to the need for substantial short-term facilities (up to one year).

3. Participating countries will coordinate their exchange rate policies *vis-à-vis* third countries. To this end they will intensify the consultations in the appropriate bodies and between central banks participating in the scheme. Ways to coordinate dollar interventions should be sought which avoid simultaneous reverse interventions. Central banks buying dollars will deposit a fraction (say 20%) and receive ecus in return; likewise, central banks selling dollars will receive a fraction (say 20%) against ecus.

4. Not later than two years after the start of the scheme, the existing arrangements and institutions will be consolidated in a European Monetary Fund.²

5. A system of closer monetary cooperation will only be successful if participating countries pursue policies conducive to greater stability at home and abroad; this applies to deficit and surplus countries alike.

¹ The ecu has the same definition as the European unit of account.

² The EMF will take the place of the EMCF.

**EXTRACTS
FROM THE CONCLUSIONS OF THE PRESIDENCY
OF THE
EUROPEAN COUNCIL**

Brussels, 4 and 5 December 1978

The European Council agreed, on the basis of the preparatory work of the Council (Economics and Finance Ministers) and of the Monetary Committee and the Committee of the Governors of the Central Banks to set up a European Monetary System as from 1 January 1979. This agreement is enclosed as an Annex.

The purpose of the European Monetary System is to establish a greater measure of monetary stability in the Community. It should be seen as a fundamental component of a more comprehensive strategy aimed at lasting growth with stability, a progressive return to full employment, the harmonization of living standards and the lessening of regional disparities in the Community. The Monetary System will facilitate the convergence of economic development and give fresh impetus to the process of European Union. The Council expects the European Monetary System to have a stabilizing effect on international economic and monetary relations. It will therefore certainly be in the interests of the industrial and the developing countries alike.

RESOLUTION OF THE EUROPEAN COUNCIL
on the establishment of the European Monetary System (EMS)
and related matters

Brussels, 5 December 1978

A

THE EUROPEAN MONETARY SYSTEM

1. *Introduction*

1.1. In Bremen we discussed a 'scheme for the creation of closer monetary cooperation leading to a zone of monetary stability in Europe'. We regarded such a zone 'as a highly desirable objective' and envisaged 'a durable and effective scheme'.

1.2. Today, after careful examination of the preparatory work done by the Council and other Community bodies, we are agreed as follows:

A EUROPEAN MONETARY SYSTEM (EMS) WILL BE SET UP ON 1 JANUARY 1979.

1.3. We are firmly resolved to ensure the lasting success of the EMS by policies conducive to greater stability at home and abroad for both deficit and surplus countries.

1.4. The following chapters deal primarily with the initial phase of the EMS.

We remain firmly resolved to consolidate, not later than two years after the start of the scheme, into a final system the provisions and procedures thus created. This system will entail the creation of the European Monetary Fund as announced in the conclusions of the European Council meeting at Bremen on 6 and 7 July 1978, as well as the full utilization of the ecu as a reserve asset and a means of settlement. It will be based on adequate legislation at the Community as well as the national level.

2. *The ecu and its functions*

2.1. A European Currency Unit (ecu) will be at the centre of the EMS. The value and the composition of the ecu will be identical with the value of the EUA at the outset of the system.

2.2. The ecu will be used:

- (a) as the denominator (numéraire) for the exchange rate mechanism;
- (b) as the basis for a divergence indicator;
- (c) as the denominator for operations in both the intervention and the credit mechanism;
- (d) as a means of settlement between monetary authorities of the European Community.

2.3. The weights of currencies in the ecu will be re-examined and if necessary revised within six months of the entry into force of the system and thereafter every five years or, on request, if the weight of any currency has changed by 25 %.

Revisions have to be mutually accepted; they will, by themselves, not modify the external value of the ecu. They will be made in line with underlying economic criteria.

3. *The exchange rate and intervention mechanism*

- 3.1. Each currency will have an ecu-related central rate. These central rates will be used to establish a grid of bilateral exchange rates.

Around these exchange rates fluctuation margins of $\pm 2.25\%$ will be established. EC countries with presently floating currencies may opt for wider margins up to $\pm 6\%$ at the outset of EMS; these margins should be gradually reduced as soon as economic conditions permit to do so.

A Member State which does not participate in the exchange rate mechanism at the outset may participate at a later date.

- 3.2. Adjustments of central rates will be subject to mutual agreement by a common procedure which will comprise all countries participating in the exchange rate mechanism and the Commission. There will be reciprocal consultation in the Community framework about important decisions concerning exchange rate policy between countries participating and any country not participating in the system.

- 3.3. In principle, interventions will be made in participating currencies.

- 3.4. Intervention in participating currencies is compulsory when the intervention points defined by the fluctuation margins are reached.

- 3.5. An ecu basket formula will be used as an indicator to detect divergences between Community currencies. A 'threshold of divergence' will be fixed at 75% of the maximum spread of divergence for each currency. It will be calculated in such a way as to eliminate the influence of weight on the probability of reaching the threshold.

- 3.6. When a currency crosses its 'threshold of divergence', this results in a presumption that the authorities concerned will correct this situation by adequate measures, namely:

- (a) diversified intervention;
- (b) measures of domestic monetary policy;
- (c) changes in central rates;
- (d) other measures of economic policy.

In case such measures, on account of special circumstances, are not taken, the reasons for this shall be given to the other authorities, especially in the 'concertation between central banks'.

Consultations will, if necessary, then take place in the appropriate Community bodies, including the Council of Ministers.

After six months these provisions shall be reviewed in the light of experience. At that date the questions regarding imbalances accumulated by divergent creditor or debtor countries will be studied as well.

- 3.7. A very short-term facility of an unlimited amount will be established. Settlements will be made 45 days after the end of the month of intervention with the possibility of prolongation for another three months for amounts limited to the size of debtor quotas in the short-term monetary support.

- 3.8. To serve as a means of settlement, an initial supply of ecus will be provided by the EMCF against the deposit of 20% of gold and 20% of dollar reserves currently held by central banks.

This operation will take the form of specified, revolving swap arrangements. By periodical review and by an appropriate procedure it will be ensured that each central bank will maintain a

deposit of at least 20 % of these reserves with the EMCF. A Member State not participating in the exchange rate mechanism may participate in this initial operation on the basis described above.

4. *The credit mechanisms*

- 4.1. The existing credit mechanisms with their present rules of application will be maintained for the initial phase of the EMS. They will be consolidated into a single fund in the final phase of the EMS.
- 4.2. The credit mechanisms will be extended to an amount of ECU 25 000 million of effectively available credit. The distribution of this amount will be as follows:
Short-term monetary support = ECU 14 000 million
Medium-term financial assistance = ECU 11 000 million
- 4.3. The duration of the short-term monetary support will be extended for another three months on the same conditions as the first extension.
- 4.4. The increase of the medium-term financial assistance will be completed by 30 June 1979. In the meantime, countries which still need national legislation are expected to make their extended medium-term quotas available by an interim financing agreement of the central banks concerned.

5. *Third countries and international organizations*

- 5.1. The durability of the EMS and its international implications require coordination of exchange rate policies *vis-à-vis* third countries and, as far as possible, a concertation with the monetary authorities of those countries.
- 5.2. European countries with particularly close economic and financial ties with the European Communities may participate in the exchange rate and intervention mechanism.
Participation will be based upon agreements between central banks; these agreements will be communicated to the Council and the Commission of the European Communities.
- 5.3. The EMS is and will remain fully compatible with the relevant articles of the IMF agreement.

6. *Further procedure*

- 6.1. To implement the decisions taken under A., the European Council requests the Council to consider and to take a decision on 18 December 1978 on the following proposals of the Commission:
 - (a) Council Regulation modifying the unit of account used by the European Fund of Monetary Cooperation, which introduces the ecu in the operations of the EMCF and defines its composition;
 - (b) Council Regulation permitting the EMCF to receive monetary reserves and to issue ecus to the monetary authorities of the Member States which may use them as a means of settlement;
 - (c) Council Regulation on the impact of the European Monetary System on the common agricultural policy. The European Council considers that the introduction of the EMS should not of itself result in any change in the situation obtaining prior to 1 January 1979 regarding the expression in national currencies of agricultural prices, monetary compensatory amounts and all other amounts fixed for the purposes of the common agricultural policy.

The European Council stresses the importance of henceforth avoiding the creation of permanent MCAs and progressively reducing present MCAs in order to re-establish the unity of prices of the common agricultural policy, giving also due consideration to price policy.

- 6.2. It requests the Commission to submit in good time a proposal to amend the Council Decision of 22 March 1971 on setting up machinery for medium-term financial assistance to enable the Council (Economics and Finance Ministers) to take a decision on such a proposal at their session of 18 December 1978.
- 6.3. It requests the central banks of Member States to modify their Agreement of 10 April 1972 on the narrowing of margins of fluctuation between the currencies of Member States in accordance with the rules set forth above (see paragraph 3).
- 6.4. It requests the central banks of Member States to modify as follows the rules on short-term monetary support by 1 January 1979 at the latest:
 - (a) the total of debtor quotas available for drawings by the central banks of Member States shall be increased to an aggregate amount of ECU 7 900 million;
 - (b) the total of creditor quotas made available by the central banks of Member States for financing the debtor quotas shall be increased to an aggregate amount of ECU 15 800 million;
 - (c) the total of the additional creditor amounts as well as the total of the additional debtor amount may not exceed ECU 8 800 million;
 - (d) the duration of credit under the extended short-term monetary support may be prolonged *twice* for a period of three months.

B

MEASURES DESIGNED TO STRENGTHEN THE ECONOMIES OF THE LESS PROSPEROUS MEMBER STATES OF THE EUROPEAN MONETARY SYSTEM

1. We stress that, within the context of a broadly-based strategy aimed at improving the prospects of economic development and based on symmetrical rights and obligations of all participants, the most important concern should be to enhance the convergence of economic policies towards greater stability. We request the Council (Economic and Finance Ministers) to strengthen its procedures for coordination in order to improve that convergence.
2. We are aware that the convergence of economic policies and of economic performance will not be easy to achieve. Therefore, steps must be taken to strengthen the economic potential of the less prosperous countries of the Community. This is primarily the responsibility of the Member States concerned. Community measures can and should serve a supporting role.
3. The European Council agrees that in the context of the European Monetary System, the following measures in favour of the less prosperous Member States effectively and fully participating in the exchange rate and intervention mechanism will be taken.
 - 3.1. The European Council requests the Community Institutions by the utilization of the new financial instrument and the European Investment Bank to make available for a period of five years loans of up to 1 000 million EUA per year to these countries on special conditions.
 - 3.2. The European Council requests the Commission to submit a proposal to provide interest rate subsidies of 3 % for these loans, with the following elements: The total cost of this measure, divided into annual tranches of 200 million EUA each over a period of five years shall not exceed 1 000 million EUA.
 - 3.3. Any less prosperous member country which subsequently effectively and fully participates in the mechanisms would have the right of access to this facility within the financial limits mentioned above. Member States not participating effectively and fully in the mechanisms will not contribute to the financing of the scheme.

- 3.4. The funds thus provided are to be concentrated on the financing of selected infrastructure projects and programmes, with the understanding that any direct or indirect distortion of the competitive position of specific industries within Member States will have to be avoided.
- 3.5. The European Council requests the Council (Economics and Finance Ministers) to take a decision on the abovementioned proposals in time so that the relevant measures can become effective on 1 April 1979 at the latest. There should be a review at the end of the initial phase of the EMS.
4. The European Council requests the Commission to study the relationship between greater convergence in economic performance of the Member States and the utilization of Community instruments, in particular the funds which aim at reducing structural imbalances. The results of these studies will be discussed at the next European Council.

AGREEMENT

of 13 March 1979

**between the central banks of the Member States of the European Economic Community
laying down the operating procedures for the European Monetary System¹**

THE CENTRAL BANKS OF THE MEMBER STATES OF THE EUROPEAN ECONOMIC COMMUNITY,

Having regard to the Resolution of the European Council of 5 December 1978 on the establishment of the European Monetary System (EMS) and related matters,

Having regard to Regulation (EEC) No 907/73 of the Council of the European Communities of 3 April 1973 establishing a European Monetary Cooperation Fund,

Having regard to Regulation (EEC) No 3180/78 of the Council of the European Communities of 18 December 1978 changing the value of the unit of account used by the European Monetary Cooperation Fund,

Having regard to Regulation (EEC) No 3181/78 of the Council of the European Communities of 18 December 1978 concerning the European Monetary System,

Whereas the European Council has agreed to set up a scheme for the creation of closer monetary cooperation leading to a zone of monetary stability in Europe;

Whereas the said Resolution provides that a European currency unit, the ecu, shall be at the centre of the European Monetary System and that the value and composition of the ecu shall, initially, be identical with the value and composition of the European unit of account (EUA);

Whereas under the terms of the said Resolution

- each currency will have an ecu-related central rate and the central rates will be used to establish a grid of bilateral parities or central rates,
- fluctuation margins of 2.25 % will be fixed around these bilateral central rates, although Member States not at present participating in the narrower margins mechanism may in the initial stage of the European Monetary System opt for wider margins of up to 6 %, which must be progressively reduced as soon as economic conditions permit;

Whereas the said Resolution further provides that a formula for an ecu-based basket shall be used as an indicator to detect divergences between Community currencies, and sets out the principles governing the operation of this indicator, which will be re-examined at the end of a period of six months;

Whereas this re-examination will also cover questions regarding imbalances accumulated by divergent creditor or debtor countries;

Whereas a Member State that does not initially participate in the exchange rate mechanism can do so at a later date and whereas it is therefore advisable to ensure cooperation between the central bank of such a State and the central banks of the participating States;

¹ Text incorporating the amendments contained in the Instruments of 10 June 1985 and of 10 November 1987.

Whereas very short-term credit facilities of unlimited amount will be created;

Whereas the European Council has asked the central banks of the Member States of the Community to amend their Agreement of 10 April 1972 on the narrowing of the margins of fluctuation between the currencies of the Member States so as to embody the rules set forth in the said Resolution;

Whereas in order to make provision for means of settlement the central banks have been asked initially to transfer to the European Monetary Cooperation Fund, in the form of revolving swaps against ecus, 20% of their gold holdings and 20% of their US dollar reserves, and thereafter to keep at least 20% of the said reserves on deposit with the European Monetary Cooperation Fund,

HAVE AGREED AS FOLLOWS:

I. Exchange rate mechanism

Article 1 — Central rates in terms of the ecu

Each participating central bank shall notify the Secretariat of the Committee of Governors of the Central Banks of the Member States of the European Economic Community of a central rate in terms of the ecu for this currency. The Secretariat shall pass on this information to the other central banks and the Commission of the European Communities.

Article 2 — Intervention rules

2.1. Each participating central bank shall notify the Secretariat of the Committee of Governors of the rates for compulsory intervention expressed in its currency, and the Secretariat shall pass on this information to the other central banks. These rates shall be fixed in relation to the bilateral central rates derived from the central rates in terms of the ecu referred to in Article 1 of the present Agreement. The market shall be notified on them.

2.2. Interventions shall in principle be effected in currencies of the participating central banks. These interventions shall be unlimited at the compulsory intervention rates. Other interventions in the foreign exchange market shall be conducted in accordance with the relevant guidelines that were adopted by the Committee of Governors in its Report of 9 December 1975 or that may be adopted in the future, or shall be subject to concertation among all the participating central banks.

Article 3 — Operation of the indicator of divergence

3.1. On either side of the central rate for its currency in terms of the ecu each participating central bank shall establish rates for its currency in terms of the ecu that will constitute 'thresholds of divergence'. These thresholds of divergence shall be calculated in such a way as to neutralize the influence of the differences in weights on the probability of their being reached; they shall be set at 75% of the maximum divergence spread, this being measured by the percentage difference between the daily rate and the central rate of a currency against the ecu when that currency is standing at the opposite pole from all the other currencies at the compulsory intervention rates referred to in Article 2.1 of the present Agreement. The necessary steps shall be taken to take account of the effects of the adoption of different maximum margins of fluctuation for the participating currencies and of the possible non-participation of a currency in the exchange rate mechanism.

3.2. If a currency crosses a divergence threshold, this shall entail the consequences set out in paragraph 3.6 of the Resolution of the European Council of 5 December 1978.

Article 4 — Method of calculating the values of the ecu in each currency

For the purposes of the operation of the indicator of divergence provided for under Article 3 of the present Agreement, the market value of the ecu in each currency shall be calculated by a uniform method as frequently as necessary and at least on the occasion of each daily concertation session among central banks.

Article 5 — Non-participation

Any central bank that is not participating in the exchange rate mechanism shall cooperate with the other central banks in the concertation and the other exchanges of information necessary for the proper functioning of the exchange rate mechanism.

II. Very short-term financing

Article 6 — Basic principles

6.1. To enable interventions to be made in Community currencies, the participating central banks shall open for each other very short-term credit facilities in accordance with the conditions set out in Articles 7 to 16 of the present Agreement. These facilities are automatically available and unlimited in amount insofar as they are to be used for financing interventions in Community currencies which are effected at the compulsory intervention rates referred to in Article 2.1 of the present Agreement. Use of the credit facilities for other interventions in Community currencies is governed by special arrangements between the parties to the present Agreement.

6.2. The financing operations concluded in this connection shall take the form of spot sales and purchases of Community currencies against the crediting or debiting of accounts denominated in ecus with the European Monetary Cooperation Fund (hereinafter referred to as 'EMCF').

Article 7 — Accounting procedures

7.1. The accounts opened for the central banks in the books of the EMCF shall be denominated in ecus. The conversion of currencies into ecus shall be effected at the daily rates for the ecu as established by the Commission's staff on the basis of the method adopted. The relevant rates shall be those ruling on the day on which the interventions were made.

7.2. The value date of the financing operations shall be identical with the value date of the interventions in the market.

Article 8 — Remuneration

8.1. The debtor and creditor interest rates applying to very short-term financing operations shall be the weighted average of the most representative domestic money-market rates in those EEC countries whose currencies make up the ecu basket. The average is weighted in accordance with the weights of these currencies in the ecu basket as derived from the ruling ecu central rates. The weighted average shall be calculated on the basis of the average of daily observations during each month and shall apply during the following month to all outstanding amounts in respect of very short-term financing operations.

8.2. Accrued interest shall be paid in ecus at each monthly settlement date or, between settlement dates, at the same time as advance liquidation of a debtor balance is effected.

8.3. For the purposes of Article 8.1 each central bank whose currency is in the ecu basket shall notify the Secretariat of the Committee of Governors of the Central Banks of the Member States of the European Economic Community of the title of its reference rate. The Secretariat shall pass on this information to the other central banks, the Commission of the European Communities and the Agent of the European Monetary Cooperation Fund.

Article 9 — Initial settlement date

The initial settlement date for a very short-term financing operation shall be the last working day preceding the 16th day of the third month following that in which the value date of the intervention fell.

Article 10 — Automatic renewal

At the request of the debtor central bank, the initial settlement date for a financing operation may be extended for a period of three months.

However:

- (a) any initial settlement date may only be automatically extended once for a maximum of three months;
- (b) recourse may only be had to the renewal facility referred to above if the relevant debt does not thereby remain continuously outstanding for more than six consecutive months;
- (c) the total amount of indebtedness resulting from application of the present Article may at no time exceed a ceiling equal to twice the debtor quota of the central bank concerned under the short-term monetary support arrangement;
- (d) if a central bank has recourse to the additional automatic borrowing facility for six consecutive months, the Committee of Governors shall take steps to ascertain whether the payments deficit of the country concerned is such that recourse to other means of financing, in particular short-term monetary support or medium-term financial assistance within the EEC, would be more appropriate.

Article 11 — Renewal by mutual agreement

11.1. Any debt exceeding the ceiling laid down in Article 10 (c) of this Agreement may be renewed once for three months subject to the agreement of the creditor or creditors in the EMCF.

11.2. Any debt already renewed automatically for three months may be renewed a second time for a further three months subject to the agreement of the creditor or creditors in the EMCF.

11.3. Debts and claims thus extended by mutual agreement shall be settled separately outside the provisions of Articles 12, 13 and 14 of this Agreement without prejudice, however, to the priority accorded to settlements carried out under those Articles. Offsetting or advance settlement of debts and claims of the kind for which provision is made in the present Article shall be subject to the agreement of all creditors and debtors in the EMCF, whatever their status.

Article 12 — Order of repayment of claims

12.1. Claims arising from financing operations carried out in accordance with Articles 9 and 10 above shall be settled in order of seniority; however, if a central bank's claim exceeds the amount of its creditor quota under the short-term monetary support arrangement, that central bank may request that the excess be treated for purposes of the next settlement as equal in seniority to the most senior claims of other creditor central banks.

12.2. All claims arising within the same monthly accounting period shall be regarded as of equal seniority. When a settlement covers a number of claims regarded as of equal seniority, each of the components of the settlement shall be distributed in proportion to the respective amounts of the claims.

12.3. The rules governing the order or distribution of settlements may be departed from subject to the agreement of all the parties to the financing operations carried out in accordance with Articles 9 and 10 of the present Agreement.

Article 13 — Automatic offsetting

13.1. All the debts and claims of a single central bank arising from the operations provided for under Articles 9 and 10 of the present Agreement shall, where appropriate, be automatically offset against each other.

13.2. Any new liability shall be offset against the most senior claim of the same central bank. Any new claim shall be offset against the most senior debt of the same central bank.

Article 14 — Advance repayment

14.1. Any debtor balance recorded in accordance with Articles 9 and 10 of the present Agreement may be settled in advance at the request of the debtor central bank;

— at any time in the currency of a creditor in the EMCF under Articles 9 and 10 of the present Agreement,

— on the monthly settlement date by transfer of the means of settlement provided for in Article 16 of the present Agreement.

14.2. Any advance repayment shall be applied first to the most senior liabilities contracted under Article 10 of the present Agreement.

Article 15 — Working balances

The central banks may hold working balances in Community currencies within the limits laid down by the Committee of Governors. These limits may be exceeded only with the consent of the central bank concerned.

Article 16 — Means of settlement

16.1. When a financing operation falls due, settlement shall be carried out — in so far as this is not done in the first instance by means of holdings in the creditor's currency — entirely or in part by transferring ecus, with the proviso that:

— a creditor central bank shall not be obliged to accept settlement by means of ecus of an amount equal to more than 50% of its claim which is being settled, unless its assets in ecus are smaller than its forward sales of ecus to the EMCF;

— if, but only to the extent that, a creditor central bank's assets in ecus are smaller than its forward sales of ecus to the EMCF, it shall be obliged to accept full settlement in ecus; if the claim of the central bank in question exceeds the amount of its net debtor position in ecus, the rule set out in the above indent shall be applied to the balance of the claim.

