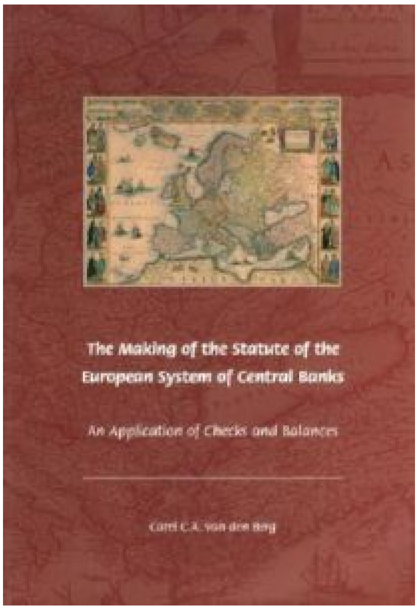
The Making Of The Statute Of The European System Of Central Banks. Chapter 11: Conclusions To Cluster III (Assessment)



11.1 Introduction

Whereas the previous cluster dealt with the division of operational power within the System, this cluster deals with the division of decision-making power. A system of central banks needs a central decision-making body. Initially the drafters of the Delors Report and of the ESCB Statute did not exclude that – with non-fully integrated financial markets – some local decisions might still be needed, e.g. as regards the timing of liquidity operations, but in the course of 1990 it became clear that the system could only be based on a structure in which there would be only one decision-making centre with overriding powers. It was acquis from the start that this central decision-making body should be composed of at least the NCB presidents and possibly the Executive Board members of the new central institution, the European Central Bank, though initially names circulated like 'agency, or 'board'. Board members were necessary to run the daily affairs of the new institution (whether large or small) and see to the execution of monetary policy. This issue of allocating decision-making power was not seen as a way to restore national decision-making power. It was accepted by all (also all governors) that monetary policy would be centralized and be made supranational – there would be no veto power. Once this had been agreed the drafters needed to decide on the composition of the highest decision-making body and the relative competences of this Council and the Executive Board.

The governors played an important role in devising the articles covering the internal checks and balances. We make four observations. *First,* the Delors Committee had not discussed the internal organization in detail, implying that the Committee of Governors could largely shape the internal organization itself. The Delors Report had nonetheless given two important guiding principles: the ESCB Council was to encompass the NCB governors and the Board members, and the decisions would emanate from the Council, while the Board was linked to ensuring the implementation. *Second,* the governors not only discussed the balance between the governors and the Executive Board, at the same time they had to decide on the relations between themselves, i.e. between the governors: would governors from big and small countries have the same weight? The governors opted to be equal, when not deciding on financial issues of a patrimonial nature. This can be seen as a major concession by the NCBs of the larger countries, though *two* factors weighed in heavily: the governors were afraid that differentation in voting rights on the basis of 'country size' would introduce regional elements distracting from the desired euro area focus and possibly even triggering political pressures, because each governor would be seen as representing his/her country; and, as importantly, their relationships were characterized by a high level of mutual trust, as they (and their predecessors) had met since 1964 on a monthly basis and as they had gone through a number of currency crises, during which they had learned to understand and trust each other, and as they had participated together in the Delors Committee. *Third*, the governors were not able to solve one crucial issue, that is the degree of discretionary powers to be given to the Executive Board. Only the president of the only federally organized central bank in Europe, the Bundesbank, advocated giving the centre some unequivocal and irreversible powers, the others preferring or accepting a delegation model. Here the IGC would agree quite easily, by opting basically for the Bundesbank's formulation which gave the Executive Board some own (and not only delegated) powers, establishing the Executive Board as a decision-making body in its own right, though not in terms of policy-making, but implementing policy. *Fourth*, apart from the above the IGC made very little changes in the governors' draft of the articles covering the internal relations. Apparently, there was no political need to change the balance which the governors had reached as to the respective roles of the Executive Board and Governing Council.

In section 11.2 below we will summarize the articles of which we have presented the genesis in the previous chapter. In these summaries we will highlight the main concerns of the governors as regards the internal checks and balances, when they developed their ideas on the design of the new system. At the end of that section we will analyze the motives for continued involvement of the governors in the System's decision-making and the motives for an independent (i.e. not depending on delegation by the Governing Council) role for the Executive Board – thus covering the main factors determining the outcome in this respect. In sections 11.2.3 and 11.2.4 we will analyse the role of the Executive Board as it has evolved since 1999, while also discussing possible future developments. In section 11.3 we will present the checks and balances existing between the Governing Council (dominated by the governors) and the Executive Board in an overview table, using the categorization as developed in chapter 2 and applied in clusters I and II. Following this we will present possible improvements with respect to the checks and balances within the Governing Council.