Ecu assets referred to above include forward purchases of ecus from the EMCF.

In so far as settlement is only partially effected by transferring ecus, the balance shall be settled by transferring other reserve assets in accordance with the composition of the debtor central bank's reserves as at the end of the month preceding the settlement.

These provisions shall be without prejudice to other forms of settlement agreed between creditor and debtor central banks.

Debtor balances in ecus settled by means of assets denominated in currencies and in SDRs shall be converted into such assets on the basis of the daily rates for the ecu established by the Commission's staff.

16.2. For the purposes of the preceding paragraph the composition of the debtor's reserves shall be determined on the basis of assets denominated in SDRs and in currencies. Nevertheless, gold holdings may also be taken into account if the price proposed by the debtor central bank is accepted by the creditor central bank. As far as assets denominated in SDRs and in currencies are concerned, the debtor central bank may choose which assets it will deliver in settlement.

16.3. If the debtor central bank no longer possesses ecus and wishes to acquire some, it shall apply in the first instance to central banks that are net accumulators of ecus or possibly to the EMCF. In the latter case, the ecus shall be acquired against the contribution of an equal percentage of the gold and dollar assets held by that central bank.

III. Creation, utilization and remuneration of ecus

Article 17 — Creation of ecus against contributions of gold and dollars

17.1. Each central bank participating in the exchange rate mechanism outlined in Chapter 1 of the present Agreement shall contribute to the EMCF 20% of its gold holdings and 20% of its gross dollar reserves as at the last working day of the month preceding the month in which the present Agreement takes effect; it shall be credited by the EMCF with an amount of ecus corresponding to these contributions.

Central banks that are not participating in the exchange rate mechanism referred to above may likewise make contributions in accordance with the terms of the preceding subparagraph.

17.2. The contributions referred to in Article 17.1 of the present Agreement shall be made available in the case of the participating central banks 10 working days at the latest after the implementation of the present Agreement or in the case of the non-participating central banks at the time of exercising the option referred to above.

17.3. The contributions of gold and dollars shall take the form of three-month revolving swaps against ecus which may be unwound at two working days' notice. These operations shall be concluded at flat rates.

17.4. For the purposes of the swap operations referred to in the present Article the value of the reserve components transferred to the EMCF shall be established as follows:

- for the gold portion, the average of the prices, converted into ecus, recorded daily at the two London fixings during the previous six calendar months, but not exceeding the average price of the two fixings on the penultimate working day of the period;
- for the dollar portion, the market rate two working days prior to the value date.

17.5. Contracts shall be concluded between each central bank and the EMCF detailing the arrangements for the delivery of the gold and dollars to the EMCF and for their management in so far as this is entrusted to the central banks.

17.6. At the beginning of each quarter, when the swaps referred to in the present Article are renewed, the central banks and the EMCF shall make the necessary adjustments to these swaps, firstly to ensure that each central bank's contribution to the EMCF continues to represent at least 20% of its gold and dollar reserves on the basis of its gross reserve position recorded on the last working day of the preceding quarter and, secondly, to take account of any price or rate changes that may have occurred since the initial contribution or previous adjustment.

Article 18 — Utilization of ecus

18.1. Ecu assets shall be used in intra-Community settlements within the limits and on the terms set out in Article 16 of the present Agreement.

18.2. The EEC central banks may transfer ecus to one another against currencies, gold and other monetary assets. They may also exchange ecus with other central banks and international monetary institutions which have been accorded the status of Other Holder by the EMCF on the terms and conditions it has established.

18.3. For the purposes of meeting a decline in its dollar reserves a central bank may acquire dollars against ecus from the EMCF between two periodic adjustments, initially by unwinding a swap transaction.

18.4. The operations referred to in Articles 18.2 and 18.3 of the present Agreement shall not be carried out for the sole purpose of altering the composition of a central bank's reserves.

Article 18a — Mobilization mechanism

18a.1. In the event of a need for intervention currency a central bank may mobilize ecu holdings against dollars through the intermediary of the EMCF up to a ceiling which is defined in the following way:

- a proportion of the ecus received by the central bank concerned through the operations referred to in Article 17.1 of the present Agreement. This proportion shall be determined at the beginning of each swap period by the ratio of the ecu equivalent of the EMCF's total dollar holdings to the total amount of ecus created by the EMCF under Article 17.1 of the present Agreement, multiplied by a factor which shall be agreed unanimously by the governors of the central banks;
- plus the amount of ecu assets held by the central bank in excess of its forward sales of ecus to the EMCF (net creditor position), or minus the amount by which its forward sales of ecus to the EMCF exceed its ecu assets (net debtor position). Ecu assets referred to above include forward purchases of ecus from the EMCF.

At least four working days' notice shall be given by the mobilizing central bank.

18a.2. To cover the mobilization operations referred to in the preceding paragraph, each central bank other than the mobilizing central bank undertakes to provide spot dollars in proportion to and up to an amount equivalent to its forward purchases of dollars from the EMCF in accordance with

Article 17 of the present Agreement, minus any amount which may have been withdrawn in accordance with Article 18a.3. In exceptional circumstances, a central bank may opt out entirely or in part from participation in the initial mobilization operation (see Article 18a.1) or its renewal (see Article 18a.5). In such an event the uncovered amount shall be shared out in proportion to the undertakings of the other central banks. To the extent that a mobilization request cannot be met out of the commitments of the other central banks, it shall be automatically scaled down by the necessary amount.

18a.3. At the request of the mobilizing central bank and through the intermediary of the EMCF, the proceeds of the mobilization operations referred to above may be converted immediately fully or in part into the currency of a participating central bank, subject to its agreement. In this event, the conversion request will be met by the central bank issuing the currency requested, together with any other central bank making voluntary contributions.

18a.4. All the operations with the EMCF referred to in the preceding paragraphs shall take the form of three-month swaps which shall be concluded at flat rates. The rate applicable is the market rate two working days prior to the value of the spot transactions.

18a.5. In the event of continuing need for intervention currency the swaps referred to above may be renewed once at the request of the mobilizing central bank. In this event, the EMCF and the central banks shall make the necessary adjustments:

- first, to ensure that a central bank's use of the mobilization mechanism does not exceed the ceiling referred to in Article 18a.1;
- secondly, to ensure that the dollar contributions made by the central banks in respect of Article 18a.2 are in proportion to and within the commitments defined there;
- thirdly, to take account of exchange rate changes that may have occurred since the beginning of the swap to be renewed.

18a.6. At the request of the mobilizing central bank the swap may be unwound fully or in part before maturity with at least three working days' notice.

18a.7. Central banks receiving assets from the EMCF shall pay interests on these assets. Central banks which have provided currency assets to the EMCF shall receive interest on these assets. The rate of interest shall be the most representative domestic money-market rate in the country whose currency has been used, two working days prior to the value date of the spot transaction, i.e. in the case of the US dollar, the rate used by the IMF for the calculation of SDR remuneration and in the case of Community currencies, the rates provided by Article 8.1 of the present Agreement. Interest payments shall be due at maturity of the swaps or when the swaps are unwound prematurely and shall be payable in the currency used.

Article 19 — Remuneration

19.1. Central banks whose ecu assets are less than their forward sales of ecus shall pay interest to the EMCF on the difference between these two aggregates. The EMCF shall pay central banks whose ecu assets exceed their forward sales interest on the difference between these two aggregates. The amount of interest due shall be calculated in proportion to the average daily balances.

19.2. The rate of interest provided for in Article 19.1 of the present Agreement shall be determined in accordance with the provisions of Article 8 of the present Agreement. Such interest shall be paid monthly.

19.3. Ecu assets referred to in Article 19.1 include forward purchases of ecus from the EMCF.

19.4. Articles 19.1 and 19.2 apply by analogy to remuneration of ecu assets held with the EMCF by Other Holders referred to in Article 18.2 of the present Agreement.

Article 20 — Liquidation

20.1. Save in the event of a unanimous decision to the contrary, the swaps referred to in Articles 17.3 and 18a.4 of the present Agreement shall be unwound at the end of the period for which the Governors of the central banks extend the mechanism provided for in Article 17 of the present Agreement.

20.2. For this purpose central banks that are net users of ecu assets shall bring these back up to a level equal to that of their forward sales and central banks that are net accumulators shall transfer to the net users the excess of their ecu assets over their forward sales either directly or through the intermediary of the EMCF.

20.3. The transfers of ecus provided for in the preceding paragraph shall be effected in exchange for the currency of the central banks that are net accumulators, or in accordance with any other arrangements agreed between the parties, or against the transfer of reserve components in proportion to the composition of the reserves of the central bank repurchasing ecus, this composition being determined in accordance with the provisions of Article 16.2 of the present Agreement.

Article 21 — Institutional provisions

The Committee of Governors shall periodically review the operation of the present Agreement in the light of experience gained.

Article 22 — Termination of the Agreement of 10 April 1972

22.1 The present Agreement terminates and replaces, with effect from 13 March 1979, the Agreement of 10 April 1972, as amended by the Agreement of 8 July 1975, establishing a system for the narrowing of the margins of fluctuation between the currencies of the European Economic Community.

22.2. The present Agreement shall be drawn up in duly signed versions in English, French and German. A certified copy of the original in each language shall be sent to each central bank by the Secretariat of the Committee of Governors, which is required to retain the originals.

B. Support mechanisms

SHORT-TERM MONETARY SUPPORT¹

Having regard to the Commission's Memorandum to the Council on the coordination of economic policies and monetary cooperation within the Community,

Having regard to the letter of 10 July 1969 from the Chairman of the Committee of Governors to the President of the Commission setting out the Committee's opinion on the abovementioned Memorandum,

Having regard to the Council's Decision of 17 July 1969 on the coordination of the short-term economic policies of the Member States,

Having regard to the procedure for the coordination of medium-term economic policies,

THE CENTRAL BANKS OF THE MEMBER STATES OF THE EUROPEAN ECONOMIC COMMUNITY HAVE AGREED ON THE FOLLOWING PROVISIONS:

Article I — Setting up of the system

1. The central banks of the EEC Member States, noting the increasing solidarity among their countries, shall set up among themselves a short-term monetary support system of first resort.
2. Implementation of this system shall be closely linked with the standing arrangements for consultation on and coordination of economic policy among the Member States of the Community.
3. The possibilities offered by other international assistance mechanisms shall be taken into consideration when use is made of the system.
4. The way in which the system will function is determined by this Agreement.

The decisions necessary for its implementation shall be taken jointly by the governors of the participating central banks assembled in the Committee of Governors of the Central Banks of the Member States of the European Economic Community, hereinafter referred to as 'the Governors'. The Chairman of the Committee of Governors of the Central Banks of the Member States of the European Economic Community, hereinafter referred to as 'the Chairman', shall preside. The Commission representative on that Committee will hereinafter be referred to as 'the Commission representative'.

¹ Agreement of 9 February 1970 incorporating the amendments contained in the Instrument of 8 January 1973 relating to the accession of the central banks of Denmark, Ireland and the United Kingdom, the Instruments relating to short-term monetary support dated 12 March 1974, 13 December 1977 and 13 March 1979 respectively, the Instrument of 9 December 1980 relating to the accession of the central bank of Greece and the Instrument of 10 December 1985 relating to the accession of the central banks of Spain and Portugal.

5. For the implementation of this Agreement the Governors shall employ an agent and delegate to it such tasks as they may determine in accordance with arrangements to be concluded with it.

Article II — Quotas and rallonges

1. Each participating central bank shall be assigned a debtor quota and a creditor quota, the respective amounts of which are laid down in Annex 1 to this Agreement.
2. The debtor quotas shall determine the amount of support which each central bank may receive under the terms laid down in this Agreement; the creditor quotas shall determine the amount of support which each central bank undertakes to finance under these same terms.
3. The Governors may alter the quotas. Every five years they shall examine whether the quotas should be revised. They may, however, conduct such an examination before the expiry of this period.
4. In particular cases where this is justified by circumstances, and notwithstanding Section 2, the Governors may decide for an amount, for a period and on conditions to be determined by them:
 - (a) to increase over and above its quota the amount of support which a central bank may receive ('debtor rallonge'); or
 - (b) to increase over and above its quota the amount of support which a central bank undertakes to finance ('creditor rallonge').

The total of the creditor rallonges and likewise that of the debtor rallonges thus granted may not exceed the amount specified in Annex 1.

When assessing the circumstances justifying the granting of rallonges the Governors shall take particular account of the trend of the balance of payments and the foreign exchange reserve position of the Member State to which each central bank concerned belongs, as well as of the other facilities available to them under other international arrangements. As a general rule, no central bank may be granted more than one-half of the total of the debtor rallonges, but the Governors may waive this limit if the special situation and the particular needs of the applicant warrant it.

Article III — Application for support

1. A participating central bank that wishes to use the monetary support facilities provided for in this Agreement shall inform the Chairman that the need has arisen for short-term financing in consequence of a temporary balance-of-payments deficit which is due to unforeseen difficulties or to conjunctural divergences and which has emerged despite the coordination of economic policies. It shall notify him of the amount of support desired, giving particulars of any other sources of financing it might consider turning to in order to overcome the difficulties encountered.
2. No application for support may be made by a central bank which is indebted to the system in consequence of failure to fulfil its repayment obligations.

Unless the Governors decide otherwise, no application for support will be entertained in the case referred to in Article VI, Section 3.

Article IV — Granting and financing of support

1. The Chairman shall inform the participating central banks and the Commission representative of any application for support lodged in accordance with Article III.

The Chairman shall call a meeting of the Governors on his own initiative or when a central bank so requests.

2. The monetary support shall be financed by each participating central bank other than the beneficiary central bank proportionately to and within the limits of its quota.
3. The Governors may decide to apportion the financing burden in a proportion different from that of the quotas; in that event, the contributions determined in accordance with Section 2 of this Article shall be appropriately refinanced among the central banks participating in the financing, unless the Governors decide otherwise.
4. A central bank which during the consultations following an application for support informs the Chairman that its country is experiencing balance-of-payments difficulties and/or a disturbing decline in its foreign exchange reserves shall be entitled to receive from the other participating central banks, in principle in proportion to their quotas, the partial or total refinancing of its contribution to the financing of the support.
5. When the monetary support applied for cannot be financed out of the quotas the Governors may decide, to such extent as they consider most appropriate and with due regard to the scope for tapping other international assistance facilities, to establish one or more creditor rallonges in accordance with the provisions of Article II of this Agreement or, failing this, to scale down the amount of support applied for by the necessary amount.
6. After consulting the participating central banks, the Chairman shall inform the central banks and the Commission representative of the granting of the support, its amount and its apportionment, and the timing of the provision of the funds.

Article V — Mobilization of the claim

Any central bank that is a creditor in connection with this Agreement may, if the Member State to which it belongs experiences balance-of-payments difficulties and/or suffers a sudden decline in its foreign exchange reserves, apply to the Governors for the premature repayment or the transfer of its claim. For this purpose the Governors shall take such steps as they consider appropriate.

Article VI — Technique of the operations

1. The beneficiary central bank shall receive from its partners, direct or through the Agent, facilities in the form of swaps or deposits or in any other form agreed between the parties.

At the request of the participating central banks the Agent may advance for their account all or part of the contributions due from them.

2. If the facilities made available under the terms of the Article are not utilized within one month they shall be cancelled. Utilization shall be for a period of three months and may be renewed twice for a period of three months at the request of the beneficiary central bank.
3. The beneficiary central bank shall refrain from making a further application for monetary support for a period equal to that for which the previous support was utilized.
4. The support facilities shall be expressed in the currency actually supplied by the granting central bank; this can be its national currency or any other means of payment agreed with the beneficiary central bank. They shall be denominated in ecus if the support is granted to a central bank in the form of a prolongation of a debt contracted by that central bank in the framework of the very short-term financing facilities, as defined by Article 6 of the Agreement of 13 March 1979 between the central banks of the Member States of the European Economic Community laying down the operating procedures for the European Monetary System.

5. The charges to the debtor central bank for the support facilities shall be worked out in accordance with the rules laid down by the Governors.
6. The Governors shall take such steps as they consider appropriate in order to standardize as far as possible the conditions governing support operations.
7. The arrangements for each support operation shall be communicated to the Agent.

Article VII — Coordination of economic policies

1. The central banks agree that on each occasion when monetary support is granted the Committee of Governors shall undertake an examination of the monetary situation and of the monetary policy of the beneficiary country.
2. The Governors shall be regularly informed of the course of the Community procedures as regards coordination of short and medium-term economic policies.

Article VIII — Duration

This Agreement shall run for five years. It shall be tacitly extended for five years at a time, unless six months' prior notice is given.

Article IX — Winding up of the system

In the event of the support system being wound up, this Agreement shall remain in force as regards the repayment of the credits granted in accordance with Article IV.

ANNEX

QUOTAS AND RALLONGES IN ECUS¹1. *Quotas*

(a) 'Debtor quotas' and percentage distribution

Central banks	million ecu	%
Banque nationale de Belgique	580	6.50
Danmarks Nationalbank	260	2.91
Deutsche Bundesbank	1 740	19.51
Bank of Greece	150	1.68
Banco de España	725	8.13
Banque de France	1 740	19.51
Central Bank of Ireland	100	1.12
Banca d'Italia	1 160	13.00
Nederlandsche Bank	580	6.50
Banco de Portugal	145	1.63
Bank of England	1 740	19.51
Total EEC	8 920	100.00

(b) 'Creditor quotas' and percentage distribution

Central banks	million ecu	%
Banque nationale de Belgique	1 160	6.50
Danmarks Nationalbank	520	2.91
Deutsche Bundesbank	3 480	19.51
Bank of Greece	300	1.68
Banco de España	1 450	8.13
Banque de France	3 480	19.51
Central Bank of Ireland	200	1.12
Banca d'Italia	2 320	13.00
Nederlandsche Bank	1 160	6.50
Banco de Portugal	290	1.63
Bank of England	3 480	19.51
Total EEC	17 840	100.00

2. *Rallonges*

The total of creditor rallonges, and that of debtor rallonges, may not exceed ecu 8 800 million.

¹ The composition of the ecu is defined by Council Regulation (EEC) No 2626/84 of 15 September 1984 amending Article 1 of Council Regulation (EEC) No 3180/78 of 18 December 1978 changing the composition of the unit of account used by the European Monetary Cooperation Fund.

MEDIUM-TERM FINANCIAL SUPPORT¹

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 108 and 235 thereof,

Having regard to the proposal from the Commission, submitted following consultation with the Monetary Committee,

Having regard to the opinion of the European Parliament,

Whereas Article 108 of the Treaty provides for the granting of mutual assistance, to be decided by the Council on a recommendation from the Commission, to a Member State in difficulties or seriously threatened with difficulties as regards its balance of payments; whereas the resolution of the European Council of 5 December 1978 on the establishment of the European Monetary System (EMS) and related matters confirmed the need for a Community facility for medium-term financial assistance for balances of payments;

Whereas it should be possible for the operation of lending to a Member State to take place soon enough to encourage that Member State to adopt, in good time in a situation where orderly exchange rate conditions prevail, economic policy measures likely to prevent the occurrence of an acute balance-of-payments crisis and to support its efforts towards convergence;

Whereas each loan to a Member State must be linked to the adoption, by that Member State, of economic policy measures designed to re-establish or to ensure a sustainable balance-of-payments situation and adapted to the gravity of the balance-of-payments situation in that State and to the way in which it develops;

Whereas appropriate procedures and instruments should be provided for in advance to enable the Community and Member States to ensure that, if required, medium-term financial support is provided quickly, especially where circumstances call for immediate action;

Whereas, in order to finance support granted, the Community needs to be able to use its creditworthiness to borrow resources that will be placed at the disposal of the Member States concerned in the form of loans; whereas operations of this kind are necessary to the achievement of the objectives of the Community as defined in the Treaty, especially the harmonious development of economic activities in the Community as a whole; whereas the Treaty has not provided the necessary powers, other than those of Article 235;

Whereas by Decision 71/143/EEC, at last amended by Decision 86/656/EEC, the Council set up machinery for providing medium-term financial assistance which was initially valid for a period of four years from 1 January 1972; whereas this machinery has since been renewed and extended, on the

¹ Council Regulation (EEC) No 1969/88 of 24 June 1988 establishing a single facility providing medium-term financial assistance for Member States' balances of payments.

last occasion for two years until 31 December 1988 by Decision 86/656/EEC; whereas this machinery provides for the Member States to grant medium-term loans, within certain limits, to one or more Member States experiencing balance-of-payments difficulties;

Whereas, by Regulation (EEC) No 682/81, as amended by Regulation (EEC) No 1131/85, the Council adjusted a Community loan mechanism designed to support the balances of payments of the Member States; whereas this mechanism provides for the Community to contract loans, according to needs and within the limits set on outstanding borrowing, in order to on-lend the proceeds to one or more Member States experiencing balance-of-payments difficulties;

Whereas the Community loan mechanism has demonstrated its effectiveness; whereas its general design and the arrangements for implementing it still meet the needs of the Community; whereas, in view of the Community's borrowing capacity and of the conditions available to it for borrowing from financial institutions or on capital markets, the mechanism could constitute the main form of mutual assistance provided for under Article 108 of the Treaty; whereas the ceiling on amounts outstanding under the mechanism should be adjusted accordingly;

Whereas, however, it is appropriate that the financing obligations on Member States under the machinery for medium-term financial assistance remain in force until the final stage of the European Monetary System so as to ensure that system's cohesion and stability, irrespective of the conditions prevailing on international capital markets; whereas the present procedures for exempting a Member State from contributing or for mobilizing Member States' claims should, nevertheless, be simplified;

Whereas it is appropriate to merge medium-term financial assistance and the Community loan mechanism into a single facility for medium-term financial support,

HAS ADOPTED THIS REGULATION:

Article 1

1. A Community facility providing medium-term financial support shall be established, enabling loans to be granted to one or more Member States which are experiencing, or are seriously threatened with, difficulties in their balance of current payments of capital movements.

The outstanding amount of loans to be granted to Member States under this facility shall be limited to ecu 16 000 million in principal.

2. To this end, in accordance with a decision adopted by the Council pursuant to Article 3 and after consulting the Monetary Committee, the Commission shall be empowered, on behalf of the European Economic Community, to contract loans on the capital markets or with financial institutions.

The outstanding amount of loans so granted to Member States shall be limited to ecu 14 000 million in principal.

3. If conditions available on capital markets or with financial institutions are unsatisfactory or if the amount available under the ceiling referred to in paragraph 2 is insufficient, Community loans shall be financed in full or in part by the other Member States whose contributions in principal may not exceed the ceilings specified in the Annex.