11.2 Checks and Balances between the Executive Board and the Governors

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Short reviews
Main motives of governors
Actual situation
Possible shifts in power

11.2.1 Short reviews (with emphasis on checks and balances)

Composition Governing Council (Article 10.1-10.2a-ESCB):

The German wish to create a system resembling the American or German federal system of central banks focussed the minds on a limited range of options. It was clear that there would be a central institution (though its powers were open for discussion) while the national central banks would continue to exist. The operational functions and own responsibilities of the Board would be hotly debated in the Committee of Governors – see Art. 12.1a-ESCB. Sharing decision-making power with the Board was not such a big issue, probably also because the Board was expected to be a small body. At least one small NCB was worried about the creation of a Board *ipso facto*, as in the opinion of that NCB the Board seats were more than likely to be filled by the larger Member States, giving them additional leverage within the Council. On the other hand, the existence of a board appointed at the European level was considered an asset because it would give the system accountability at the European level, which would make its independence more acceptable to the outside world. The genesis of the article does not show one had in mind to create a specific minimum size of the Executive Board vis-à-vis the governors. Article 50-ESCB mentions the possibility of a Board smaller than six members during the transitional period. This possibility was not introduced to secure a specific ratio between governors and Board members, but to reserve some seats for countries joining later, among others to make the specific possibility of starting EMU with a small group of countries politically more acceptable.

Voting system (Article 10.2b-ESCB):

The Delors Report had not been specific on the voting regime. However, it was clear from public pronouncements that the Bundesbank was attracted to the model of the FOMC of the Federal Reserve System. However, this model can be interpreted in two opposite ways: the FOMC stresses equality among the FRBs, with only one exception, i.e. New York,[i] or it can be interpreted as stressing the absence of equality. The Bundesbank was probably closer to the second interpretation, as it showed a preference for some form of weighted or rotational voting, though its motive was to strengthen the relative position of the Executive Board. However, other governors, among them the governors of other large NCBs, stressed that weighted voting would introduce regionalization, and would detract from the collective enterprise. An important aspect of equal voting rights was that it would stimulate governors to think in euro area wide concepts and it would make interference or pressure by national authorities less likely. Moreover, a high degree of trust had built up among the governors which had been meeting in the Committee of Governors since 1964. Their thinking had converged (focus on price stability) and their European credentials had been established. This 'club-spirit' made the step towards equal voting rights less of a risk for Germany than would have been the case with a group of governors with unknown European credentials. Weighted voting for monetary decisions was rejected on the basis of the arguments mentioned above.[ii] Or put differently, monetary policy was to be decided on the basis of facts, not nationality. This does not imply that the

Governing Council should be replaced by a Monetary Policy Council, existing of a number of outside monetary experts. A role for the regional elements is a characteristic of all federal states and federations, as it prevents the dominance of a centre which at times might fall victim of promoting specific financial, political or geographical interests. Furthermore, national expertise and knowledge of local developments is relevant, because it can deepen the analysis and understanding of the facts on which monetary policy is based. This is especially the case as long as the fiscal regimes and structural policies continue to be decided along national lines. But it is even true for the US, because in the words of Greenspan the regional Fed presidents 'know what is happening in the various regions of the country well before the hard data are collected by national statistical agencies'.[iii]

A complication of a system of weighted voting would have been the choice of the weights to be given to the Executive Board members, as they do not represent an economy, population or specific share in the capital key. Assigning the Board an aggregate weight, e.g. 30 per cent, would have forced the Board to vote as one block and would have introduced negative dynamics within the Governing Council (Board vis-à-vis the rest). The other possibility, rotational voting, was not discussed in depth. Using the FOMC model would have run into problems, as both Frankfurt and London could have claimed the role of New York, but this would have been unacceptable to Paris, while permanent votes for all large NCBs would have been unacceptable for small countries. [iv]

At the beginning it had been doubted whether the Executive Board needed to have a vote, or perhaps only its president. This position was quickly discarded, as there was a commonly shared feeling that the system needed a clearly visible centre, possibly increasing the system's legitimacy, working as a binding factor and contributing to its independence.