Article 2

Where a Member State proposes to call upon sources of financing, outside the Community, which are subject to economic policy requirements, it shall first consult the Commission and the other Member

States in order to examine, among other things, the possibilities available under the Community facility for medium-term financial support. Such consultations shall be held within the Monetary Committee.

Article 3

1. The medium-term financial support facility may be implemented by the Council on the initiative:
 - of the Commission acting pursuant to Article 108 of the Treaty in agreement with the Member State seeking Community financing,
 - of a Member State experiencing, or seriously threatened with, difficulties as regards its balance of current payments or capital movements.
2. The Council, after examining the situation in the Member State seeking medium-term financial assistance and the recovery or back-up programme presented in support of its application, shall decide, as a rule during the same meeting:
 - whether to grant a loan or appropriate financing facility, its amount and its average duration,
 - the economic policy conditions attached to the medium-term financial assistance with a view to re-establishing or ensuring a sustainable balance-of-payments situation,
 - the techniques for disbursing the loan or financing facility, the release or drawings of which shall as a rule be by successive instalments, the liberalization of each instalment being subject to verification of the results achieved in implementing the programme, in terms of the objectives set.
3. Any full or partial financing of medium-term financial assistance by recourse to the Member States shall be decided on by the Council. In that event the Council, in addition to taking the decisions referred to in paragraph 2, shall decide on the size of the contributions of these States and on the financial conditions attaching to the credits they make available in that connection. The Council may exempt from contributing any Member State which maintains that difficulties exist or can be foreseen as regards its balance of payments.

Article 4

In cases where restrictions on capital movements are introduced or re-introduced pursuant to Article 109 of the Treaty during the term of the financial assistance, its conditions and arrangements shall be re-examined pursuant to Article 108 of the Treaty.

Article 5

The Commission shall take the necessary measures to verify at regular intervals, in collaboration with the Monetary Committee, that the economic policy of the Member State in receipt of a Community loan accords with the adjustment or back-up programme and with any other conditions laid down by the Council pursuant to Article 3. To this end, the Member State shall place all the necessary information at the disposal of the Commission. On the basis of the findings of such verification, the Commission, after the Monetary Committee has delivered an opinion, shall decide on the release of further instalments.

The Council shall decide on any adjustments to be made to the initial economic policy conditions.

Article 6

1. Loans granted as medium-term financial support may be granted as consolidation of short-term monetary support made available by the central banks of the Member States.
2. At the request of the beneficiary Member State, the loans referred to in paragraph 1 may carry the option of early repayment.

Article 7

1. The borrowing and lending operations referred to in Article 1 shall be carried out using the same value date and must not involve the Community in the transformation of maturities, in any exchange or interest-rate risk, or in any other commercial risk.

When the borrowings are expressed, payable or repayable in the currency of a Member State, they may be concluded only after consultation with the competent authorities of that State.

Where a Member State receives a loan carrying an early repayment clause and decides to exercise this option, the Commission shall take the necessary steps.

2. At the request of the debtor Member State and where circumstances permit an improvement in the interest rate on the loans, the Commission may refinance all or part of its initial borrowings or restructure the corresponding financial conditions.

Refinancing or restructuring operations shall be carried out in accordance with the conditions set out in paragraph 1 and shall not have the effect of extending the average duration of the borrowing concerned or increasing the amount, expressed at the current exchange rate, of capital outstanding at the date of the refinancing or restructuring.

3. The costs incurred by the Community in concluding and carrying out each operation shall be done by the beneficiary Member State.
4. The Monetary Committee shall be kept informed of developments in the operations referred to in the third subparagraph of paragraph 1 and the first subparagraph of paragraph 2.

Article 8

1. If one or more Member States that are creditors under the facility referred to in Article 1 experience difficulties as regards their balance of payments and/or a sudden decline in their foreign currency reserves, they may request mobilization of their claims. The Council, having due regard to the circumstances, shall decide to mobilize such claims, in particular in accordance with one of the following procedures, or a suitable combination thereof:

- by refinancing from Community borrowings from financial institutions or on capital markets under the conditions laid down in Article 7,
- by a transfer of the claim to other creditor Member States,
- by early repayment in full or in part by the debtor Member State or States.

2. Where refinancing takes place in accordance with paragraph 1, the debtor Member State shall agree that its debt, originally denominated in one currency, shall be replaced by a debt denominated in the currency used for the refinancing. Where applicable, the debtor Member State shall bear any additional cost resulting from an alteration in the interest rate and the costs incurred by the Community in concluding and carrying out the operation.

3. Any creditor Member State may arrange with one or more other Member States for the partial or total transfer of its claims. Member States concerned shall notify the Commission and Monetary Committee of the transfer.

4. Any Member State that is a creditor in respect of a loan carrying an early repayment clause shall take the requisite steps where the debtor Member State decides to invoke this option. The Member States concerned shall notify the Commission and the Monetary Committee of the operation.

Article 9

For the application of the ceilings referred to in Article 1, the loan operations shall be recorded at the exchange rate of the day on which they are concluded. The repayment operations shall be recorded at the exchange rate of the day on which the corresponding loan was concluded.

Article 10

The Council shall adopt the decisions referred to in Articles 3, 5 and 8, acting by qualified majority on a proposal from the Commission, made after consulting the Monetary Committee on the matter.

Article 11

The European Monetary Cooperation Fund shall make the necessary arrangements for the administration of the loans.

The funds shall be paid only for the purposes indicated in Article 1.

Article 12

Before 31 December 1992, the Council shall examine, on the basis of a report from the Commission, after the Monetary Committee has delivered an opinion and after consulting the European Parliament, whether the facility established still meets, in its principle, arrangements and ceiling, the need which led to its creation.

Article 13

1. Regulation (EEC) No 682/81 and Decision 71/143/EEC are hereby repealed.
2. Amounts not yet repaid under outstanding Community loan operations concluded pursuant to Regulation (EEC) No 682/81 before the date of entry into force of this Regulation shall count against the ceiling referred to in Article 1 (2) at their initial value in ecus.
3. References to the instruments repealed by virtue of paragraph 1 shall be deemed to be references to this Regulation.

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

Done at Luxembourg, 24 June 1988.

For the Council
The President
M. BANGEMANN

ANNEX

The ceilings for outstanding loans provided for in Article 1 (3) shall be as follows:

Member State	million ecu	% total
Belgium	875	6.28
Denmark	407	2.92
FR of Germany	2 715	19.50
Greece	235	1.69
Spain	1 132	8.13
France	2 715	19.50
Ireland	158	1.13
Italy	1 810	13.00
Luxembourg	31	0.22
The Netherlands	905	6.50
Portugal	227	1.63
United Kingdom	2 715	19.50
Total	13 925	100.00

C. EMCF

COUNCIL REGULATION (EEC) No 907/73

of 3 April 1973

establishing a European Monetary Cooperation Fund

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament,

Having regard to the Opinion of the Economic and Social Committee,

Whereas the Resolution of the Council and of the Representatives of the Governments of the Member States of 22 March 1971 on the progressive establishment of economic and monetary union in the Community provided for the establishment of a European Monetary Cooperation Fund to be integrated at a later stage into a Community organization of central banks;

Whereas the Heads of State or Government meeting in Paris on 19 and 20 October 1972 envisaged that the Fund should be established before 1 April 1973;

Whereas the Council has been informed of the Opinions requested on this subject, in the Resolution of the Council and of the Representatives of the Member States of 21 March 1972, from the Monetary Committee and from the Committee of Governors of the Central Banks;

Whereas the purpose of the Fund must be to contribute to the progressive establishment of an Economic and Monetary Union between the Member States of the European Economic Community, which, in its final stage as regards its monetary aspects will have the following characteristics:

- (i) either the total and irreversible convertibility, at irrevocable parities, of Community currencies against each other,
- (ii) or the introduction of a common currency;

Whereas it is necessary to confer immediately on the Fund the responsibility for facilitating both the concertation necessary for the smooth operation of the exchange arrangements introduced in the Community and the settlement of the position resulting from intervention in Community currencies, for assuring thereby the multilateralization of intra-Community settlements, and for administering a financing mechanism which combines the mechanism for short-term monetary support contained in the Agreement of 9 February 1970 between the central banks of the Community with the mechanism for very short-term financing which was contained in the Agreement of 10 April 1972 between those same central banks;

Whereas the conferment of these responsibilities constitutes merely a first stage in the progressive development of the Fund; whereas it is therefore important that the Statutes of the Fund should be drawn up in such a way as to permit the scope of its activities to be gradually extended;

Whereas it is necessary to establish the Fund if Community objectives are to be attained, in particular as regards the progressive harmonization of the Member States' economic policies, the proper functioning of the common market and the establishment of economic and monetary union; whereas the Treaty made no provision for the powers essential to the establishment of the Fund;

Whereas it is appropriate to specify that the general provisions of the Treaties concerning the European Communities as regards privileges and immunities, non-contractual liability and the obligation of professional secrecy are applicable to the Fund,

HAS ADOPTED THIS REGULATION:

Article 1

A European Monetary Cooperation Fund, hereinafter referred to as 'the Fund', is hereby established; it shall have legal personality.

Article 2

Within the limits of its powers the Fund shall promote:

- (i) the proper functioning of the progressive narrowing of the margins of fluctuation of the Community currencies against each other;
- (ii) interventions in Community currencies on the exchange markets;
- (iii) settlements between central banks leading to a concerted policy on reserves.

Article 3

In the first stage of its function the Fund shall be responsible for:

- (i) the concerted action necessary for the proper functioning of the Community exchange system;
- (ii) the multilateralization of positions resulting from interventions by central banks in Community currencies and the multilateralization of intra-Community settlements;
- (iii) the administration of the very short-term financing provided for by the Agreement between the central banks of the enlarged Community of 10 April 1972 and of the short-term monetary support provided for in the Agreement between the central banks of the Community of 9 February 1970, to which the central banks of Denmark, Ireland and the United Kingdom acceded with effect from 8 January 1973, and the regroupment of these mechanisms in a renewed mechanism.

Article 4

The provisions contained in the Agreements referred to in the third indent of Article 3 shall become the administrative rules of the Fund. The necessary technical adaptation to those provisions shall be made by the Board of Governors of the Fund without however changing the basic nature of those provisions and in particular the consultation procedures contained therein.

Article 5

The Statutes of the Fund are set out in the Annex to this Regulation and form an integral part thereof.

Article 6

This Regulation shall enter into force on 6 April 1973.

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

Done at Luxembourg, 3 April 1973.

For the Council
The President
R. VAN ELSLANDE

ANNEX

STATUTES OF THE EUROPEAN MONETARY COOPERATION FUND

Article 1

The Fund shall be directed and managed by a Board of Governors. The members of the Board of Governors shall be the members of the Committee of Governors of the Central Banks of the Member States of the European Economic Community established by the Council Decision of 8 May 1964 on collaboration between the central banks of the Member States of the European Economic Community.

If unable to attend they may be represented by another member of the governing body of their central bank.

A member of the Luxembourg currency authorities shall sit on the Board of Governors. He shall take part in decisions whenever the rights and obligations of the Grand Duchy of Luxembourg are not exercised by the National Bank of Belgium on behalf of the two Member States of the Belgo-Luxembourg Economic Union.

A member of the Commission shall take part in the proceedings of the Board of Governors. He may appoint an alternate.

Article 2

The Board of Governors shall, in order to achieve the aims of the Fund, act in accordance with the general economic policy guidelines drawn up under the Treaty by the Council and in accordance with such directives as the Council may adopt acting unanimously on a proposal from the Commission.

On 30 June and 31 December of each year, the Board of Governors shall draw up a report on its activities for submission to the Council and the Commission.

Article 3

The Board of Governors shall represent the Fund. It shall decide on the organization of the Fund, the powers which will be delegated and who may commit the Fund *vis-à-vis* third parties.

The Board of Governors may delegate to an agent the responsibility for the execution of technical aspects of the Fund's operations.

Article 4

In the first stage of its functions, the expenditure incurred in the management of the Fund which is not covered by income shall where necessary be made up by contributions from the central bank in accordance with the scale of contributions for short-term monetary support.

Article 5

The Fund's operations in the currencies of the Member States shall be expressed in a European monetary unit of account of a value of 0.88867088 grammes of fine gold.

When all the Member States alter the parity or the central rate of their currency simultaneously in the same direction, the value of the unit of account shall be changed automatically;

- (i) where the parities change in the same proportion: in the same direction and by the same proportion as the changes in parities or in the central rates;
- (ii) where the parities change in different proportions: in the same direction as the change and in the same proportion as the smallest change in parity or central rate, unless the Council decides on a larger change. In such a case the Council shall act within three days from that of the official announcement by the first Member State to change the parity or central rate of its currency, and in accordance with the procedure laid down in the fourth paragraph of this Article.

Simultaneous changes mean changes in the parity or central rate of the currencies of the Member States made within the three-day period referred to above.

Any other changes in the value of the unit of account shall be decided on by the Council, acting unanimously on a proposal from the Commission after consulting the Monetary Committee and the Board of Governors of the Fund.

Article 6

In each of the Member States the Fund shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may in particular acquire or dispose of movable or immovable property, open accounts and conclude agreements with the central banks of the Member States of the Community, receive and grant credit, invest the funds for whose management it is responsible, recruit personnel and may be a party to legal proceedings.

Article 7

The Protocol on the Privileges and Immunities of the European Communities shall apply to the Fund, the Board of Governors and the personnel of the Fund.

Article 8

The obligation of professional secrecy contained in Article 214 of the Treaty shall apply to the members of the Board of Governors, the member of the Commission sitting on the Board and his alternate, and to any other person engaged in the activities of the Fund.

Article 9

In the case of non-contractual liability, the provisions of Article 215 of the Treaty shall apply to damage or loss caused by the Fund or by its servants in the performance of their duties.

Article 10

The Board of Governors shall adopt the rules of procedure of the Fund. These rules of procedure shall require the unanimous approval of the Council, given after consulting the Commission.

PROVISIONAL RULES OF PROCEDURE¹
OF THE EUROPEAN MONETARY COOPERATION FUND

I — Board of Governors

Article 1

The members of the Committee of Governors of the Central Banks of the Member States of the European Economic Community set up by the Council Decision of 8 May 1964 shall be members of the Boards of Governors. They may arrange to be accompanied or represented at meetings of the Board by another person belonging to their institutions, and in the event of being prevented from attending, arrange to be represented by another member of the policy board of their institution.

A representative of the Luxembourg monetary authorities or, if necessary, his alternate shall have a seat on the Board of Governors.

A member of the Commission of the European Communities shall take part in the proceedings of the Board of Governors. He may arrange to be accompanied or have his place taken by an alternate.

Persons on the Board of Governors or their representatives shall be entitled during meetings to have the assistance of experts of their institutions.

The Board of Governors may in addition, if it judges it necessary, invite qualified persons.

Article 2

Each member of the Board of Governors shall have one vote. In the event of his being prevented from attending, his vote shall automatically be delegated to the person representing him.

The representative of the Luxembourg monetary authorities shall take part in decisions whenever the rights and obligations of the Grand Duchy of Luxembourg are not exercised by the Banque Nationale de Belgique for account of the two States of the Belgo-Luxembourg Economic Union.

Decisions must be unanimous.

In emergencies, decisions may be taken by telephone or by letter. They shall then be recorded in the minutes of the next meeting of the Board of Governors.

Article 3

The chairmanship of the Board of Governors shall be held by the Chairman of the Committee of Governors.

¹ Text adopted by the Council of the European Communities and by the Board of Governors of the Fund on 28 June 1973.

If the Chairman of the Board of Governors is prevented from attending, the oldest member of the Board shall stand in for him.

Article 4

The Board of Governors shall meet at regular intervals and at least four times a year.

The Chairman shall, in addition, convene the Board of Governors:

- (i) at the request of a person of the Board and after consultation of the other members;
- (ii) when he considers that the situation makes this necessary.

The meeting of the Board shall be held, as a general rule, at the Fund's place of work. The Chairman may also call meetings of the Board elsewhere.

Article 5

The Chairman shall fix the time, place and agenda for each meeting.

Except in emergencies the notices convening them and the agenda must normally reach participants before the next meeting, when it will be approved.

Article 6

The proceedings of the Board of Governors and the documents submitted to it shall be confidential.

Article 7

Summary minutes shall be drawn up at each meeting. They shall be sent and submitted to the participants, as a general rule, before the following meeting, when they shall be approved. The approved minutes shall be authenticated by the signature of the Chairman.

Article 8

The Board of Governors shall secure the services of a secretariat which must in particular:

- (i) assist the Chairman in preparing meetings of the Board of Governors and, *inter alia*, draw up the draft agenda and circulate the necessary documents as quickly as possible;
- (ii) attend the meetings and draw up the minutes thereof;
- (iii) ensure the execution of the work entrusted by the Board of Governors;
- (iv) ensure liaison with the other institutions or divisions of the European Communities.

II — Organization of the services performed by the European Monetary Cooperation Fund

Article 9

The Board of Governors shall determine the organization and administration necessary for the Fund's operations and development, as well as the procedures for auditing the accounts.

Article 10

The terms for recruitment of the Fund's staff shall be laid down later on by the Board of Governors in line with the development of the Fund's activities; they shall form an integral part of the Rules of Procedure.

Until such time as Staff Regulations of the Fund are adopted, the Board of Governors shall conclude contracts of limited duration with the staff it recruits.

Article 11

The expenses incurred in running the Fund shall be submitted to the Board of Governors for its approval. The central banks shall be notified of the circumstances in which they will have to cover the expenses in accordance with the provisions of Article 4 of the Fund's Statutes.

Article 12

The Chairman of the Board of Governors may bind the Fund *vis-à-vis* third parties within the limits fixed by the Board of Governors.

**DECISION OF THE REPRESENTATIVES OF THE
GOVERNMENTS OF THE MEMBER STATES**

of 24 July 1973

on the provisional location of the European Monetary Cooperation Fund

(73/208/EEC)

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES,

Having regard to Article 37 of the Treaty establishing a Single Council and a Single Commission of the European Communities,

Having regard to the Decision of 8 April 1965 of the Representatives of the Governments of the Member States on the provisional location of certain institutions and departments of the Communities, and in particular Article 10 thereof,

Having regard to the Opinion of the Commission,

Whereas, without prejudice to the application of Article 216 of the Treaty establishing the European Economic Community, the provisional place of work of the European Monetary Cooperation Fund, established by Council Regulation (EEC) No 907/73 should be determined,

HAVE DECIDED AS FOLLOWS:

Article 1

1. The European Monetary Cooperation Fund shall be located in Luxembourg, which shall be its provisional place of work in accordance with the Decision of 8 April 1965 of the Representatives of the Governments of the Member States on the provisional location of certain institutions and departments of the Communities.
2. The meetings of the Board of Governors shall generally be held at the provisional place of work of the Fund. The Chairman may also convene meetings of the Board in another place.
3. The close and permanent links which must necessarily be established between the Fund on the one hand, and the Council and the Commission on the other, shall be maintained by:
 - (i) the office of the Commission in Luxembourg;
 - (ii) an office of the Fund located in Brussels.

The Commission shall take appropriate measures of internal organization to ensure that these links are maintained.

Article 2

The Representatives of the Governments of the Member States shall re-examine the situation in the light of the development of the work of the Fund and on the basis of an Opinion from the Commission, at the latest by 30 June 1975.

Done at Brussels, 24 July 1973.

The President
I. NØRGAARD

COUNCIL REGULATION (EEC) No 3181/78
of 18 December 1978
relating to the European Monetary System¹

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the European Council meeting in Brussels adopted, on 5 December 1978, a resolution setting out the arrangements related to the establishment of the European Monetary System which will come into effect from 1 January 1979;

Whereas, in this context, and not later than two years after the start of the system, the existing arrangements and institutions would be merged into a European Monetary Fund; whereas, in the mean time, responsibility for administering the new monetary system should be entrusted initially to the European Monetary Cooperation Fund, set up by Regulation (EEC) No 907/73;

Whereas, by Regulation (EEC) No 3180/78, the Council adopted the ecu as the unit of account used by the European Monetary Cooperation Fund;

Whereas, for the system to begin functioning, it is necessary to provide immediately for the creation of a supply of ecus against part of the central banks' reserves placed with the system, and for those ecus to be used as a means of settlement within the system;

Whereas, in this context, the introduction of the ecu into the operations of the European Monetary Cooperation Fund and its utilization as a means of settlement are necessary if the objectives pursued by the Community are to be achieved, notably the gradual convergence of Member States' economic policies, the smooth functioning of the common market and the attainment of economic and monetary union; whereas the powers needed to set up the system are not provided for in the Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

The European Monetary Cooperation Fund is hereby empowered to receive monetary reserves from the monetary authorities of the Member States and to issue ecus against such assets.

¹ Text incorporating the amendments contained in Council Regulation (EEC) No 3066/85 of 28 October 1985.

Article 2

The Fund and the monetary authorities of the Member States are hereby empowered to use ecus as a means of settlement and for transactions between those authorities and the Fund.

The Fund is also empowered to grant to the monetary authorities of non-member countries and international monetary institutions the status of 'Other Holders' of ecus as referred to in Article 1 and to fix the terms and conditions under which such ecus may be acquired, held and used.

Article 3

The Board of Governors of the Fund shall take the administrative measures necessary for the implementation of Articles 1 and 2.

Article 4

This Regulation shall enter into force on 1 January 1979.

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

Done at Brussels, 18 December 1978.

For the Council
The President
H. MATTHÖFER

V

CAPITAL MOVEMENTS

FIRST COUNCIL DIRECTIVE
of 11 May 1960
for the implementation of Article 67 of the Treaty^{1, 2}

THE COUNCIL OF THE EUROPEAN ECONOMIC COMMUNITY,

Having regard to the Treaty, and in particular Articles 5, 67 (1), 69, 105 (2) and 106 (2) thereof,

Having regard to the proposal from the Commission, which consulted the Monetary Committee for this purpose,

Having regard to the Decision of 11 May 1960 on the application to Algeria and to the French overseas departments of the provisions of the Treaty concerning capital movements,

Whereas the attainment of the objectives of the Treaty establishing the European Economic Community requires the greatest possible freedom of movement of capital between Member States and therefore the widest and most speedy liberalization of capital movements,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Member States shall grant all foreign exchange authorizations required for the conclusion or performance of transactions or for transfers between residents of Member States in respect of the capital movements set out in List A of Annex I to this Directive.

2. Member States shall enable such transfers of capital to be made on the basis of the exchange rate ruling for payments relating to current transactions.