Weighted voting (Article 10.3-ESCB):

Weighted voting has been restricted to patrimonial decisions, i.e. decisions relating to capital and foreign reserve transfers from NCBs to the ECB and to decisions which directly affect the relative income positions of NCBs. The idea to apply weighted voting to these kind of decisions was not contentious. In some cases weighted voting is combined with qualified majority. Throughout the Statute we can distinguish six different voting procedures (unweighted and weighted), which are presented below:

Table 11-1: Voting arrangements in ESCB Statute
1. One person, one vote + simple majority : main rule (e.g. monetary policy)
2. One person, one vote + no votes for Executive Board members: Art. 11.3 (Board salaries)[v]
3. One person, one vote + majority of two thirds of the votes cast: Art. 14.4 (non-System functions)[vi] and Art. 20 (other instruments) [vii]
4. Weighted voting + simple majority: patrimonial decisions[viii]
5. Weighted voting + majority of two-thirds of subscribed capital and at least half of shareholders: Art. 28.1, 28.3 (capital increases),Art. 32.3 (alternative method for calculating monetary income).
6. Unanimity: 41.2 (simplified amendment procedure)[ix]

The General Council is an advisory body and takes all its 'decisions' by unweighted, simple majority. Art. 46.4 of the Statute stipulates that the General Council determines its own Rules of Procedure; the Statute does not mention a specific voting rule for the General Council, though the 'one man, one vote' rule seems to be implicit, especially in Art. 45.2. The Executive Board always acts by simple majority (Art. 11.5). In the event of a tie the President has the casting vote (this applies both to the Executive Board and the Governing Council).

Responsibilities of the Governing Council and the Executive Board (Art. 12.1-ESCB, first and second paragraph):

This was the most contentious issue among the governors in this cluster. The Delors Committee had already envisaged that the Council of the ECB should be the supreme decision-making body. The Board members would be part of this Council, while the Board itself would basically be an administrative organ, monitoring monetary developments and overseeing the implementation of monetary policy. (At the same time would the central institution have a balance sheet of its own,[x] though apparently under the aegis of the ECB's Council.) During the Committee of Governors discussions the Bundesbank would persistently try to strengthen the position of the Board. The Bundesbank insisted on a role of the Board going beyond executing tasks *delegated* by the Governing Council, as such an inferior position would unduly weaken the role of the Board. Germany wished a stronger role for the Board in order to maintain the unity within the federally designed central bank system and to give added force to the system's autonomy in its day-to-day execution of policy. The IGC would opt for a compromise going in the German direction after France accepted giving the Executive Board limited powers in its own right. The Governing Council remains clearly responsible for formulating monetary policy. This function cannot be delegated to the Executive Board, because it is a core function for which only the Governing Council can be held responsible and because delegation of this function to the six member Executive Board would de facto end the federal character of the System. What is possible is that the Governing Council decides only on the very broad lines of monetary policy, leaving many 'implementation decisions' (with a high policy content) to the Executive Board.

Other Executive Board tasks (Art. 11.6 and 12.2-ESCB):

The Executive Board is responsible for the ECB's current business of the ECB (Art. 11.6). This is an undefined concept – the border would seem to lie there where decisions can be seen as part of the System's monetary (or exchange rate) policy stance. The Executive Board also has the privilege and the right to prepare the meetings of the Governing Council (Art. 12.2). These prerogatives ensure the opinion of the Executive Board members outweighs their voting power. A large and highly qualified ECB staff could strengthen the Board's position. The Governing Council does control however the size of the staff through the budget approval procedure (see Art. 12.3).

Responsibilities of the Governing Council (Art. 12.3-5-ESCB):

When the Committee of Governors changed the words 'System' into 'ECB' in the drafts of Art. 4 (advisory functions of the ECB) and Art. 6 (external representation), they decided to explicitly state in Art. 12 that decisions in these fields pertained to the Council, and not the Executive Board. Art. 12.3 stipulates that the Governing Council also determines the Rules of Procedure for the Executive Board.[xi]

Main motives of the governors with respect to the division of decision-making powers

We distinguish the following motives as to the division of responsibilities between the Governing Council and the Executive Board. For our purpose we equate a decision making role for the governors with a strong role for the Governing Council, in which the governors were expected to dominate (at least in terms of numbers).