Where such transfers are made on a foreign exchange market on which the fluctuation of exchange rates are not officially restricted, this obligation shall be taken to mean that the exchange rates applied must not show any appreciable and lasting differences from those ruling for payments relating to current transactions.

The Monetary Committee shall watch closely the trend of exchange rates applied to such transfers of capital, and shall report thereon to the Commission. If the Commission finds that these rates show appreciable and lasting differences from those ruling for payments relating to current transactions, it shall initiate the procedure provided for in Article 169 of the Treaty.

¹ Text incorporating the amendments contained in the Second Council Directive of 18 December 1962 (63/21/EEC), in Article 29 of the Act of Accession of 22 January 1972 and in the Council Directives 85/383/EEC of 20 December 1985 and 86/566/EEC of 17 November 1986. The provisions allowing partial derogations to certain Member States from the obligations flowing from the present legislation are not incorporated here.

² By virtue of Article 9 of the Council Directive of 24 June 1988 (88/361/EEC) this Directive will lapse on 1 July 1990.

Article 2

Deleted

Article 3

1. Subject to paragraph 2 of this Article, Member States shall grant all foreign exchange authorizations required for the conclusion or performance of transactions and for transfers between residents of Member States in respect of the capital movements set out in List B of Annex I to this Directive.

2. When such free movement of capital might form an obstacle to the achievement of the economic policy objective of a Member State, the latter may maintain or reintroduce the exchange restrictions on capital movement which were operative on the date of entry into force of this Directive (in the case of new Member States, the date of accession). It shall consult the Commission on the matter.

The Commission shall examine the measures for coordinating the economic policies of Member States which will enable these difficulties to be overcome and, after consulting the Monetary Committee, shall recommend their adoption by the Member States.

3. The Commission may recommend that the State in question abolish the exchange restrictions which are maintained or reintroduced.

Article 4

The Monetary Committee shall examine at least once a year the restrictions which are applied to the capital movements set out in the lists contained in Annex I to this Directive; it shall report to the Commission regarding restrictions which could be abolished.

Article 5

1. The provisions of this Directive shall not restrict the right of Member States to verify the nature and genuineness of transactions or transfers, or to take all requisite measures to prevent infringements of their laws and regulations.

2. The Member States shall undertake not to render more difficult the authorization procedures required on the date of entry into force of this Directive. They shall simplify as far as possible the authorization and control formalities applicable to the conclusion and performance of transactions and transfers and shall where necessary consult one another with a view to such simplification.

3. The restrictions on capital movements under the rules for establishment in a Member State shall be abolished pursuant to this Directive only in so far as it is incumbent upon the Member States to grant freedom of establishment in implementation of Articles 52 to 58 of the Treaty.

Article 6

Member States shall endeavour not to introduce within the Community any new exchange restriction affecting the capital movements that were liberalized at the date of entry into force of this Directive (in the case of new Member States, the date of accession) nor to make existing provisions more restrictive.

Article 7

Member States shall make known to the Commission, not later than three months after the entry into force of this Directive (in the case of new Member States, three months after the date of accession):

- (a) the provisions governing capital movements at the date of entry into force of this Directive which are laid down by law, regulation or administrative action;
- (b) the provisions adopted in pursuance of the Directive;
- (c) the procedures for implementing those provisions.

They shall also make known, not later than the time of entry into force thereof, any new measures going beyond the obligations of this Directive, and any amendment of the provisions governing the capital movements set out in List C of Annex I to this Directive.

Article 8

Deleted

Article 9

This Directive shall apply without prejudice to the provisions of Articles 67 (2), 68 (3) and 221 of the Treaty.

Article 10

Lists A, B and C contained in Annex I, together with the Nomenclature of Capital Movements and the Explanatory Notes in Annex II, form an integral part of this Directive.

Done at Luxembourg, 11 May 1960.

For the Council
The Secretary-General
CALMES
The President
Eugène SCHAUS

ANNEX I

LIST A

Capital movements referred to in Article 1 of the Directive

	Heading
Direct investments excluding purely financial investments made with a view only to giving the persons providing the capital indirect access to the money or capital market of another country, through the creation of an undertaking or participation in an existing undertaking in that country	I
Liquidation of direct investments	II
Admission of an undertaking's securities to the capital market	III A 1 and 2
— Shares and other securities of a participating nature, dealt in on or in the process of introduction to a stock exchange in a Member State	III B 1 and 2
— Bonds dealt in on or in the process of introduction to a stock exchange in a Member State	
— Units of undertakings for collective investment in transferable securities covered by Directive 85/611/EEC, ¹ without prejudice to the provisions of that Directive relating to the marketing of UCITS units (Section VIII)	
Operations in securities	IV
— shares and other securities of a participating nature	
— bonds	
— units of collective investment undertakings	
— units of collective investment undertakings dealt in on a stock exchange	
— units not dealt in on a stock exchange	
— of undertakings for collective investment in transferable securities covered by Directive 85/611/EEC	
— of other collective investment undertakings the sole object of which is investment in transferable securities or other assets the acquisition of which has been liberalized	
Investments in real estate	V
Grant and repayment of credits in connection with commercial transactions or the provision of services in which a resident is participating	VII 1 A and B
Personal capital movements	
Gifts and endowments	XB
Dowries	XC
Inheritances	XD
Settlement of debts in their countries of origin by immigrants	XE
Transfers of capital belonging to residents who emigrate	XF
Transfers of capital belonging to emigrants returning to their countries of origin	XG
Transfers of workers' savings during their periods of stay	XH

¹ Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS): OJ L 375, 31.12.1985, p. 3.

	Heading
Transfers by instalments of blocked funds belonging to non-residents by the holders of such funds in case of special hardship	X I
Annual transfers of blocked funds to another Member State by a non-resident account holder, up to an amount or proportion of the total assets, fixed uniformly by the Member State concerned for all applicants	X L
Transfers abroad of minor amounts	X M
Transfers in performance of insurance contracts	X I
as and when freedom of movement in respect of services is extended to those contracts in implementation of Articles 59 <i>et seq.</i> of the Treaty	
Sureties, other guarantees and rights of pledge and transfers connected with them relating to	
credits in connection with commercial transactions or the provision of services in which a resident is participating	XII A and B in conjunction with VII 1 A and B
long-term loans with a view to establishing or maintaining lasting economic links	XII A and B in conjunction with 1 A 3 B 3
Other capital movements	
Death duties	XIV A
Damages (where these can be considered as capital)	XIV B
Refunds in cases of the cancellation of contracts and refunds of uncalled-for payments (where these can be considered as capital)	XIV C
Authors' royalties	
Patents, designs, trade marks and inventions (assignment and transfers arising out of such assignments)	XIV D
Transfers of the moneys required for the provision of services	XIV E
The use of the proceeds of the liquidation of assets abroad belonging to residents must be permitted at least within the limits of the obligations as regards liberalization accepted by Member States.	

LIST B

Capital movements referred to in Article 3 of the Directive

	Heading
Admission of an undertaking's securities to the capital market	III A 1 and 2 III B 1 and 2
Shares and other securities of a participating nature, not dealt in on or in the process of introduction to a stock exchange in a Member State	
Bonds not dealt in on or of in the process of introduction to a stock exchange in a Member State	
Units of collective investment undertakings not covered by Directive 85/611/EEC	
Operations in securities	
Units, not dealt in on a stock exchange, of collective investment undertakings not covered by Directive 85/611/EEC, the sole object of which is not investment in transferable securities or other assets the acquisition of which has been liberalized	IV
Grant and repayment of medium- and long-term credits in connection with commercial transactions or the provision of services in which no resident is participating	VII 2 A (ii) and (iii) B (ii) and (iii)
Grant and repayment of medium- and long-term loans and credits not in connection with commercial transactions or the provision of services	VIII A (ii) and (iii) B (ii) and (iii)
Sureties, other guarantees and rights of pledge and transfers connected with them and relating to:	
medium- and long-term credits in connection with commercial transactions or the provision of services in which no resident is participating	XII A and B in conjunction with VII 2 A (ii) and (iii) B (ii) and (iii)
medium- and long-term loans and credits not in connection with commercial transactions or the provision of services	XII A and B in conjunction with VIII A (ii) and (iii) B (ii) and (iii)
The use of the proceeds of the liquidation of assets abroad belonging to residents must be permitted at least within the limits of the obligations as regards liberalization accepted by Member States.	

LIST C

Capital movements referred to in Article 4 of the Directive

	Heading
Short-term investments in treasury bills and other securities normally dealt in on the money market	VI
Opening and placing of funds on current or deposit accounts, repatriation or use of balances on current or deposit accounts with credit institutions	IX
Grant and repayment of short-term credits in connection with commercial transactions or the provision of services in which no resident is participating	VII 2 A (i) B (i)
Grant and repayment of short-term loans and credits not in connection with commercial transactions or the provision of services	VIII A (i) B (i)
Personal capital movements loans	X A
Sureties, other guarantees and rights of pledge and transfers connected with them relating to short-term credits in connection with commercial transactions or the provision of services in which no resident is participating	XII A and B in conjunction with VII 2 A (i) and B (i)
short-term loans and credits not in connection with commercial transactions or the provision of services	XII A and B in conjunction with VIII A (i) and B (i)
private loans	XII A and B in conjunction with X A
Physical import and export of financial assets	XIII
Other capital movements: Miscellaneous	XIV F

ANNEX II

NOMENCLATURE OF CAPITAL MOVEMENTS

I. DIRECT INVESTMENTS¹A. *Direct investments on national territory by non-residents*¹

1. Establishment and extension of branches or new undertakings belonging solely to the person providing the capital, and the acquisition in full of existing undertakings
2. Participation in new or existing undertakings with a view to establishing or maintaining lasting economic links
3. Long-term loans with a view to establishing or maintaining lasting economic links
4. Reinvestment of profits with a view to maintaining lasting economic links

¹ See Explanatory Notes, p. 99.

B. *Direct investments abroad by residents*¹

1. Establishment and extension of branches or new undertakings belonging solely to the person providing the capital, and the acquisition in full of existing undertakings
2. Participation in new or existing undertakings with a view to establishing or maintaining lasting economic links
3. Long-term loans with a view to establishing or maintaining lasting economic links
4. Reinvestment of profits with a view to maintaining lasting economic links

II. LIQUIDATION OF DIRECT INVESTMENTS

A. *Repatriation of the proceeds of the liquidation*¹ *of direct investments on national territory by non-residents*

1. Principal
2. Capital appreciation

B. *Use of the proceeds of liquidation of direct investments abroad by residents*

1. Principal
2. Capital appreciation

III. ADMISSION OF SECURITIES TO THE CAPITAL MARKET

A. *Admission of securities of a domestic undertaking to a foreign capital market*

1. Introduction¹ on a foreign stock exchange
 - (a) of shares and other securities of a participating nature
 - (b) of bonds
 - (i) denominated in national currency
 - (ii) denominated in foreign currency
 - (c) units of collective investment undertakings
2. Issue and placing¹ on a foreign capital market
 - (a) of shares and other securities of a participating nature
 - (b) of bonds
 - (i) denominated in national currency
 - (ii) denominated in foreign currency
 - (c) units of collective investment undertakings

B. *Admission of securities of a foreign undertaking to a domestic capital market*

1. Introduction on a domestic stock exchange
 - (a) of shares and other securities of a participating nature
 - (b) of bonds
 - (i) denominated in national currency

¹ See Explanatory Notes, p. 99.

- (ii) denominated in foreign currency
- (c) units of collective investment undertakings
- 2. Issue and placing on a domestic capital market
 - (a) of shares and other securities of a participating nature
 - (b) of bonds
 - (i) denominated in national currency
 - (ii) denominated in foreign currency
 - (c) units of collective investment undertakings

C. *Admission of domestic securities of the public sector to a foreign capital market pursuant to Article 68 (3) of the Treaty*

- 1. Introduction of securities on a foreign stock exchange
 - (a) denominated in national currency
 - (b) denominated in foreign currency
- 2. Issue and placing of securities on a foreign capital market
 - (a) denominated in national currency
 - (b) denominated in foreign currency

D. *Admission of foreign securities of the public sector to a domestic capital market pursuant to Article 68 (3) of the Treaty*

- 1. Introduction of securities on a domestic stock exchange
 - (a) denominated in national currency
 - (b) denominated in foreign currency
- 2. Issue and placing of securities on a domestic capital market
 - (a) denominated in national currency
 - (b) denominated in foreign currency

IV. OPERATIONS IN SECURITIES¹ (not included under I, II and III)

A. *Acquisition by non-residents of domestic securities¹ dealt in on a stock exchange¹ and repatriation of the proceeds of liquidation thereof*

- (a) quoted¹
- (b) unquoted¹
- 1. Acquisition of shares¹ and other securities of a participating nature
- 2. Repatriation of the proceeds of liquidation of shares and other securities of a participating nature
- 3. Acquisition of bonds¹
 - (i) denominated in national currency
 - (ii) denominated in foreign currency

¹ See Explanatory Notes, p. 99.

4. Repatriation of the proceeds of liquidation of bonds
 5. Acquisition of units of collective investment undertakings
 6. Repatriation of the proceeds of the liquidation of units of collective investment undertakings
- B. *Acquisition by residents of foreign securities dealt in on a stock exchange, or of domestic securities issued on a foreign market and dealt in on a stock exchange, and use of the proceeds of the liquidation thereof*
- (a) quoted
 - (b) unquoted
1. Acquisition of shares and other securities of a participating nature
 2. Repatriation of the proceeds of liquidation of shares and other securities of a participating nature
 3. Acquisition of bonds
 - (i) denominated in national currency
 - (ii) denominated in foreign currency
 4. Use of the proceeds of liquidation of bonds
 5. Acquisition of units of collective investment undertakings
 6. Use of the proceeds of the liquidation of units of collective investment undertakings
- C. *Acquisition by non-residents of domestic securities not dealt in on a stock exchange and repatriation of the proceeds of liquidation thereof*
1. Acquisition of shares and other securities of a participating nature
 2. Repatriation of the proceeds of liquidation of shares and other securities of a participating nature
 3. Acquisition of bonds
 - (i) denominated in national currency
 - (ii) denominated in foreign currency
 4. Repatriation of the proceeds of liquidation of bonds
 5. Acquisition of units of collective investment undertakings
 6. Repatriation of the proceeds of the liquidation of units of collective investment undertakings
- D. *Acquisition by residents of foreign securities not dealt in on a stock exchange, or of domestic securities issued on a foreign market but not dealt in on a stock exchange, and use of the proceeds of the liquidation thereof*
1. Acquisition of shares and other securities of a participating nature
 2. Use of the proceeds of liquidation of shares and other securities of a participating nature
 3. Acquisition of bonds
 - (i) denominated in national currency
 - (ii) denominated in foreign currency
 4. Use of the proceeds of liquidation of bonds
 5. Acquisition of units of collective investment undertakings
 6. Use of the proceeds of the liquidation of units of collective investment undertakings

E. *Physical movements of securities*

1. Belonging to non-residents
 - (a) import
 - (b) export
2. Belonging to residents
 - (a) import
 - (b) export

V. INVESTMENTS IN REAL ESTATE¹ (not included under I and II)

A. *Investments in real estate on national territory by non-residents and repatriation of the proceeds of liquidation thereof*

1. Acquisition of real estate
2. Repatriation of the proceeds of liquidation of real estate

B. *Investments in real estate abroad by residents and use of the proceeds of liquidation thereof*

1. Acquisition of real estate
2. Use of the proceeds of liquidation of real estate

VI. SHORT-TERM INVESTMENTS IN TREASURY BILLS AND OTHER SECURITIES NORMALLY DEALT IN ON THE MONEY MARKET

1. Denominated in national currency
2. Denominated in foreign currency

A. *Short-term investments by non-residents on a domestic money market and repatriation of the proceeds of liquidation thereof*

- | | | |
|--|---|-----------------------------------|
| (a) by natural persons ¹ | } | other than financial institutions |
| (b) by legal persons ¹ | | |
| (c) by financial institutions ¹ | | |

B. *Short-term investments by residents on a foreign money market and use of the proceeds of liquidation thereof*

- | | | |
|--|---|-----------------------------------|
| (a) by natural persons ¹ | } | other than financial institutions |
| (b) by legal persons ¹ | | |
| (c) by financial institutions ¹ | | |

VII. GRANTING AND REPAYMENT OF CREDITS RELATED TO COMMERCIAL TRANSACTIONS OR TO PROVISION OF SERVICES

1. In which a resident is participating
2. In which no resident is participating

¹ See Explanatory Notes, p. 99.

A. *Credits granted by non-residents to residents:*

- (i) short-term (less than one year)
 - (ii) medium-term (from one to five years)
 - (iii) long term (five years or more)
 - (a) by natural persons
 - (b) by legal persons
 - (c) by financial institutions
- } other than financial institutions

B. *Credits granted by residents to non-residents:*

- (i) short-term (less than one year)
 - (ii) medium-term (from one to five years)
 - (iii) long-term (five years or more)
 - (a) by natural persons
 - (b) by legal persons
 - (c) by financial institutions
- } other than financial institutions

VIII. GRANTING AND REPAYMENT OF LOANS AND CREDITS NOT RELATED TO COMMERCIAL TRANSACTIONS OR TO PROVISION OF SERVICES (not included under I and X)

A. *Loans and credits granted by non-residents to residents:*

- (i) short-term (less than one year)
 - (ii) medium-term (from one to five years)
 - (iii) long-term (five years or more)
 - (a) by natural persons
 - (b) by legal persons
 - (c) by financial institutions
- } other than financial institutions

B. *Loans and credits granted by residents to non-residents:*

- (i) short-term (less than one year)
 - (ii) medium-term (from one to five years)
 - (iii) long-term (five years or more)
 - (a) by natural persons
 - (b) by legal persons
 - (c) by financial institutions
- } other than financial institutions

IX. OPENING AND PLACING OF FUNDS ON CURRENT AND DEPOSIT ACCOUNTS REPATRIATION OR USE OF BALANCES ON CURRENT OR DEPOSIT ACCOUNTS WITH CREDIT INSTITUTIONS¹

A. *By non-residents with domestic credit institutions*

- 1. Accounts and balances in national currency
- 2. Accounts and balances in foreign currency

¹ See Explanatory Notes, p. 99.

- (a) by natural persons
 - (b) by legal persons
 - (c) by financial institutions
- } other than financial institutions

B. *By residents with foreign credit institutions*

- 1. Accounts and balances in national currency
 - 2. Accounts and balances in foreign currency
 - (a) by natural persons
 - (b) by legal persons
 - (c) by financial institutions
- } other than financial institutions

X. PERSONAL CAPITAL MOVEMENTS (not covered by the other sections)

A. *Loans*

- 1. Loans granted by non-residents to residents
- 2. Loans granted by residents to non-residents

B. *Gifts and endowments*

C. *Dowries*

D. *Inheritances*

E. *Settlement of debts in their country of origin by immigrants*

F. *Transfers of capital belonging to residents who emigrate and are:*

- 1. Nationals of the country in question
- 2. Nationals of other countries

G. *Transfers of capital belonging to emigrants returning to their country of origin*

H. *Transfers of workers' savings during their period of stay*

I. *Transfers by instalment of blocked funds belonging to non-residents by the holders of such funds in case of special hardship*

L. *Annual transfers of blocked funds to another Member State by a non-resident account-holder, up to an amount or a percentage of the total assets, fixed uniformly by the Member State concerned for all applicants*

M. *Transfers of minor amounts abroad*

XI. TRANSFERS IN PERFORMANCE OF INSURANCE CONTRACTS

A. *Premiums and payments in respect of life assurance*

- 1. Contracts concluded between domestic life assurance companies and non-residents

¹ See Explanatory Notes, p. 99.

2. Contracts concluded between foreign life assurance companies and residents
- B. *Premiums and payments in respect of credit insurance*
 1. Contracts concluded between domestic credit insurance companies and non-residents
 2. Contracts concluded between foreign credit insurance companies and residents
- C. *Other transfers of capital in respect of insurance contracts*

XII. SURETIES, OTHER GUARANTEES AND RIGHTS OF PLEDGE AND TRANSFERS RELATING TO THEM

- A. *Granted by non-residents to residents*
- B. *Granted by residents to non-residents*

XIII. IMPORT AND EXPORT OF FINANCIAL ASSETS

- A. *Securities (not included under IV) and means of payment of every kind*
- B. *Gold*

XIV. OTHER CAPITAL MOVEMENTS

- A. *Death duties*
- B. *Damages (where these can be considered as capital)*
- C. *Refunds in the case of cancellation of contracts and refunds of uncalled-for payments (where these can be considered as capital)*
- D. *Authors' royalties*
Patents, designs, trade marks and inventions
(assignments and transfers arising out of such assignments)
- E. *Transfers of the moneys required for the provision of services (not included under IX)*
- F. *Miscellaneous*

EXPLANATORY NOTES

For the purposes of this Nomenclature, the following expressions have the meanings assigned to them respectively:

Direct investments

Investments of all kinds by natural persons or commercial, industrial or financial undertakings, and which serve to establish or to maintain lasting and direct links between the person providing the capital and the entrepreneur to whom or the undertaking to which the capital is made available in order to carry on an economic activity. This concept must therefore be understood in its widest sense.

The undertakings mentioned under 1 include legally independent undertakings (wholly-owned subsidiaries) and branches.

As regards those undertakings mentioned under 2 which have the status of companies limited by shares, there is participation in the nature of direct investment where the block of shares held by a natural person or another undertaking or any other holder enables the shareholder, either pursuant to the provisions of national laws relating to companies limited by shares or otherwise, to participate effectively in the management of the company or in its control.

Long-term loans of a participating nature, mentioned under 3, mean loans for a period of more than five years which are made for the purpose of establishing or maintaining lasting economic links. The main examples which may be cited are loans granted by a company to its subsidiaries or to companies in which it has a share, and loans linked with a profit-sharing arrangement. Loans granted by financial institutions with a view to establishing or maintaining lasting economic links are also included under this heading.

Residents or non-residents

Natural and legal persons according to the definitions laid down in the exchange control regulations in force in each Member State.

Proceeds of liquidation (of investments, securities, etc.)

Proceeds of sale, amount of repayments, proceeds of execution of judgments, etc.

Introduction on a stock exchange

The admission of securities — in accordance with a specified procedure — to dealings on a stock exchange, whether controlled officially or unofficially, and their admission to public sale.

Securities dealt in on a stock exchange (quoted or unquoted)

Securities the dealings in which are controlled by regulations, the prices for which are regularly published, either by official stock exchanges (quoted securities) or by other bodies attached to a stock exchange — e.g. committees of banks (unquoted securities).

Placing of securities

The direct sale of securities by the issuer, or sale thereof by the consortium which the issuer has instructed to sell them.

Operations in securities

Any dealings in securities, including the initial sale of units by unit trusts.

Domestic or foreign securities

Securities according to the country in which the issuer has his principal place of business.

Shares

Include rights to subscribe for new issues of shares.

Bonds

Negotiable securities with a maturity of two years or more from issue for which the interest rate and the terms for the repayment of the principal and the payment of interest are determined at the time of issue. The bonds referred to in Category IV of the Nomenclature are those issued by both public and private bodies.

Collective investment undertakings

Undertakings:

- (i) the object of which is the collective investment in transferable securities or other assets of the capital they raise and which operate on the principle of risk-spreading, and
- (ii) the units of which are, at the request of holders, under the legal, contractual or, statutory conditions governing them, repurchased or redeemed, directly or indirectly, out of those undertakings' assets. Action taken by a collective investment undertaking to ensure that the stock exchange value of its units does not significantly vary from their net asset value shall be regarded as equivalent to such repurchase or redemption.

Such undertakings may be constituted according to law either under the law of contract (as common funds managed by management companies) or trust law (as unit trusts) or under statute (as investment companies).

For the purposes of this Directive 'common funds' shall also include unit trusts.

Investments in real estate

Purchases of buildings and land and the construction of buildings by private persons for gain or personal use. This category does not include loans secured by mortgages but it does include rights of usufruct, easements and building rights.

Natural or legal persons

As defined by the national rules.

Financial institutions

Banks, saving banks and institutions specializing in the provision of short, medium and long-term credit, and insurance companies, building societies, investment companies and other institutions of like character.

Credit institutions

Banks, saving banks and institutions specializing in the provision of short, medium and long-term credit.

COUNCIL DIRECTIVE

of 21 March 1972

on regulating international capital flows and neutralizing their undesirable effects on domestic liquidity

(72/156/EEC)¹

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 70 and 103 thereof,

Having regard to the proposal from the Commission,

Whereas exceptionally large capital movements have caused serious disturbances in the monetary situation and in economic trends in Member States; whereas these disturbances may hinder the establishment by stages of an economic and monetary union; whereas the Council, in its resolution of 9 May 1971, agreed to discuss before 1 July 1971 the adoption of appropriate measures to deal with this situation;

Whereas, so that contingencies of comparable character and magnitude do not recur, the Member States should supplement the instruments that are available for regulating domestic liquidity;

Whereas to this end it is imperative that Member States adopt measures immediately in order to have available, should occasion arise, the appropriate instruments for the purpose of discouraging exceptionally large capital movements, in particular to and from third countries, and of neutralizing their effects on the domestic monetary situation, thereby creating the conditions required for concerted action on the part of the Member States in those fields in order to ensure smooth trading conditions within the Community and the achievement of economic and monetary union;

Whereas exceptionally large capital movements can produce serious stresses on the exchange markets of the Member States, the smooth operation of which constitutes the object of the policy with regard to rates of exchange which each Member State must, by virtue of Article 107 (1), treat as a matter of common concern;

Whereas, in order to ensure the efficacy of the measures to be taken to prevent exceptionally large capital movements, the regulation of loans and credits not related to commercial transactions or to provision of services and granted by non-residents to residents must be extended to medium and long-term loans and credits; whereas for this purpose a derogation from Article 3 (1) of the First Directive for the implementation of Article 67 of the Treaty, as amended by the Directive of 18 December 1962, should be permitted,

¹ By virtue of Article 9 of the Council Directive of 24 June 1988 (88/361/EEC) this Directive will lapse on 1 July 1990.

HAS ADOPTED THIS DIRECTIVE:

Article 1

The Member States shall take all necessary steps to ensure that the monetary authorities have available the following instruments and are able, where necessary, to put them into operation immediately without further enabling measures:

- (a) for effective regulation of international capital flows:
 - (i) rules governing investment on the money market and payment of interest on deposits by non-residents;
 - (ii) regulation of loans and credits which are not related to commercial transactions or to provision of services and are granted by non-residents to residents, if need be by derogating from Article 3 (1) of the First Directive for the implementation of Article 67 of the Treaty;
- (b) for the neutralization of those effects produced by international capital flows on domestic liquidity which are considered undesirable:
 - (i) regulation of the net external position of credit institutions,
 - (ii) fixing minimum reserve ratios, in particular for the holdings of non-residents.

Article 2

1. The Member States shall forthwith adopt the necessary measures to comply with this Directive.
2. Each Member State shall, where necessary, and taking account of the interests of the other Member States, apply all or some of the instruments mentioned in Article 1. To this end the Commission, in cooperation with the Monetary Committee and the Committee of Governors of Central Banks, shall ensure close coordination between the competent authorities of the Member States.
3. The Commission, after consulting the Monetary Committee and the Committee of Governors of Central Banks, shall keep the Council informed of the situation and its development.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 21 March 1972.

For the Council
The President
G. THORN

COUNCIL DIRECTIVE
of 24 June 1988
for the implementation of Article 67 of the Treaty
(88/361/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 69 and 70 (1) thereof,

Having regard to the proposal from the Commission, submitted following consultation with the Monetary Committee,

Having regard to the opinion of the European Parliament,

Whereas Article 8a of the Treaty stipulates that the internal market shall comprise an area without internal frontiers in which the free movement of capital is ensured, without prejudice to the other provisions of the Treaty;

Whereas Member States should be able to take the requisite measures to regulate bank liquidity; whereas these measures should be restricted to this purpose;

Whereas Member States should, if necessary, be able to take measures to restrict, temporarily and within the framework of appropriate Community procedures, short-term capital movements which, even where there is no appreciable divergence in economic fundamentals, might seriously disrupt the conduct of their monetary and exchange-rate policies;

Whereas, in the interests of transparency, it is advisable to indicate the scope, in accordance with the arrangements laid down in this Directive, of the transitional measures adopted for the benefit of the Kingdom of Spain and the Portuguese Republic by the 1985 Act of Accession in the field of capital movements;

Whereas the Kingdom of Spain and the Portuguese Republic may, under the terms of Articles 61 to 66 and 222 to 232 respectively of the 1985 Act of Accession, postpone the liberalization of certain capital movements in derogation from the obligations set out in the First Council Directive of 11 May 1960 for the implementation of Article 67 of the Treaty, as last amended by Directive 86/566/EEC; whereas Directive 86/566/EEC also provides for transitional arrangements to be applied for the benefit of those two Member States in respect of their obligations to liberalize capital movements; whereas it is appropriate for those two Member States to be able to postpone the application of the new liberalization obligations resulting from this Directive;

Whereas the Hellenic Republic and Ireland are faced, albeit to differing degrees, with difficult balance-of-payments situations and high levels of external indebtedness; whereas the immediate and complete liberalization of capital movements by those two Member States would make it more difficult for them to continue to apply the measures they have taken to improve their external positions and to reinforce the capacity of their financial systems to adapt to the requirements of an integrated financial market in the Community; whereas it is appropriate, in accordance with Article 8c of the Treaty, to grant to those two Member States, in the light of their specific circumstances, further time in which to comply with the obligations arising from this Directive;

Whereas, since the full liberalization of capital movements could in some Member States, and especially in border areas, contribute to difficulties in the market for secondary residences; whereas existing national legislation regulating these purchases should not be affected by the entry into effect of this Directive;

Whereas advantage should be taken of the period adopted for bringing this Directive into effect in order to enable the Commission to submit proposals designed to eliminate or reduce risks of distortion, tax evasion and tax avoidance resulting from the diversity of national systems for taxation and to permit the Council to take a position on such proposals;

Whereas, in accordance with Article 70(1) of the Treaty, the Community shall endeavour to attain the highest possible degree of liberalization in respect of the movement of capital between its residents and those of third countries;

Whereas large-scale short-term capital movements to or from third countries may seriously disturb the monetary or financial situation of Member States or cause serious stresses on the exchange markets; whereas such developments may prove harmful for the cohesion of the European Monetary System, for the smooth operation of the internal market and for the progressive achievement of economic and monetary union; whereas it is therefore appropriate to create the requisite conditions for concerted action by Member States should this prove necessary;

Whereas this Directive replaces Council Directive 72/156/EEC of 21 March 1972 on regulating international capital flows and neutralizing their undesirable effects on domestic liquidity; whereas Directive 72/156/EEC should accordingly be repealed,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Without prejudice to the following provisions, Member States shall abolish restrictions on movements of capital taking place between persons resident in Member States. To facilitate application of this Directive, capital movements shall be classified in accordance with the Nomenclature in Annex I.
2. Transfers in respect of capital movements shall be made on the same exchange rate conditions as those governing payments relating to current transactions.

Article 2

Member States shall notify the Committee of Governors of the Central Banks, the Monetary Committee and the Commission, by the date of their entry into force at the latest, of measures to regulate bank liquidity which have a specific impact on capital transactions carried out by credit institutions with non-residents.

Such measures shall be confined to what is necessary for the purposes of domestic monetary regulation. The Monetary Committee and the Committee of Governors of the Central Banks shall provide the Commission with opinions on this subject.

Article 3

1. Where short-term capital movements of exceptional magnitude impose severe strains on foreign-exchange markets and lead to serious disturbances in the conduct of a Member State's monetary and exchange rate policies, being reflected in particular in substantial variations in domestic liquidity, the

Commission may, after consulting the Monetary Committee and the Committee of Governors of the Central Banks, authorize that Member State to take, in respect of the capital movements listed in Annex II, protective measures the conditions and details of which the Commission shall determine.

2. The Member State concerned may itself take the protective measures referred to above, on grounds of urgency, should these measures be necessary. The Commission and the other Member States shall be informed of such measures by the date of their entry into force at the latest. The Commission, after consulting the Monetary Committee and the Committee of Governors of the Central Banks, shall decide whether the Member State concerned may continue to apply these measures or whether it should amend or abolish them.

3. The decisions taken by the Commission under paragraphs 1 and 2 may be revoked or amended by the Council acting by a qualified majority.

4. The period of application of protective measures taken pursuant to this Article shall not exceed six months.

5. Before 31 December 1992, the Council shall examine, on the basis of a report from the Commission, after delivery of an opinion by the Monetary Committee and the Committee of Governors of the Central Banks, whether the provisions of this Article remain appropriate, as regards their principle and details, to the requirements which they were intended to satisfy.

Article 4

This Directive shall be without prejudice to the right of Member States to take all requisite measures to prevent infringements of their laws and regulations, *inter alia* in the field of taxation and prudential supervision of financial institutions, or to lay down procedures for the declaration of capital movements for purposes of administrative or statistical information.

Application of those measures and procedures may not have the effect of impeding capital movements carried out in accordance with Community law.

Article 5

For the Kingdom of Spain and the Portuguese Republic, the scope, in accordance with the Nomenclature of capital movements contained in Annex I, of the provisions of the 1985 Act of Accession in the field of capital movements shall be as indicated in Annex III.

Article 6

1. Member States shall take the measures necessary to comply with this Directive no later than 1 July 1990. They shall forthwith inform the Commission thereof. They shall also make known, by the date of their entry into force at the latest, any new measure or any amendment made to the provisions governing the capital movements listed in Annex I.

2. The Kingdom of Spain and the Portuguese Republic, without prejudice for these two Member States to Articles 61 to 66 and 222 to 232 of the 1985 Act of Accession, and the Hellenic Republic and Ireland may temporarily continue to apply restrictions to the capital movements listed in Annex IV, subject to the conditions and time limits laid down in that Annex.

If, before expiry of the time limit set for the liberalization of the capital movements referred to in Lists III and IV of Annex IV, the Portuguese Republic or the Hellenic Republic considers that it is unable to proceed with liberalization, in particular because of difficulties as regards its balance of

payments or because the national financial system is insufficiently adapted, the Commission, at the request of one or other of these Member States, shall in collaboration with the Monetary Committee, review the economic and financial situation of the Member State concerned. On the basis of the outcome of this review, the Commission shall propose to the Council an extension of the time limit set for liberalization of all or part of the capital movements referred to. This extension may not exceed three years. The Council shall act in accordance with the procedure laid down in Article 69 of the Treaty.

3. The Kingdom of Belgium and the Grand Duchy of Luxembourg may temporarily continue to operate the dual exchange market under the conditions and for the periods laid down in Annex V.

4. Existing national legislation regulating purchases of secondary residences may be upheld until the Council adopts further provisions in this area in accordance with Article 69 of the Treaty. This provision does not affect the applicability of other provisions of Community law.

5. The Commission shall submit to the Council, by 31 December 1988, proposals aimed at eliminating or reducing risks of distortion, tax evasion and tax avoidance linked to the diversity of national systems for the taxation of savings and for controlling the application of these systems.

The Council shall take a position on these Commission proposals by 30 June 1989. Any tax provisions of a Community nature shall, in accordance with the Treaty, be adopted unanimously.

Article 7

1. In their treatment of transfers in respect of movements of capital to or from third countries, the Member States shall endeavour to attain the same degree of liberalization as that which applies to operations with residents of other Member States, subject to the other provisions of this Directive.

The provisions of the preceding subparagraph shall not prejudice the application to third countries of domestic rules or Community law, particularly any reciprocal conditions, concerning operations involving establishment, the provisions of financial services and the admission of securities to capital markets.

2. Where large-scale short-term capital movements to or from third countries seriously disturb the domestic or external monetary or financial situation of the Member States, or of a number of them, or cause serious strains in exchange relations within the Community or between the Community and third countries, Member States shall consult with one another on any measure to be taken to counteract such difficulties. This consultation shall take place within the Committee of Governors of the Central Banks and the Monetary Committee on the initiative of the Commission or of any Member State.

Article 8

At least once a year the Monetary Committee shall examine the situation regarding free movement of capital as it results from the application of this Directive. The examination shall cover measures concerning the domestic regulation of credit and financial and monetary markets which could have a specific impact on international capital movements and on all other aspects of this Directive. The Committee shall report to the Commission on the outcome of this examination.

Article 9

The First Directive of 11 May 1960 and Directive 72/156/EEC shall be repealed with effect from 1 July 1990.

This Directive is addressed to the Member States.

Done at Luxembourg, 24 June 1988.

For the Council
The President
M. BANGEMANN

ANNEX 1

**NOMENCLATURE OF THE CAPITAL MOVEMENTS REFERRED TO IN
ARTICLE 1 OF THE DIRECTIVE**

In this Nomenclature, capital movements are classified according to the economic nature of the assets and liabilities they concern, denominated either in national currency or in foreign exchange.

The capital movements listed in this Nomenclature are taken to cover:

- all the operations necessary for the purposes of capital movements: conclusion and performance of the transaction and related transfers. The transaction is generally between residents of different Member States although some capital movements are carried out by a single person for his own account (e.g. transfers of assets belonging to emigrants),
- operations carried out by any natural or legal person,¹ including operations in respect of the assets or liabilities of Member States or of other public administrations and agencies, subject to the provisions of Article 68 (3) of the Treaty,
- access for the economic operator to all the financial techniques available on the market approached for the purpose of carrying out the operation in question. For example, the concept of acquisition of securities and other financial instruments covers not only spot transactions but also all the dealing techniques available: forward transactions, transactions carrying an option or warrant, swaps against other assets, etc. Similarly, the concept of operations in current and deposit accounts with financial institutions includes not only the opening and placing of funds on accounts but also forward foreign exchange transactions, irrespective of whether these are intended to cover an exchange risk or to take an open foreign exchange position,
- operations to liquidate or assign assets built up, repatriation of the proceeds of liquidation thereof¹ or immediate use of such proceeds within the limits of Community obligations,
- operations to repay credits or loans.

This Nomenclature is not an exhaustive list for the notion of capital movements — whence a heading XIII — F. 'Other capital movements — Miscellaneous'. It should not therefore be interpreted as restricting the scope of the principle of full liberalization of capital movements as referred to in Article 1 of the Directive.

I — DIRECT INVESTMENTS¹

1. Establishment and extension of branches or new undertakings belonging solely to the person providing the capital, and the acquisition in full of existing undertakings.

¹ See Explanatory Notes, pp. 110-111.

2. Participation in new or existing undertaking with a view to establishing or maintaining lasting economic links.
 3. Long-term loans with a view to establishing or maintaining lasting economic links.
 4. Reinvestment of profits with a view to maintaining lasting economic links.
- A — Direct investments on national territory by non-residents¹
- B — Direct investments abroad by residents¹

II — INVESTMENTS IN REAL ESTATE (not included under I)¹

- A — **Investments in real estate on national territory by non-residents**
- B — **Investments in real estate abroad by residents**

III — OPERATIONS IN SECURITIES NORMALLY DEALT IN ON THE CAPITAL MARKET (not included under I, IV and V)

- (a) *Shares and other securities of a participating nature*¹
- (b) *Bonds*¹

A — **Transactions in securities on the capital market**

1. Acquisition by non-residents of domestic securities dealt in on a stock exchange.¹
2. Acquisition by residents of foreign securities dealt in on a stock exchange.
3. Acquisition by non-residents of domestic securities not dealt in on a stock exchange.¹
4. Acquisition by residents of foreign securities not dealt in on a stock exchange.

B — **Admission of securities to the capital market**¹

- (i) *Introduction on a stock exchange*¹
- (ii) *Issue and placing on a capital market*¹
1. Admission of domestic securities to a foreign capital market.
 2. Admission of foreign securities to the domestic capital market.

IV — OPERATIONS IN UNITS OF COLLECTIVE INVESTMENT UNDERTAKINGS¹

- (a) Units of undertakings for collective investment in securities normally dealt in on the capital market (shares, other equities and bonds).
- (b) Units of undertakings for collective investment in securities or instruments normally dealt in on the money market.
- (c) Units of undertakings for collective investment in other assets.

¹ See Explanatory Notes, pp. 110-111.

A — Transactions in units of collective investment undertakings

1. Acquisition by non-residents of units of national undertakings dealt in on a stock exchange.¹
2. Acquisition by residents of units of foreign undertakings dealt in on a stock exchange.
3. Acquisition by non-residents of units of national undertakings not dealt in on a stock exchange.¹
4. Acquisition by residents of units of foreign undertakings not dealt in on a stock exchange.

B — Administration of units of collective investment undertakings to the capital market

(i) *Introduction on a stock exchange.*

(ii) *Issue and placing on a capital market.*

1. Admission of units of national collective investment undertakings to a foreign capital market.
2. Admission of units of foreign collective investment undertakings to the domestic capital market.

V — OPERATIONS IN SECURITIES AND OTHER INSTRUMENTS NORMALLY DEALT IN ON THE MONEY MARKET¹

A — Transactions in securities and other instruments on the money market

1. Acquisition by non-residents of domestic money market securities and instruments.
2. Acquisition by residents of foreign money market securities and instruments.

B — Admission of securities and other instruments to the money market

(i) *Introduction on a recognized money market.¹*

(ii) *Issue and placing on a recognized money market.*

1. Admission of domestic securities and instruments to a foreign money market.
2. Admission of foreign securities and instruments to the domestic money market.

VI — OPERATIONS IN CURRENT AND DEPOSIT ACCOUNTS WITH FINANCIAL INSTITUTIONS¹

A — Operations carried out by non-residents with domestic financial institutions

B — Operations carried out by residents with foreign financial institutions

VII — CREDITS RELATED TO COMMERCIAL TRANSACTIONS OR TO THE PROVISION OF SERVICES IN WHICH A RESIDENT IS PARTICIPATING¹

1. Short-term (less than one year).
2. Medium-term (from one to five years).
3. Long-term (five years or more).

¹ See Explanatory Notes, pp. 110-111.

A — **Credits granted by non-residents to residents**

B — **Credits granted by residents to non-residents**

VIII — **FINANCIAL LOANS AND CREDITS** (not included under I, VII and XI)¹

1. Short-term (less than one year).
2. Medium-term (from one to five years).
3. Long-term (five years or more).

A — **Loans and credits granted by non-residents to residents**

B — **Loans and credits granted by residents to non-residents**

IX — **SURETIES, OTHER GUARANTEES AND RIGHTS OF PLEDGE**

A — **Granted by non-residents to residents**

B — **Granted by residents to non-residents**

X — **TRANSFERS IN PERFORMANCE OF INSURANCE CONTRACTS**

A — **Premiums and payments in respect of life assurance**

1. Contracts concluded between domestic life assurance companies and non-residents.
2. Contracts concluded between foreign life assurance companies and residents.

B — **Premiums and payments in respect of credit insurance**

1. Contracts concluded between domestic credit insurance companies and non-residents.
2. Contracts concluded between foreign credit insurance companies and residents.

C — **Other transfers of capital in respect of insurance contracts**

XI — **PERSONAL CAPITAL MOVEMENTS**

A — **Loans**

B — **Gifts and endowments**

C — **Dowries**

D — **Inheritances and legacies**

E — **Settlement of debts by immigrants in their previous country of residence**

F — **Transfers of assets constituted by residents, in the event of emigration, at the time of their installation or during their period of stay abroad**

¹ See Explanatory Notes, pp. 110-111.

- G — Transfers, during their period of stay, of immigrants' savings to their previous country of residence

XII — PHYSICAL IMPORT AND EXPORT OF FINANCIAL ASSETS

- A — Securities
B — Means of payment of every kind

XIII — OTHER CAPITAL MOVEMENTS

- A — Death duties
B — Damages (where these can be considered as capital)
C — Refunds in the case of cancellation of contracts and refunds of uncalled-for payments (where these can be considered as capital)
D — Authors' royalties: patents, designs, trade marks and inventions (assignments and transfers arising out of such assignments)
E — Transfers of the monies required for the provision of services (not included under VI)
F — Miscellaneous

EXPLANATORY NOTES

For the purposes of this Nomenclature and the Directive only, the following expressions have the meanings assigned to them respectively:

Direct investments

Investments of all kinds by natural persons or commercial, industrial or financial undertakings, and which serve to establish or to maintain lasting and direct links between the person providing the capital and the entrepreneur to whom or the undertaking to which the capital is made available in order to carry on an economic activity. This concept must therefore be understood in its widest sense.

The undertakings mentioned under I-1 of the Nomenclature include legally independent undertakings (wholly-owned subsidiaries) and branches.

As regards those undertakings mentioned under I-2 of the Nomenclature which have the status of companies limited by shares, there is participation in the nature of direct investment where the block of shares held by a natural person of another undertaking or any other holder enables the shareholder, either pursuant to the provisions of national laws relating to companies limited by shares or otherwise, to participate effectively in the management of the company or in its control.

Long-term loans of a participating nature, mentioned under I-3 of the Nomenclature, means loans for a period of more than five years which are made for the purpose of establishing or maintaining lasting economic links. The main examples which may be cited are loans granted by a company to its subsidiaries or to companies in which it has a share and loans linked with a profit-sharing arrangement. Loans granted by financial institutions with a view to establishing or maintaining lasting economic links are also included under this heading.

Investments in real estate

Purchases of buildings and land and the construction of buildings by private persons for gain or personal use. This category also includes rights of usufruct, easements and building rights.

Introduction on a stock exchange or on a recognized money market

Access — in accordance with a specified procedure — for securities and other negotiable instruments to dealings, whether controlled officially or unofficially, on an officially recognized stock exchange or in an officially recognized segment of the money market.

Securities dealt in on a stock exchange (quoted or unquoted)

Securities the dealings in which are controlled by regulations, the prices for which are regularly published, either by official stock exchanges (quoted securities) or by other bodies attached to a stock exchange — e.g. committees of banks (unquoted securities).

Issue of securities and other negotiable instruments

Sale by way of an offer to the public.

Placing of securities and other negotiable instruments

The direct sale of securities by the issuer or by the consortium which the issuer has instructed to sell them, with no offer being made to the public.

Domestic or foreign securities and other instruments

Securities according to the country in which the issuer has his principal place of business. Acquisition by residents of domestic securities and other instruments issued on a foreign market ranks as the acquisition of foreign securities.

Shares and other securities of a participating nature

Including rights to subscribe to new issues of shares.

Bonds

Negotiable securities with a maturity of two years or more from issue for which the interest rate and the terms for the repayment of the principal and the payment of interest are determined at the time of issue.

Collective investment undertakings

Undertakings:

- the object of which is the collective investment in transferable securities or other assets of the capital they raise and which operate on the principle of risk-spreading, and
- the units of which are, at the request of holders, under the legal, contractual or statutory conditions governing them, repurchased or redeemed, directly or indirectly, out of those undertakings' assets. Action taken by a collective investment undertaking to ensure that the stock exchange value of its units does not significantly vary from their net asset value shall be regarded as equivalent to such repurchase or redemption.

Such undertakings may be constituted according to law either under the law of contract (as common funds managed by management companies) or trust law (as unit trusts) or under statute (as investment companies).

For the purposes of the Directive, 'common funds' shall also include unit trusts.

Securities and other instruments normally dealt in on the money market

Treasury bills and other negotiable bills, certificates of deposit, bankers' acceptances, commercial paper and other like instruments.

Credits related to commercial transactions or to the provision of services

Contractual trade credits (advances or payments by instalment in respect of work in progress or on order and extended payment terms, whether or not involving subscription to a commercial bill) and their financing by credits provided by credit institutions. This category also includes factoring operations.

Financial loans and credits

Financing of every kind granted by financial institutions, including financing related to commercial transactions or to the provision of services in which no resident is participating.

This category also includes mortgage loans, consumer credit and financial leasing, as well as back-up facilities and other note-issuance facilities.

Residents or non-residents

Natural and legal persons according to the definitions laid down in the exchange control regulations in force in each Member State.

Proceeds of liquidation (of investments, securities, etc.)

Proceeds of sale including any capital appreciation, amount of repayments, proceeds of execution of judgements, etc.

Natural or legal persons

As defined by the national rules.

Financial institutions

Banks, savings banks and institutions specializing in the provision of short-term, medium-term and long-term credit, and insurance companies, building societies, investment companies and other institutions of like character.

Credit institutions

Banks, savings banks and institutions specializing in the provision of short-term, medium-term and long-term credit.

*ANNEX II***LIST OF OPERATIONS REFERRED TO IN ARTICLE 3 OF THE DIRECTIVE**

Nature of operation	Heading
Operations in securities and other instruments normally dealt in on the money market	V
Operations in current and deposit accounts with financial institutions	VI
Operations in units of collective investment undertakings	IV A and B (c)
— undertakings for investment in securities or instruments normally dealt in on the money market	
Financial loans and credits	VIII A and B 1
— short-term	

Nature of operation	Heading
Personal capital movements — loans	XI A
Physical import and export of financial assets — securities normally dealt in on the money market — means of payment	XII
Other capital movements: Miscellaneous — short-term operations similar to those listed above	XIII F

The restrictions which Member States may apply to the capital movements listed above must be defined and applied in such a way as to cause the least possible hindrance to the free movement of persons, goods and services.

ANNEX III

REFERRED TO IN ARTICLE 5 OF THE DIRECTIVE

Scope of the provisions of the 1985 Act of Accession relating to capital movements, in accordance with the Nomenclature of capital movements set out in Annex I to the Directive

Articles of the Act of Accession (dates of expiry of transitional provisions)	Nature of operation	Heading
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(a) Provisions concerning the Kingdom of Spain

Article 62 (31. 12. 1990)	Direct investments abroad by residents	I B
Article 63 (31. 12. 1990)	Investments in real estate abroad by residents	II B
Article 64 (31. 12. 1988)	Operations in securities normally dealt in on the capital market	III A 2
	— Acquisition by residents of foreign securities dealt in on a stock exchange — excluding bonds issued on a foreign market and denominated in national currency	
	Operations in unit of collective investment undertakings	IV A 2
	— Acquisition by residents of units of collective investment undertakings dealt in on a stock exchange — excluding units of undertakings taking the form of common funds	

(b) Provisions concerning the Portuguese Republic

Article 222 (31. 12. 1989)	Direct investments on national territory by non-residents	I A
Article 224 (31. 12. 1992)	Direct investments abroad by residents	I B
Articles 225 and 226 (31. 12. 1990)	Investments in real estate on national territory by non-residents	II A
Article 227 (31. 12. 1992)	Investments in real estate abroad by residents	II B
Article 228 (31. 12. 1990)	Personal capital movements (i) for the purpose of applying the higher amounts specified in Article 228 (2): — Dowries — Inheritances and legacies — Transfers of assets built up by residents in case of emigration at the time of their installation or during their period of stay abroad (ii) for the purpose of applying the lower amounts specified in Article 228 (2): — Gifts and endowments — Settlement of debts by immigrants in their previous country of residence — Transfers of immigrants' savings to their previous country of residence during their period of stay	XI C XI D XI B XI E XI G
Article 229 (31. 12. 1990)	Operations in securities normally dealt in on the capital market — Acquisition by residents of foreign securities dealt in on a stock exchange — excluding bonds issued on a foreign market and denominated in national currency Operations in units of collective investment undertakings — Acquisition by residents of units of foreign collective investment undertakings dealt in on a stock exchange — excluding units of undertakings taking the form of common funds	III A 2 IV A 2

ANNEX IV

REFERRED TO IN ARTICLE 6 (2) OF THE DIRECTIVE

1. The Portuguese Republic may continue to apply or reintroduce, until 31 December 1990, restrictions existing on the date of notification of the Directive on capital movements given in List I below:

LIST I

Nature of operation	Heading
Operations in units of collective investment undertakings	
— acquisition by residents of units of foreign collective investment undertakings dealt in on a stock exchange	IV A 2 (a)
— undertakings subject to Directive 85/611/EEC ¹ and taking the form of common funds	
— Acquisition by residents of units of foreign collective investment undertakings not dealt in on a stock exchange	IV A 4 (a)
— undertakings subject to Directive 85/611/EEC ¹	

¹ Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 375, 31.12.1985, p. 3).

- II. The Kingdom of Spain and the Portuguese Republic may continue to apply or reintroduce, until 31 December 1990 and 31 December 1992 respectively, restrictions existing on the date of notification of the Directive on capital movements given in List II below:

LIST II

Nature of operation	Heading
Operations in securities normally dealt in on the capital market	
— Acquisition by residents of foreign securities dealt in on a stock exchange	III A 2 (b)
— bonds issued on a foreign market and denominated in national currency	
— Acquisition by residents (non-residents) of foreign (domestic) securities not dealt in on a stock exchange	III A 3 and 4
— Admission of securities to the capital market	III B 1 and 2
— where they are dealt in on or in the process of introduction to a stock exchange in a Member State	
Operations in units of collective investment undertakings	
— Acquisition by residents of units of foreign collective investment undertakings dealt in on a stock exchange	IV A 2
— undertakings not subject to Directive 85/611/EEC ¹ and taking the form of common funds	
— Acquisition by residents (non-residents) of units of foreign (domestic) collective investment undertakings not dealt in on a stock exchange	IV A 3 and 4
— undertakings not subject to Directive 85/611/EEC ¹ and the sole object of which is the acquisition of assets that have been liberalized	
— Admission to the capital market of units of collective investment undertakings	IV B 1 and 2 (a)
— undertakings subject to Directive 85/611/EEC ¹	
— Credits related to commercial transactions or to the provision of services in which a resident is participating	VII A and B 3
— Long-term credits	

¹ See footnote to List I.

- III. The Hellenic Republic, the Kingdom of Spain, Ireland and the Portuguese Republic may, until 31 December 1992, continue to apply or reintroduce restrictions existing at the date of notification of the Directive on capital movements given in List III below:

LIST III

Nature of operation	Heading
Operations in securities dealt in on the capital market	
— Admission of securities to the capital market	III B 1 and 2
— where they are not dealt in on or in the process of introduction to a stock exchange in a Member State	
Operations in units of collective investment undertakings	
— Admission to the capital market of units of collective investment undertakings	IV B 1 and 2
— undertakings not subject to Directive 85/611/EEC ¹ and the sole object of which is the acquisition of assets that have been liberalized	
Financial loans and credits	VIII A, B 2 and 3
— medium-term and long-term	

¹ See footnote to List I.

- IV. The Hellenic Republic, the Kingdom of Spain, Ireland and the Portuguese Republic may, until 31 December 1992, defer liberalization of the capital movements given in List IV below:

LIST IV

Nature of operation	Heading
Operations in securities and other instruments normally dealt in on the money market	V
Operations in current and deposit accounts with financial institutions	VI
Operations in units of collective investment undertakings	IV A and B (c)
— undertakings for investment in securities or instruments normally dealt in on the money market	
Financial loans and credits	VIII A and B 1
— short term	
Personal capital movements	XI A
— loans	
Physical import and export of financial assets	XII
— securities normally dealt in on the money market	
— means of payment	
Other capital movements: Miscellaneous	XIII F

ANNEX V

Since the dual exchange market system, as operated by the Kingdom of Belgium and the Grand Duchy of Luxembourg, has not had the effect of restricting capital movement but nevertheless constitutes an anomaly in the EMS and should therefore be brought to an end in the interests of effective implementation of the Directive and with a view to strengthening the European Monetary System, these two Member States undertake to abolish it by 31 December 1992. They also undertake to administer the system, until such time as it is abolished, on the basis of procedures which will still ensure the *de facto* free movement of capital on such conditions that the exchange rates ruling on the two markets show no appreciable and lasting differences.

VI

ECU AND AGRICULTURAL UNIT OF ACCOUNT

COUNCIL REGULATION (EEC) No 3180/78
of 18 December 1978
**changing the value of the unit of account used by the European Monetary
Cooperation Fund**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 907/73 of 3 April 1973 establishing a European Monetary Cooperation Fund, and in particular the last paragraph of Article 5 of the Statutes of the Fund,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Monetary Committee,

Having regard to the opinion of the Board of Governors of the European Monetary Cooperation Fund,

Whereas Regulation (EEC) No 907/73, in Article 5 of the Statutes of the Fund, requires the latter's operations in the currencies of the Member States to be expressed in a European monetary unit of account of a value of 0.88867088 gram of fine gold;

Whereas this definition no longer conforms with the rules in force in the international monetary system;

Whereas, apart from cases in which the value of the European monetary unit of account is changed automatically, the last paragraph of the said Article 5 provides that any other changes shall be decided on by the Council, acting unanimously on a proposal from the Commission, after consulting the Monetary Committee and the Board of Governors of the Fund;

Whereas the establishment of a new European monetary system, which was the subject of the resolution of the European Council meeting in Brussels on 4 and 5 December 1978, provides for the use of an 'ecu' defined as a basket of Member States' currencies,

HAS ADOPTED THIS REGULATION:

Article 1

With effect from 1 January 1979, the Fund's operations shall be expressed in a unit of account known as the ecu which is defined as the sum of the following amounts of the currencies of the Member States:

[Amended by Regulation (EEC) No 2626/84 (See below).]

Article 2

The Council, acting unanimously on a proposal from the Commission after consulting the Monetary Committee and the Board of Governors of the Fund, shall determine the conditions under which the composition of the ecu may be changed.

Article 3

This Regulation shall enter into force on 1 January 1979.

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

Done at Brussels, 18 December 1978.

For the Council
The President
H. MATTHÖFER

COUNCIL REGULATION (EEC) No 2626/84

of 15 September 1984

amending Article 1 of Council Regulation (EEC) No 3180/78 changing the value of the unit of account used by the European Monetary Cooperation Fund

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act concerning the conditions of accession of the Hellenic Republic and to the adjustments to the Treaties of 28 May 1979 and in particular Annex VIII thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Monetary Committee,

Having regard to the opinion of the Board of Governors of the European Monetary Cooperation Fund,

Whereas Article 1 of Council Regulation (EEC) No 3180/78 of 18 December 1978 defines the ecu as the sum of amounts of currencies of the Member States;

Whereas Article 2.3 of the resolution of the European Council of 5 December 1978 on the establishment of the European Monetary System stipulates that the weights of the currencies in the ecu shall be re-examined and if necessary revised within six months of the entry into force of the system and thereafter every five years or, on request, if the weight of any currency has changed by 25 %;

Whereas a re-examination has been carried out and the results indicate that a revision is appropriate;

Whereas in accordance with Article 2.3 of the resolution of the European Council of 5 December 1978, the revision should be made in line with underlying economic criteria and should not, by itself, modify the external value of the ecu;

Whereas Annex VIII of the Act annexed to the Treaty of Accession of the Hellenic Republic to the European Communities specifies that the drachma shall be included in the ecu before 31 December 1985 if, before that date, a revision of the ecu is undertaken;

Whereas the Greek authorities have taken the necessary measures to ensure that the inclusion of the drachma in the ecu will take place in conditions which ensure the smooth functioning of the ecu market,

HAS ADOPTED THIS REGULATION:

Article 1

With effect from 17 September 1984 the composition of the ecu as laid down in Article 1 of Council Regulation (EEC) No 3180/78 of 18 December 1978 is amended as follows:

German mark	0.719
Pound sterling	0.0878
French franc	1.31
Italian lira	140
Dutch guilder	0.256
Belgian franc	3.71
Luxembourg franc	0.14
Danish krone	0.219
Irish pound	0.00871
Greek drachma	1.15

Article 2

This Regulation shall enter into force on 17 September 1984.

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

Done at Dromoland Castle, 15 September 1984.

For the Council
The President
A. DUKES

COUNCIL REGULATION (EEC) No 1971/89

of 19 June 1989

amending Article 1 of Regulation (EEC) No 3180/78 amending the value of the unit of account used by the European Monetary Cooperation Fund

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3180/78 and in particular Article 2 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Monetary Committee,

Having regard to the opinion of the Board of Governors of the European Monetary Cooperation Fund,

Whereas Article 1 of Regulation (EEC) No 3180/78, as amended by Regulation (EEC) No 2626/84, defines the ecu as the sum of amounts of currencies of the Member States;

Whereas Article 2 (3) of the resolution of the European Council of 5 December 1978 on the establishment of the European Monetary System stipulates that the weights of the currencies in the ecu shall be re-examined and if necessary revised within six months of the entry into force of the system and thereafter every five years or, on request, if the weight of any currency has changed by 25 %;

Whereas a re-examination has been carried out and indicates that a revision is appropriate;

Whereas, in accordance with Article 2 (3) of the said resolution, the revision should be made in line with underlying economic criteria and will not, by itself, modify the external value of the ecu;

Whereas the Joint Declaration on the inclusion of the peseta and the escudo in the ecu, annexed to the Treaty of Accession of Spain and Portugal, states that the decisions to include the peseta and the escudo must take into account the necessity of ensuring a stable development of the functions and uses of the ecu and that either of these decisions could be made at the request of the new Member State concerned, after consultation with the Monetary Committee, on the occasion of the first five-year review of the weighting of the currencies within the ecu;

Whereas the Spanish and Portuguese authorities have requested that their respective currencies be included in the ecu;

Whereas the inclusion of the peseta and the escudo, in particular following the steps taken by the issuing authorities for these currencies, is compatible with the need to ensure a stable development of the functions and uses of the ecu;

Whereas it is desirable that an interval of time should elapse between the decision on the new weights of the currencies in the ecu and the date on which this decision takes effect,

HAS ADOPTED THIS REGULATION:

Article 1

With effect from 21 September 1989, the composition of the ecu as laid down in Article 1 of Regulation (EEC) No 3180/78 will be determined by:

— firstly, the following weights:

	%
German mark	30.1
Pound sterling	13.0
French franc	19.0
Italian lira	10.15
Dutch guilder	9.4
Belgian franc	7.6
Luxembourg franc	0.3
Danish krone	2.45
Irish pound	1.1
Greek drachma	0.8
Spanish peseta	5.3
Portuguese escudo	0.8

— secondly, the rates for the ecu derived by the Commission from the rates of the dollar recorded by the central banks of the Member States on their respective exchange market, on Wednesday 20 September 1989 at 14.15.

The Commission shall be responsible for carrying out, on 20 September 1989, the calculations required to determine the new national currency amounts corresponding to the weights set out in this Regulation. It shall ensure that the new composition is communicated to the monetary authorities and published in the *Official Journal of the European Communities*.

Article 2

This Regulation shall enter into force on 20 June 1989.

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

Done at Luxembourg, 19 June 1989.

For the Council
The President
C. SOLCHAGA CATALAN

COMMUNICATION FROM THE COMMISSION
on the calculation of the equivalent of the ecu¹

1. Definition of the ecu

The ecu, as most recently defined in Council Regulation (EEC) No 2626/84 of 17 September 1984 is composed of the following amounts of national currencies:

German mark	0.719
Pound sterling	0.0878
French franc	1.31
Italian lira	140
Dutch guilder	0.256
Belgian franc	3.71
Luxembourg franc	0.14
Danish krone	0.219
Irish pound	0.00871
Greek drachma	1.15

The equivalent of the ecu in any currency is equal to the sum of the equivalents of these amounts in that currency.

2. Exchange rates used for calculating the ecu

The central bank in each Member State communicates a representative market exchange rate for its currency against the United States dollar. The dollar has been chosen as giving the most representative rate in all financial centres. The rates are taken from the exchange markets at 2.15 p.m. They are communicated by the National Bank of Belgium to the Commission, which uses them to calculate an ecu equivalent first in dollars and then in currencies of the Member States. If an exchange market is closed, the central banks agree on a representative exchange rate for the currency against the dollar which is communicated to the Commission.

The Commission also calculates an equivalent of the ecu for other currencies using for each its market rate against the dollar at 2.15 p.m.

¹ Although the Commission's Communication has not been formally adapted since its appearance on 28 December 1978, the values of the ecu in national currencies were in fact calculated as shown here on 27 October 1988.

Example: Calculation of equivalents for 27 October 1988

National currency amount of the ecu definition		27 October 1988 exchange rate against the USD	Equivalent in USD of national currency amount	Equivalent in national currency of total USD amount
(a)		(b)	(c) = (a):(b)	(d) = USD total × (b)
0.719	DM	1.7705	0.406100	2.07091
1.31	FF	6.044	0.216744	7.06951
0.0878	UKL	1.773	0.155669	2.07383
140	Lit	1319.5	0.106101	1543.39
0.256	Hfl	1.9962	0.128244	2.3349
3.71	FB	37.1175	0.099953	43.4154
0.14	Flux	37.1175	0.003772	43.4154
0.219	Dkr	6.8305	0.032062	7.98946
0.00871	IrL ¹	1.5101	0.013153	1.76632
1.15	Dr	146	0.007877	170.772
Total of USD amounts:			1.169674	

3. Publication of the currency equivalents of the ecu

The daily equivalents in the different currencies calculated by the Commission are published correct to six significant figures in the 'C' edition of the *Official Journal of the European Communities*.

¹ The dollar exchange rate from London and Dublin is the number of dollars per currency unit rather than the number of currency units per dollar. Column (c) is therefore found for each of these two currencies by multiplying the value in column (a) by that in column (b), and column (d) by dividing the dollar equivalent of the ecu by the rate in column (b).

COUNCIL REGULATION (EEC, EURATOM) No 3308/80

of 16 December 1980

on the replacement of the European unit of account by the ecu in Community legal instruments

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas Regulation (EEC) No 3180/78 defined a new unit of account, known as the ecu;

Whereas steps should be taken to standardize the units of account used by the Communities; whereas the European unit of account (EUA) should, therefore, be replaced by the ecu in all Community legal instruments;

Whereas a provision should be included in order, when the EUA is replaced by the ecu, to safeguard rights and obligations contracted in European units of account,

HAS ADOPTED THIS DECISION:

Article 1

In all Community legal instruments applying at the time of entry into force of this Regulation, 'European unit of account' shall be replaced by 'ecu'.

Article 2

The definition of the European unit of account in force before the entry into force of this Regulation shall continue to apply to rights and obligations arising before the entry into force of this Regulation which were determined in European units of account.

Article 3

This Regulation shall enter into force on 1 January 1981.

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

Done at Brussels, 16 December 1980.

For the Council
The President
Colette FLESCH

COMMISSION DECISION No 3334/80/ECSC

of 19 December 1980

amending Decision No 3289/75/ECSC on the definition and conversion of the unit of account to be used in decisions, recommendations, opinions and communications for the purposes of the Treaty establishing the European Coal and Steel Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Articles 8, 14, 26, 50, 54, 55 and 56 thereof,

Whereas, pursuant to Article 1 of Commission Decision No 3289/75/ECSC, the unit of account to be used for the purposes of the ECSC Treaty is the European unit of account (EUA) defined as the sum of specified amounts of the currencies of the Member States;

Whereas Council Regulation (EEC) No 3180/78 defined a new unit of account known as the ecu;

Whereas steps should be taken to standardize the units of account used by the Community; whereas the EUA should therefore be replaced by the ecu;

Whereas the composition of the ecu may be changed subsequently in the context of the European Monetary System,

With the unanimous assent of the Council,

HAS ADOPTED THIS DECISION:

Article 1

Decision No 3289/75/ECSC is hereby amended as follows:

1. Article 1 shall be replaced by the following:

Article 1

The unit of account to be used in decisions, recommendations, opinions and communications for the purposes of the Treaty establishing the European Coal and Steel Community shall be the ecu, defined by reference to the sum of the following amounts of the currencies of the Member States of the Community:¹

¹ Although the Commission Decision has not formally been modified following the revision of the ecu composition applied since 17 September 1984, the amounts indicated here were in force from that date (see Council Regulation No 2626/84).

German mark	0.719
Pound sterling	0.0878
French franc	1.31
Italian lira	140
Dutch guilder	0.256
Belgian franc	3.71
Luxembourg franc	0.14
Danish krone	0.219
Irish pound	0.00871
Greek drachma	1.15

Any change in the composition of the ecu decided upon in accordance with Article 2 of Council Regulation (EEC) No 3180/78 of 18 December 1978 shall automatically apply to this provision.'

2. In Article 2 'unit of account' shall be replaced by 'ecu'. In the first paragraph of Article 3, the first and second paragraphs of Article 4 and the last paragraph of Article 7 'EUA' shall be replaced by 'ecu'.

3. The following paragraph shall be added to Article 5:

'The definition of the European unit of account (EUA) in force before the entry into force of this Decision shall continue to apply to rights and obligations arising between 1 January 1976 and 31 December 1980 which were determined in European units of account, with the exception of those arising from adjustment operations.'

Article 2

This Decision shall enter into force on 1 January 1981.

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

Done at Brussels, 19 December 1980.

For the Commission
François-Xavier ORTOLI
Vice-President

COUNCIL REGULATION (EEC) No 1676/85

of 11 June 1985

on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy¹

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Court of Auditors,

Having regard to the opinion of the Monetary Committee,

Whereas Council Regulation (EEC) No 3180/78 of 18 December 1978 changing the value of the unit of account used by the European Monetary Cooperation Fund, as last amended by Regulation (EEC) No 2626/84, and Council Regulation (EEC) No 3181/78 of 18 December 1978 relating to the European Monetary System, introduced the ecu; whereas this unit of account is defined as the value of the sum of specified amounts of the currencies of the Member States;

Whereas Council Regulation (EEC) No 652/79 of 29 March 1979 on the impact of the European Monetary System on the common agricultural policy, as last amended by Regulation (EEC) No 3657/84, brought the ecu into use in the common agricultural policy;

Whereas a coherent set of provisions governing the agrimonetary field should be established; whereas the existing rules are no longer in line with practical circumstances and requirements; whereas accordingly:

- Council Regulation No 129 on the value of the unit of account and the exchange rates to be applied for the purpose of the common agricultural policy, as last amended by Regulation (EEC) No 2543/73,
- Council Regulation (EEC) No 653/68 of 30 May 1968 on conditions for alterations to the value of the unit of account used for the common agricultural policy, and
- Council Regulation (EEC) No 1134/68 of 30 July 1968 laying down rules for the implementation of Regulation (EEC) No 653/68 on conditions for alterations to the value of the unit of account used for the common agricultural policy,

should be repealed and replaced by provisions which take account both of the existence of the ecu and of changes dictated by experience;

¹ As most recently amended by Council Regulation (EEC) No 1636/87 of 9 June 1987.

Whereas provisions are required governing the exchange rates between the ecu and the national currencies to be used in connection with the common agricultural policy; whereas for data relating to the world market, the market rate, or, where appropriate, the central rate for the ecu can normally be taken as basis; whereas, on the other hand, for Community data, reference should normally be made to the central rates in the European Monetary System or to the special agricultural conversion rates in order to ensure the maintenance of given price levels in the national currencies; whereas, in this connection, it is none the less necessary to establish a system harmonizing with the method of calculation of the monetary compensatory amounts and to take account of the correcting factor affecting, where appropriate, the central rates;

Whereas the method of fixing the agricultural conversion rates and the consequences thereof should be determined in general terms, having due regard to the impact of these rates on the levels, when expressed in national currencies, of the prices and other amounts fixed under the common agricultural policy and on the levels of the monetary compensatory amounts;

Whereas changes, within the European Monetary System, in the central rates of the Member States' currencies and in the correcting factor applied, where appropriate, to them for the calculation of the monetary compensatory amounts will have an impact on the relationship between the national currencies and the ecu; whereas, accordingly, there will be *inter alia* a change in the relationship between the ecu and the rates agreed for the calculation of world market data; whereas there is therefore a need to provide for the possibility of prompt alteration of the factors on which the system of trade with non-member countries in agricultural products is based;

Whereas special rules should be laid down for dealing with exceptional situations arising either within the Community or on the world market and requiring immediate action to ensure that the schemes established under the common agricultural policy operate effectively;

Whereas this Regulation does not affect the validity of Council Regulation (EEC) No 129/78 of 24 January 1978 concerning the exchange rates to be applied in the framework of the common policy for agricultural structures,

HAS ADOPTED THIS REGULATION:

TITLE 1

Conversion rates

Article 1

1. The unit of account used in the legal instruments relating to the common agricultural policy shall be the ecu as defined by Regulation (EEC) No 3180/78.
2. For the purposes of this Regulation 'legal instruments relating to the common agricultural policy' shall mean:
 - (a) legal instruments based directly or indirectly on Article 43 of the Treaty, with the exception of the Common Customs Tariff and other legal instruments of customs legislation applicable to both agricultural products and industrial products;
 - (b) legal instruments applicable to goods processed from agricultural products and subject to specific trade arrangements.
3. The Council, acting by a qualified majority on a proposal from the Commission, may decide that amounts given in the Common Customs Tariff relating to agricultural products or to goods referred to in paragraph 2 (b) shall be converted into national currencies at the agricultural conversion rates.

Article 2

1. In legal instruments relating to the common agricultural policy, the agricultural conversion rates shall apply for the conversion:

- (a) into ecus of amounts expressed in the national currency of a Member State;
- (b) into the national currency of a Member State of amounts expressed in ecus;
- (c) into the national currency of a Member State of amounts expressed in the national currency of another Member State.

2. The agricultural conversion rate for a currency shall normally be the central rate fixed for that currency *vis-à-vis* the ecu. However, a different agricultural conversion rate may be fixed.

For as long as a correcting factor is applicable for the calculation of the monetary compensatory amounts under Article 6 (2) of Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture, the central rates referred to in the first paragraph shall be the central rates multiplied by the correcting factor.

3. The agricultural conversion rates shall be fixed by the Council, acting by a qualified majority on a proposal from the Commission.

4. Derogation may be made from the agricultural conversion rate in accordance with the procedure laid down in Article 10 (2), to permit the use of conversion rates corresponding more closely to actual economic circumstances, if this proves necessary, with a view to the comparability of certain data, particularly in the context of invitations to tender.

Article 3

1. Notwithstanding Article 2, the conversion

- (a) into ecus
 - of amounts expressed in the national currency of a Member State relating to world market data,
 - of amounts expressed in the national currency of a non-member country,
- (b) into the national currency of a non-member country of amounts expressed in ecus,

shall be effected, in legal instruments relating to the common agricultural policy:

- for the currencies of the Member States which maintain their currencies as between themselves within a spread at any given time of a maximum of 2.25 %, by reference to the central rate,
- for the other currencies, on the basis of an average of the rates obtained from the relationship between the average spot market rates for the currency concerned in relation to each of the currencies of the Member States referred to in the first indent, as recorded over a period to be determined, and the central rate for each of these currencies.

However, for as long as a correcting factor is applicable for the calculation of the monetary compensatory amounts under Article 6 (2) of Regulation (EEC) No 1677/85, the conversion rates referred to in the first subparagraph shall be established by reference not to the central rates but to the central rates multiplied by the correcting factor.

2. Derogation may be made from paragraph 1, in accordance with the procedure laid down in Article 10 (2), in the event of major currency fluctuations, in order to ensure closer alignments to actual economic circumstances.

TITLE II

Adjustment of amounts

Article 4

Alterations of agricultural conversion rates shall apply to all amounts in respect of which the operative event occurs after the alteration has taken effect. In such case, the amounts referred to in Article 6 and 7 shall be adjusted by reference to the agricultural conversion rate applicable when the operative event for the relevant operation occurs.

Article 5

1. 'Operative event' shall mean:

- (a) as regards the amounts charged or granted in trade, the completion of customs import or export formalities;
- (b) as regards the amounts indicated in contracts, the conclusion of the contract;
- (c) in all other cases, the event whereby the economic objective of the operation is attained.

2. However, an operative event other than those referred to in paragraph 1 may be taken if the time at which the economic objective is attained:

- (a) cannot be established,

or

- (b) for reasons peculiar to the relevant sector or amount, cannot be taken into consideration.

3. Operative events shall be determined in accordance with the procedure laid down in Article 12 without prejudice to the specific provisions already adopted under that procedure.

Article 6

1. In accordance with Article 4, amounts shall be adjusted if they satisfy the following conditions:

- (a) they are expressed in national currency in documents, certificates or licences drawn up in application of legal instruments relating to the common agricultural policy;

(b) they are either:

— fixed in ecus in the instruments referred to in (a),

or

— established following a tendering procedure opened under such instruments and fixing a maximum or minimum amount in ecus;

- (c) they have been fixed in advance or, in cases where conclusion of a contract would not be considered the operative event, they appear in a contract concluded with an intervention agency.

2. The adjustments referred to in this Article shall be made by Member States. They shall relate to any operation, or part of an operation, in respect of which the operative event has not yet occurred.

3. Where the adjustment leads to a disadvantage to the detriment of an interested party qualifying for advanced fixing, he may, upon written application, obtain the cancellation of the advance fixing and of the certificate or document certifying it.

The application must reach the competent authority within 30 days of the entry into force of the adjustments.

It may be decided prior to the date on which the change in the agricultural conversion rate takes effect that the disadvantage is to be offset by an appropriate measure. In such case, the cancellation referred to in the first subparagraph may not be granted.

4. For the purposes of this Regulation, a disadvantage shall be held to occur when, as a result of applying the new agricultural conversion rate, the amounts applicable to the operation concerned are such that:

— the net amount to be charged is higher,

or

— the net amount to be granted is lower

than it would have been had the said rate not entered into force.

Article 7

1. In accordance with Article 4, amounts shall be adjusted if they satisfy the following conditions:

(a) they have been fixed in ecus in a Community instrument;

(b) they are expressed in national currency in contracts concluded between private parties and compliance with these amounts, in the contracts in question, is compulsory under Community provisions.

2. The adjustment shall relate to the contracts referred to in paragraph 1 in so far as is necessary for compliance with Community provisions.

Article 8

1. Where the correcting factor referred to for the calculation of the monetary compensatory amounts is changed and where measures adopted under the European Monetary System or by a non-member country entail an abrupt and appreciable change in the rates of conversion between the ecu and the currencies concerned:

(a) the following amounts:

— import duties, except customs duties,

— export duties,

— export refunds,

— sluice-gate prices,

— aids fixed on the basis of world market data,

— import subsidies,

shall, as necessary, be calculated and fixed anew promptly by the Commission in accordance with the methods applicable in each case, using the new conversion rate;

(b) the amounts listed under (a) may also be adjusted, in accordance with the normal procedure, before the date specified for their periodic review wherever market changes so require.

2. Where paragraph 1 (a) is applied, those amounts referred to therein which:
 - have been fixed in advance,
 - and
 - remained, for an operation or part of an operation, to be realized after the change in the conversion rate,

shall be calculated and fixed anew, as necessary, by the Commission, in accordance with the said paragraph.

In such cases, Article 6 (3) and (4) shall apply.

Article 9

1. Where one or more agricultural conversion rates are revalued, the amounts fixed in ecus and not connected with the fixing of prices may be increased in accordance with the procedure laid down in Article 12.

2. As regards the amounts which Member States determine within maximum and minimum limits, the increase shall apply to the maximum and minimum amounts.

As concerns the maximum limit, the increase may not exceed the amount necessary to avoid any reduction in national currency of the amounts actually applied in the Member State in which revaluation has the greatest effect on these amounts.

As concerns the minimum limit, paragraph 3 shall apply.

3. With regard to the amounts referred to in paragraph 1 other than those referred to in paragraph 2, the increase may not exceed the amount necessary to avoid a reduction in national currency of the amounts in question in the Member State whose currency has undergone the greatest revaluation.

TITLE III

General provisions

Article 10

1. Where monetary practices of an exceptional nature are likely to jeopardize the implementation of the legal instruments relating to the common agricultural policy, the Council, acting in accordance with the procedure laid down in Article 43 of the Treaty, may adopt any appropriate measures, where necessary by way of derogation from existing legal instruments relating to the common agricultural policy.

If it is not possible to consult the European Parliament because of the urgency of the measures to be adopted, such measures may be adopted by the Council, acting by a qualified majority on a proposal from the Commission. The measures thus adopted shall be provisional and shall not become permanent until adopted in accordance with the procedure laid down in the first subparagraph.

2. Where monetary practices of an exceptional nature are likely to jeopardize the implementation of the instruments or provisions referred to in Article 1, the Council, acting by a qualified majority on a proposal from the Commission, or the Commission, acting within its powers under such legal instruments or provisions for each individual case, may make derogations from this Regulation, in particular in the following cases:

- (a) when a country uses abnormal currency exchange techniques such as multiple exchange rates or operates a barter agreement,
- (b) in the case of countries whose currencies are not quoted on official foreign exchange markets.

Article 11

1. The Monetary Committee shall be consulted on the fixing of the agricultural conversion rates and all measures adopted under Article 10.
2. In emergencies, the matter shall be referred to the Monetary Committee, even if the Committee cannot be consulted before a decision is taken. In such cases, the measures provided for in the decision shall apply provisionally and shall become final only when the Committee has given an opinion. Where the Committee's opinion is negative, the competent institution shall adopt final measures; the provisional measures shall remain applicable until the entry into force of this new decision.

Article 12

1. Detailed rules for the application of this Regulation shall be adopted in accordance with the procedure laid down:
 - (a) in Article 26 of Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals, as last amended by Regulation (EEC) No 1018/84;
or
 - (b) in the corresponding Articles of the other Regulations on the common organization of agricultural markets;
or
 - (c) in Article 18 of Directive 72/159/EEC, as last amended by Directive 82/436/EEC;
or
 - (d) in the corresponding Articles of other Community provisions establishing similar procedures.
2. To the extent and for the period strictly necessary in order to take account of this Regulation, these detailed rules may derogate from the rules for fixing the agricultural conversion rates.

Article 13

The amounts fixed in units of account (UA) for the application of the common agricultural policy or the special exchange arrangements for goods resulting from the processing of agricultural products shall be expressed in ecus with the aid of a coefficient of 1.208953.

Article 14

Regulation No 129 and Regulations (EEC) No 653/68, (EEC) No 1134/68 and (EEC) No 652/79 are hereby repealed.

Article 15

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

It shall apply on 1 January 1986.

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

Done at Luxembourg, 11 June 1985.

For the Council
The President
F. M. PANDOLFI

COUNCIL REGULATION (EEC) No 1677/85
of 11 June 1985
on monetary compensatory amounts in agriculture¹

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Court of Auditors,

Having regard to the opinion of the Monetary Committee,

Whereas for several years the common agricultural policy has required the use, for the conversion into national currencies of amounts fixed at Community level in units or account or in ecus, of special conversion rates which differ appreciably from the market exchange rates; whereas, when most currencies were being allowed to float, the fixing of such agricultural conversion rates was the only way of maintaining the common agricultural policy and its price system in being;

Whereas, if in a Member State the market rate deviates from the agricultural conversion rate by more than a specified margin, the functioning of the common agricultural policy may be seriously impeded; whereas, since trade to which the market rate applies may then be effected at a price, in national currency, different from the intervention price resulting from the use of agricultural conversion rates; whereas, moreover, the amounts to be granted or charged in trade with non-member countries will differ from one Member State to another;

Whereas such effects might jeopardize the proper functioning of the market organization in general and its intervention system in particular; whereas, furthermore, abnormal changes in prices and artificial movements in trade flows might occur;

Whereas it is justifiable to forestall these difficulties by providing for the application in trade of a system of monetary compensatory amounts bridging the gap between the market rate and the agricultural conversion rate; whereas these amounts were introduced by Council Regulation (EEC) No 974/71 of 12 May 1971 on certain measures of conjunctural policy to be taken in agriculture following the temporary widening of the margins of fluctuation for the currencies of certain Member States, as amended on several occasions and as last amended by Regulation (EEC) No 855/84; whereas that Regulation has been amended several times; whereas, in the interests of clarity and administrative efficiency, it should be consolidated and republished in its entirety;

Whereas, by virtue of Council Regulation (EEC) No 652/79 of 29 March 1979 on the impact of the European Monetary System on the common agricultural policy, as last amended by Regulation (EEC)

¹ Text as most recently amended by Regulation (EEC) No 1889/87 of 2 July 1987.

No 3657/84, the ecu is applied for the purposes of the common agricultural policy; whereas, for the currencies of the Member States which are taking part in the exchange rate system of the European Monetary System, central rates have been fixed against the ecu;

Whereas, in cases where the Member States maintain a maximum spread at any given time of 2.25 % between their currencies, the central rates *vis-à-vis* the ecu can be used as market rates; whereas it is desirable, in order to ensure a measure of stability in monetary compensatory amounts, to calculate the amounts for the Member States concerned by reference to the central rates instead of the actual market rates;

Whereas for the other Member States it is appropriate to take the relationship between their currencies and the currencies of the Member States referred to above as the basis for calculating the monetary compensatory amounts;

Whereas experience has shown that the re-incorporation of the agricultural sector into the economic context by alignment of the agricultural conversion rates on the central rates is a difficult undertaking, particularly for the Member States applying positive monetary compensatory amounts, the dismantlement of which entails reductions in prices when expressed in the national currencies;

Whereas for this reason, price differences due to the agricultural conversion rates tend to be permanent; whereas, if market unity is to be restored, these differences must be narrowed down in the future; whereas rules on the dismantlement of the monetary compensatory amounts are therefore needed;

Whereas these rules must cover both the methods of calculation of the monetary compensatory amounts and the agricultural conversion rates; whereas, for the monetary compensatory amounts, the creation of new positive monetary compensatory amounts can be avoided by changing the way these amounts are calculated so as to base the method on the strongest Community currency complying with the 2.25 % fluctuation margin under the European Monetary System; whereas the calculation method can be changed by multiplying the central rates of the currencies complying with the 2.25 % margin by a coefficient expressing the revaluation of that central rate which, on the occasion of a realignment, is revalued most *vis-à-vis* the ecu; whereas this entails a corresponding increase in the negative monetary compensatory amounts;

Whereas, by its very nature, this calculation method will lead to the creation of more negative monetary compensatory amounts; whereas it should therefore be introduced only on a provisional basis for a limited period at the end of which it should be reviewed in the light of experience; whereas, should the Council not have adopted before the beginning of the 1987/88 milk marketing year decisions either to extend the system in force or to introduce a different system, the arrangements applicable since the introduction of the ecu into the common agricultural policy will be reintroduced with effect from the beginning of the 1987/88 marketing year for each of the relevant products;

Whereas this system of calculation is also used for the dismantling of existing positive monetary compensatory amounts, by reducing the highest by 3 points; whereas, for this purpose, the central rates of the currencies complying with the 2.25 % fluctuation margin must be multiplied by a coefficient of 1.033651, hereinafter referred to as the 'correcting factor';

Whereas the monetary compensatory amounts must be paid or charged only where their absence would endanger distortions in the intervention system and/or in trade;

Whereas the monetary compensatory amounts must also be kept down to the levels strictly needed to offset the impact of the gap between the agricultural conversion rate and the market rate on the prices of basic products for which intervention measures have been laid down;

Whereas, to simplify administrative procedures, the principle should be laid down that each Member State should grant or charge the monetary compensatory amounts which correspond to the difference between the market rate of its currency and the agricultural conversion rate of its currency; whereas

for the same reason, in trade with non-member countries, the monetary compensatory amounts granted on imports should be deducted from the import duties while those charged on exports should be deducted from the refunds; whereas in certain cases this system may, however, create difficulties due to the administrative structure of the Member State concerned; whereas application of other administrative and accounting methods should therefore be authorized;

Whereas, in view of the special situation in the beef and veal sector and the wine sector, derogations from the rules of calculation normally applicable may be provided for where such derogations result in a reduction in the monetary compensatory amounts;

Whereas, in certain cases, the monetary compensatory amounts may cover only part of the monetary gap without this causing difficulties in trade; whereas, having regard to price relationships, it must also be possible to limit negative monetary compensatory amounts, where necessary, to the duties on imports from non-member countries;

Whereas, by reason of their purpose, monetary compensatory amounts are an element of the common organization of agricultural markets; whereas the monetary compensatory amounts charged on trade with non-member countries correspond to the concept of agricultural levies within the meaning of Article 2 (a) of Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from Member States by the Community's own resources, or, for goods which are subject to special trade arrangements, to the concept of customs duties within the meaning of Article 2 (b) of that Decision; whereas steps should be taken to ensure that the other monetary compensatory amounts are taken into account in connection with the financing of the common agricultural policy,

HAS ADOPTED THIS REGULATION :

Article 1

1. If, for the currency of a Member State, there is a difference between the agricultural conversion rate and the central rate or, where applicable, the market rate, that Member State shall apply, in intra-Community trade and trade with non-member countries, monetary compensatory amounts as provided in this Regulation.
2. For the currencies of Member States which, within the European Monetary System, maintain a maximum spread at any given time of 2.25 %, the rate referred to shall be the central rate.

Article 2

1. If the central rate, or, where applicable, the market rate expresses a value for a Member State's currency in ecu higher than the agricultural conversion rate, that Member State shall charge monetary compensatory amounts on imports and grant them on exports.

These amounts shall be called 'positive monetary compensatory amounts'.

2. If the central rate or, where applicable, the market rate expresses a value for a Member State's currency in ecu lower than the agricultural conversion rate, that Member State shall charge monetary compensatory amounts on exports and grant them on imports.

These amounts shall be called 'negative monetary compensatory amounts'.

Article 3

Article 1 shall apply only where the difference referred to in that Article between the agricultural conversion rate and the central rate or, where applicable, the market rate, would cause disturbances in trade in agricultural products.

Article 4

1. Monetary compensatory amounts shall apply to:

- (a) products covered by intervention arrangements under the common organization of agricultural markets, hereinafter referred to as 'basic products';
- (b) products the price of which depends on that of the basic products and which are governed by the common organization of the market or are the subject of special trade arrangements, hereinafter referred to as 'derived products'.

2. For the purposes of this Regulation, pigmeat shall rank as a product derived from cereals. This rule shall apply for as long as the arrangements provided for in Article 6 remain in force.

Article 5

1. For basic products, the monetary compensatory amounts shall be equal to the amounts obtained by applying to the prices a percentage, hereinafter referred to as the 'monetary gap'.

For derived products, the monetary compensatory amounts shall be equal to the effect, on the price of the product concerned, of the application of the monetary compensatory amount to the price of the basic product or products on which they depend.

2. The monetary gap shall be equal to the real monetary gap minus the neutral margin as defined in paragraph 3.

The real monetary gap shall be equal:

- (a) in respect of those Member States whose currencies are maintained as between themselves within a spread at any given time of a maximum of 2.25 %, to the percentage representing, for the currency of the Member State concerned, the difference between:

- the agricultural conversion rate, and
- the central rate;

- (b) in respect of Member States other than those referred to in (a), to the average of the percentage differences between:

- the rate resulting from the relationship between the agricultural conversion rate for the currency of the Member State concerned and the central rate of each of the currencies of the Member States referred to in (a), and
- the rate corresponding to the average spot exchange rate for the currency of the Member State concerned in terms of each of the currencies of the Member States referred to in (a), recorded over a period to be determined according to the procedure in Article 12.

3. For the purposes of calculating the monetary compensatory amounts, the neutral margin shall be 1.50 percentage points, except for the Netherlands, for which it shall be 1.0 percentage point.

However:

- (a) a percentage of:

- 0 shall be applied for as long as, after deduction of the neutral margin, the result obtained is equal to or less than 0.50 but exceeds 0,

- 1.0 shall be applied for as long as, after deduction of the neutral margin, the result obtained is equal to or less than 1.0 but exceeds 0.50;
- (b) following the procedure provided for in Article 12, the neutral margin may be set at a maximum level of:
- five percentage points for the monetary compensatory amounts applicable in the wine and poultry raising sectors,
 - 10 percentage points for the monetary compensatory amounts applicable in the olive oil sector.
4. Should the market price for adult bovine animals remain below the intervention price for a relatively long period, the monetary compensatory amounts applicable in the beef and veal sector may be altered accordingly, following the procedure provided for in Article 12.

Article 6

1. For the purposes of applying Articles 1, 2, 3 and 5, the central rates shall be multiplied by a coefficient, which shall be called a 'correcting factor'.

The market rates shall be established allowing for the correcting factor applied to the central rates.

The correcting factor shall be 1.137282 with effect:

- at the beginning of the 1987/88 marketing year for those products for which such marketing year has not yet started on the date on which Regulation (EEC) No 1890/87 takes effect,
- on the date on which Regulation (EEC) No 1890/87 takes effect for the remaining products.

The correcting factor shall be altered whenever parities are realigned within the European Monetary System, on the basis of the revaluation of the central rate of that currency, among the currencies maintained among themselves within a maximum spread at any given time of 2.25 %, the revaluation of which *vis-à-vis* the ecu is the highest. The procedure followed shall be that laid down in Article 12.

2. For the purposes of this Article, 'transferred negative monetary compensatory amounts' shall mean those amounts resulting from the application of paragraph 1, being supplementary as compared with those which would have resulted from the application of Article 5 alone.

The agricultural conversion rates shall be adjusted in such a way as to eliminate any newly created monetary gaps, for each of the currencies concerned. The said elimination shall be carried out by instalments as follows:

- (a) in the case of transferred negative monetary compensatory amounts created during a marketing year:
- 25 % at the beginning of the marketing year which follows the realignment or realignments of parities,
 - 37.5 % at the beginning of the second and third years which follow the realignment or realignments of parities.
- (b) in the case of the other negative monetary compensatory amounts created since the last realignment of parities:
- a maximum of 30 % when parities are realigned,
 - at the beginning of the two years following realignment of parities: in two equal instalments for monetary compensatory amounts which are not dismantled.

The abovementioned adjustments shall be carried out following the procedure in Article 12. However, the negative monetary gaps which are eliminated shall in no case exceed the negative real monetary gap obtaining when the agricultural conversion rate was adjusted.

3. When the amendment of the agricultural conversion rates takes effect, under the first indent of (a) of the second subparagraph of paragraph 2, the prices fixed in ecus under the common agricultural policy shall be reduced in accordance with the procedure provided for in Article 12 so as to neutralize the increase in the prices in national currency which arises as a result of the amendment of the agricultural conversion rates.

Those Member States in which prices in national currency fall as a result of the first subparagraph's being applied shall be authorized, according to a procedure to be determined by the Council, acting by a qualified majority on a proposal from the Commission, to grant national compensation aid. Such aid must be directed towards the socio-structural field and may not be linked to production.

4. For the purposes of applying the first subparagraph of paragraph 3 :

- (a) a coefficient shall be established which expresses the relationship between the new and old correcting factor, allocated, as appropriate, on the basis of the dismantling stages envisaged;
- (b) the prices fixed under the common agricultural policy shall be divided by the coefficient referred to in (a). The other amounts fixed in ecus under the common agricultural policy shall, as far as the need arises, be amended as appropriate.

5. This Article shall apply without prejudice to :

- Article 2 of Regulation No 1676/85, where an additional dismantling of monetary compensatory amounts is being contemplated,
- Regulation (EEC) No 129/78

6. Where this Article provides that a measure is to take effect from the beginning of a marketing year, the date concerned shall, in the case of products or sectors for which there is no marketing year, be fixed in accordance with the procedure introducing the measure in question.

7. The arrangements provided for in this Article will be re-examined before 1 July 1988.

Article 6a

The following provisions shall apply in the pigmeat sector :

- (1) the monetary compensatory amounts shall be fixed on the basis of a price equal to 35 % of the basic price;
- (2) in accordance with the procedure provided for in Article 12, the agricultural conversion rate of a Member State shall be adjusted so as to avoid new compensatory amounts being created. However, such adjustment may not bring about a situation whereby, for the Member State concerned, the difference between the monetary gap applicable in the pigmeat sector, on the one hand, and the gap applicable in the cereals sector, on the other, exceeds eight percentage points.

Article 7

The Council, acting by a qualified majority on a proposal from the Commission, may decide that negative monetary compensatory amounts for one or more products may not exceed the duties on imports from non-member countries.

Article 8

No monetary compensatory amount shall be fixed for products in respect of which this amount, calculated in accordance with Article 5, would be very small in terms of their average value.

Article 9

1. The monetary compensatory amounts shall be fixed in accordance with the procedure provided for in Article 12.

2. However, for the Member States referred to in Article 5 (2), second subparagraph at (b), and subject to Article 5 (3), second subparagraph:

— if the percentage referred to in Article 5 (2), second subparagraph at (b), deviates by at least one percentage point from that referred to when the amounts were last fixed, the monetary compensatory amounts shall be altered by the Commission on the basis of the change in this gap.

— if the percentage referred to in Article 5 (2), second subparagraph at (b), deviates by less than one point from the percentage referred to when the amount was last fixed, the monetary compensatory amounts shall not be altered except in exceptional cases, in accordance with the procedure laid down in Article 12.

Article 10

1. Where a product exported from one Member State has been imported into a Member State which has to grant a monetary compensatory amount upon importation, the exporting Member State may, by agreement with the importing Member State, pay the monetary compensatory amount which should be granted by the said importing Member State.

In this case, no monetary compensatory amount shall be granted by the importing Member State for products originating in the Member State concerned.

The monetary compensatory amount shall be converted on the basis of the average spot market rate of the relevant currencies as recorded over a period to be determined according to the procedure in Article 12 or, as appropriate, using the central rates.

2. Exporting Member States which exercise the option referred to in paragraph 1 shall inform the Commission accordingly.

Article 11

1. In trade with non-member countries, monetary compensatory amounts:

(a) granted on imports shall be deducted from the import duties;

(b) charged on exports shall be deducted from the export refunds.

2. However, the Member States concerned may decide not to apply paragraph 1 (b).

Member States availing themselves of the option referred to in the first subparagraph shall, by an aggregate method to be agreed, determine the total amount of the monetary compensatory amounts which, pursuant to paragraph 1, ought to have been deducted from the refunds. For accounting purposes within the context of the general budget of the European Communities:

— this total amount shall be deemed to have been deducted from the refunds,

— an excess over the sum of the refunds shall be deemed to be a monetary compensatory amount charged on exports.

Detailed rules for the application of the second subparagraph shall be adopted in accordance with the procedure laid down in Article 13 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy, at last amended by Regulation (EEC) No 870/85.

Article 12

Detailed rules for the application of this Regulation, which may include other derogations from the Regulations relating to the common agricultural policy, shall be adopted in accordance with the procedure laid down in Article 26 of Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals, as last amended by Regulation (EEC) No 1018/84, or, if appropriate, the corresponding Articles of the other Regulations on the common organization of agricultural markets.

Article 13

1. For the purposes of the financing of the common agricultural policy, the monetary compensatory amounts granted in trade with non-member countries shall be treated as part of the expenditure on refunds granted on exports to non-member countries.
2. For the purposes of the financing of the common agricultural policy, the monetary compensatory amounts charged or granted in trade between Member States shall be treated as part of the expenditure on intervention intended to stabilize agricultural markets.
3. Where necessary, detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 14

Regulation (EEC) No 974/71 is hereby repealed.

All references to that Regulation shall be construed as references to this Regulation.

The citations and references concerning the Articles of that Regulation are to be taken according to the table of equivalence given in the Annex.

Article 15

This Regulation shall enter into force on 1 January 1986.

However, the repeal of Article 4 (1) of Regulation (EEC) No 974/71 shall apply as from the date on which this Regulation is published in the *Official Journal of the European Communities*.

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

Done at Luxembourg, 11 June 1985.

For the Council
The President
F. M. PANDOLFI

ANNEX

TABLE OF EQUIVALENCE

Regulation (EEC) No 974/71

This Regulation

Article 1 (1) and (1a)
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VII
COMMITTEES

STATUTES OF THE MONETARY COMMITTEE¹

THE COUNCIL,

Having regard to Article 105 (2) of the Treaty establishing the European Economic Community which sets up a Monetary Committee in order to promote coordination of the policies of Member States in the monetary field to the full extent needed for the functioning of the common market,

Having regard to Article 153 of the Treaty pursuant to which the Council determines the rules governing the committees provided for in the Treaty,

Having obtained the Opinion of the Commission,

HAS DECIDED:

that the Rules governing the Monetary Committee shall be as follows:

Article 1

The Committee shall keep under review the monetary and financial situation of Member States and of the Community and also the general payments system of Member States, and shall report regularly to the Council and to the Commission thereon.

Article 2

When examining the monetary and financial situation of Member States, the Committee shall endeavour in particular to foresee any difficulties which may affect their balance of payments. It shall address to the Council and to the Commission any suggestions designed to avert these difficulties while at the same time preserving the internal and external financial stability of each Member State.

Article 3

In respect of the general payments system of Member States, the Committee shall, in particular, keep under review the implementation of the provisions of Article 106 (1) to (3) of the Treaty. Where necessary, it shall address to the Council suggestions concerning measures to be taken by Member States in accordance with Article 106 (4). It shall inform the Commission thereof.

¹ Council Decision of 18 March 1958 amended by Council Decision of 2 April 1962, by Article 29 of the Act of Accession of 22 January 1972 and by Council Decision of 25 March 1976 (76/332/EEC).

Article 4

The Opinion of the Monetary Committee must be obtained either by the Council or, in the cases provided for in Article 69, in the last subparagraph of Article 71, in the first subparagraph of paragraph 1 of Article 73 and in paragraph 2 thereof, in Article 107 (2), in the second subparagraph of Article 108 (1), and in Article 109 (3), by the Commission.

The Opinion of the Committee may also be obtained in other cases by the Council or the Commission.

In any event, the Committee has the power and the obligation to draw up Opinions on its own initiative whenever it considers it necessary for the proper fulfilment of its task.

Article 5

Member States and the Commission shall each appoint two members of the Committee. They may also appoint two alternate members of the Committee. The members of the Committee and the alternates must be selected from among experts possessing outstanding competence in the monetary field. As a general rule, each Member State shall select one member from among senior officials of the administration and the other member on the proposal of the central bank; the alternates may be selected in the same way.

Members of the Committee and alternates shall be appointed in their personal capacity and shall, in the general interests of the Community, be completely independent in the performance of their duties.

The term of office of the members of the Committee and of the alternates shall be two years. It shall be renewable. It shall end on death, voluntary resignation, or compulsory retirement. In such cases the new member or alternate shall be appointed for the remainder of the term of office.

A member of the Committee or an alternate may be compulsorily retired against his wishes only by the authority which appointed him and then only if the member or alternate no longer fulfils the conditions required for the performance of his duties.

Article 6

Each member of the Committee shall have one vote.

Article 7

The Committee shall appoint from among its members a Chairman and three Vice-Chairmen to be elected by a majority of 11 votes for a period of two years. If a Chairman or Vice-Chairman ceases to hold office before his full term has expired, the vacancy thus caused shall be filled for the remainder of the term of office.

Article 8

Unless the Committee decides otherwise, alternates may attend meetings of the Committee. They shall not take part in the discussions and shall not vote.

A member who is unable to attend a meeting of the Committee may delegate his functions to one of the alternates; he may also delegate them to another member.

Article 9

The Committee shall meet not less than six times a year.

It shall be convened by the Chairman on his own initiative or at the request of the Council or of the Commission or of two members of the Committee.

Article 10

Opinions of the Committee, within the meaning of Article 4, shall be adopted by a majority of 11 votes. The minority may set out its views in a document attached to the Opinion of the Committee.

Where a majority within the meaning of the preceding subparagraph is not obtained, and in the case of any other decision, suggestion or communication intended for the Council or the Commission, the Committee shall submit a report setting out either the unanimous opinion of its members or the various opinions expressed in the course of the discussion.

Article 11

The Committee may propose to the Council or to the Commission that one or more of its members be attached to these institutions in order to comment orally on any document which may be addressed to them by the Committee.

Article 12

The Committee may entrust the study of specific questions to working parties composed of members of the Committee or alternates. The Committee and the working parties may call upon experts to assist them.

Article 13

In important cases the Committee may, before drawing up a report or delivering an Opinion on a specific country, request all necessary information.

Article 14

The Committee shall establish close cooperation with the Managing Board of the European Payments Union or, if the case should arise, with the Board of Management of the European Monetary Agreement, on all questions of common interest. To this end, the Committee may in particular invite the Managing Board of the European Payments Union or, if the case should arise, the Board of Management of the European Monetary Agreement, to be represented at its meetings, or may propose that joint meetings be arranged.

Article 15

Discussions of the Committee and of the working parties shall be confidential.

Article 16

The Committee shall be assisted by a secretariat. The staff needed for this shall be supplied by the Commission.

The expenses of the Committee shall be included in the estimates of the Commission.

Article 17

The Committee shall adopt its own rules of procedure.

Done at Strasbourg, 18 March 1958.

For the Council
The President
V. LAROCK

**CONSULTATION OF THE MONETARY COMMITTEE
BY THE COUNCIL AND THE COMMISSION**

**Translation of an extract from the minutes
of the second meeting of the Council of the
European Communities held in Brussels on 25 February 1958**

'With regard to Article 4 (of the Statutes of the Monetary Committee), the Council and the Commission declared that they propose, as a general rule, to consult the Monetary Committee before taking any of the decisions provided for in Article 70 (2), paragraph 2; Article 73 (1), paragraph 2; or Article 108 (3) paragraphs 1 or 2; and before making any of the recommendations or proposals provided for in Article 70 (1); Article 108 (1), paragraph 1; or Article 109 (2) of the Treaty establishing the EEC.'

COUNCIL DECISION

of 8 May 1964

on cooperation between Member States in the field of international monetary relations

(64/301/EEC)

THE COUNCIL OF THE EUROPEAN ECONOMIC COMMUNITY,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 105 (1) and the first indent of Article 145 thereof,

Having regard to the Recommendation of the Commission of 19 June 1963,

Having regard to the Opinion of the European Parliament,

Having regard to the Opinion of the Economic and Social Committee,

Whereas there should be close coordination of the policies of the Member States in the field of international monetary relations and the most appropriate method of ensuring such coordination is for the necessary consultations to be held within the Monetary Committee,

HAS DECIDED AS FOLLOWS:

Article 1

Consultations shall take place within the Monetary Committee in respect of any important decision or position taken by Member States in the field of international monetary relations and concerning in particular:

- the general working of the international monetary system;
- recourse by a Member State to resources which can be mobilized within the framework of international agreements;
- participations by one or more Member States in substantial monetary support operations in favour of third countries.

Article 2

The Member States shall take the aforesaid decisions or positions only after the consultations referred to in Article 1 have been held, unless circumstances and in particular the time limits for taking them require otherwise.

Done at Brussels, 8 May 1964.

For the Council
The President
H. FAYAT

COUNCIL DECISION

of 8 May 1964

on cooperation between the central banks of the Member States of the European Economic Community

(64/300/EEC)

THE COUNCIL OF THE EUROPEAN ECONOMIC COMMUNITY,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 105 (1) and the first indent of Article 145 thereof,

Having regard to the Recommendation of the Commission of 19 June 1963,

Having regard to the Opinion of the European Parliament,

Having regard to the Opinion of the Economic and Social Committee,

Whereas the progressive realization of economic union must involve the implementation of economic and monetary policies that help to ensure stable exchange parities between the currencies of the Member States;

Whereas a closer coordination of the monetary policies of the Member States could be promoted by arranging for consultations between the central banks of the Member States which should take place, so far as possible, before any decisions are taken by the central banks,

HAS DECIDED AS FOLLOWS:

Article 1

For the purpose of promoting cooperation between the central banks of the Member States, a Committee of the Governors of the Central Banks of the Member States of the European Economic Community (hereinafter called the 'Committee') is hereby set up.

Article 2

The Committee shall be composed of the Governors of the central banks of the Member States. If they are unable to attend, they may be represented by another member of the directing body of their institution.

The Commission shall, as a general rule, be invited to send one of its members as a representative to the meetings of the Committee.

The Committee may, furthermore, if it considers it necessary, invite qualified persons to attend and in particular the Chairman of the Monetary Committee or, if he is unable to attend, one of the two Vice-Chairmen of that Committee.

Article 3

The tasks of the Committee shall be:

- (i) to hold consultations concerning the general principles and the broad lines of policy of the central banks, in particular as regards credit and the money and foreign exchange markets;
- (ii) to exchange information at regular intervals about the most important measures that fall within the competence of the central banks, and to examine those measures. This examination shall take place before the measures concerned are adopted where circumstances, and in particular the time limit for their adoption, allow.

In carrying out its task, the Committee shall keep under review the trend of the monetary situation both inside and outside the Community.

Article 4

The Committee shall meet at regular intervals and whenever circumstances so require. The Commission may, if it considers the situation necessitates such a step, request an emergency meeting of the Committee.

Article 5

The Committee shall adopt its own rules of procedure and provide its own secretarial services.

Done at Brussels, 8 May 1964.

For the Council
The President
H. FAYAT

**RULES OF PROCEDURE
OF THE COMMITTEE OF GOVERNORS OF THE CENTRAL BANKS
OF THE EUROPEAN ECONOMIC COMMUNITY**

The Committee of Governors of the Central Banks of the European Economic Community, hereafter referred to as 'the Committee';

Having regard to the Treaty establishing the European Economic Community, in particular Article 105 (1) thereof,

Having regard to the Decision of the Council of the European Economic Community of 8 May 1964 establishing a Committee of Governors of the Central Banks of the European Economic Community, and in particular Article 5 thereof,

Having regard to the proceedings of the Committee of 6 July 1964,

HAS DECIDED to adopt the following rules of procedure:

Article 1

1. The Committee shall be composed of the Governors of the Banque Nationale de Belgique, the Deutsche Bundesbank, the Banque de France, the Banca d'Italia and the Nederlandsche Bank. The Members may be accompanied at Committee meetings, or be represented at such meetings, by any other person belonging to the policy board of their institution.
2. The Committee Members or their representatives may be assisted, in the examination of specific technical questions, by experts from their central banks.

Article 2

1. The Commission of the European Economic Community shall, as a general rule, be invited to send one of its members as a representative to the meetings of the Committee.
2. The Committee may furthermore, if it considers it necessary, invite qualified persons to its meetings, including the Chairman of the Monetary Committee of the European Economic Community, or, if he is unable to attend, one of the two Vice-Chairmen of that Committee.

Article 3

1. Each Member of the Committee shall have one vote. Where a Committee Member is unable to attend, his right to vote shall automatically be delegated to the person representing him.
2. Within the general framework of its duties as defined by Article 3 of the Decision of 8 May 1964 of the Council of Ministers of the European Economic Community, the Committee may render opinions or submit memoranda. The opinions shall be adopted by a majority vote, the minority being

entitled to express its views in an annexed document. In general, in respect of any deliberation or memorandum, the Committee may submit a report expressing either differing points of view or the unanimous views of its Members.

Article 4

Voting by simple majority, the Committee shall appoint a Chairman from among its Members for a period of one year. Should the Chairman not complete his term, the Committee shall choose a new Chairman for the remainder of the term. Should the Chairman be unable to officiate, his duties shall be carried out by the oldest Committee Member.

Article 5

1. The Committee shall meet at regular intervals, normally every two months. The meetings shall usually take place on the same dates as meetings of the Board of Directors of the Bank for International Settlements.
2. The Chairman may also convene the Committee:
 - (i) at the request of the Commission of the European Economic Community;
 - (ii) at the request of a Committee Member, after consulting the other Members;
 - (iii) whenever he considers that the situation necessitates a meeting.

Article 6

1. The Agenda and — in case of extraordinary meetings — the notices to attend must reach the Committee Members eight days before the meeting, except in emergencies.
2. The Chairman shall preside over the meetings. If he is unable to attend, he shall be replaced by the oldest Committee Member present.
3. The proceedings shall be confidential. A summary record shall be drafted at the end of each meeting, submitted to the Members for approval at the next meeting, and signed by the Chairman and by the Secretary-General.

Article 7

1. The Secretary-General of the Committee and his assistants shall be appointed by the Committee. They shall be chosen from officials of the Bank for International Settlements being nationals of the Member States of the European Economic Community or from officials of the central banks of the Member States.
2. The Secretary-General's duties shall include:
 - (i) participation in the Committee meetings;
 - (ii) drafting of the minutes of the meeting;
 - (iii) execution, where appropriate in association with staff members specially designated within each central bank concerned, of tasks entrusted to him by the Committee;
 - (iv) maintenance of liaison with the departments of the European Economic Community.
3. The administrative services of the secretariat of the Committee shall be provided by officials of the Bank for International Settlements being nationals of Member States of the European Economic Community.

4. The Members of the Secretariat shall report to the Chairman. They shall be required, even when no longer engaged in these duties, to refrain from disclosing information which, by its nature, is covered by requirements of profession secrecy.

5. The Secretariat costs shall be shared out equally among the five central banks represented on the Committee.

Done at Basle, 12 October 1964.

European Communities — Monetary Committee

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