Motives for continued participation and involvement of NCB governors:

- a Council without governors would come under more effective pressure from financial interest groups, European and national political authorities, because a Council without governors is small.
- as long as Executive Board members or governors are not infallible (i.e. the chance they take the 'right' decision is less than 1), increasing the Board size leads to better decisions. This is even true when the voting members have at their disposal exactly the <u>same</u> This issue here is about how 'good' they are in interpreting this information.[xii] Increasing the size of the meetings entails higher costs (e.g. salaries), but the marginal cost of adding one extra member is in all likelihood small; the main 'balancing' factor seems to be the ability to conduct efficient meetings.[xiii]
- governors could enrich the discussions with relevant information attained through international or local contacts;
- NCB governors may also contribute through the research efforts of their staff; their staff would probably focus on different issues than are being researched by the ECB; research being done at NCBs has added value over that of research conducted at universities, because at NCBs the research is conducted by experts that are exposed to monetary policy, which allows them to combine this knowledge with a longer term research focus;[xiv]
- Governors are well positioned to translate the ECB's monetary policy into consequences for the national economic actors; especially in dire times public support could depend on having a national governor participating in the ECB's policy making;

Motives for a strong role of the Executive Board:

- A federal system requires a strong hand to achieve the required unity; a central bank not displaying a consistent view will have low standing in the markets, making it more difficult to influence expectations;
- a strong board reduces the possibilities for national political interference;[xv]
- purely executive functions will not attract the required professional

people;
- a strong European identity requires a strong board;
- a strong board is necessary to prevent that the Governing Council has to meet more than every two weeks.

The position of the Bundesbank was especially influenced by the following experiences:

1. Pöhl was familiar with a system in which the centre had more than delegated functions;
2. Pöhl had experienced that the state central bank presidents had thwarted him in taking certain interest rate decisions. To him the Zentralbankrat occasionally behaved as an indecisive body.[xvi]

- Pöhl also must have had in mind that the Bundesbank Law of 1957 had provided for a relatively large Direktorium of up to ten members against the same number of Landeszentralbankpresidenten.[xvii] In practice the Direktorium usually functioned with seven to eight members. In 1992 the number was formally reduced to up eight members, while the number of Landeszentralbanken was reduced to nine. Since then the Direktorium has functioned with seven and sometimes six appointees.

The considerations explain the Bundesbank's preference for a strong centre.

The preference for weighted or rotated votes with respect to monetary policy decisions was again mostly expressed by the Bundesbank. The arguments against weighted voting were however convincing, apparently also for the Bundesbank, which as one of the only central banks could have blocked an agreement, because of the importance of German participation. Weighted voting for monetary policy decisions would lead to an unwanted regional focus and would affect the independence of the NCB governors vis-à-vis their national authorities. A practical problem would also have been how to determine the votes for the Executive Board members. Rotating votes were usually mentioned in the same breath with weighted voting, but the issue was not studied in detail. Theoretically one can rotate on equal terms, but that possibility was never spelled out.

Overview of checks and balances between the decision-making bodies(listed per article)

We have noted before that, although the Statute is phrased in terms of the *Governing Council* and the *Executive Board*, the equilibrium we are studying is that between the governors and the Executive Board. The vehicle through which the governors express themselves is the Governing Council, within which they constitute a majority. This explains the method we use in the following overview, in which we interpret a strong position of the Governing Council as supportive of the relative position of the governors.

Below we list for each article treated in this cluster those elements which have a bearing on the relation between the Governing Council and the Executive Board. We show for each element whether it is supportive of the position of the Governing Council vis-à-vis the Executive Board or the other way around.

Table 11-2: Overview of checks and balances covering the relation between the Executive Board (EB) and the governors (listed per article)

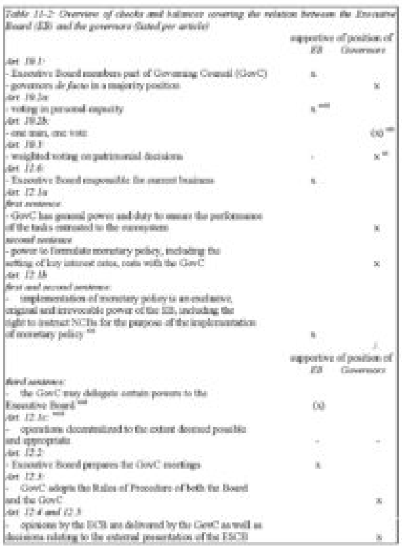

Table 11-2: Overview of checks and balances covering the relation between the Executive Board (EB) and the governors (listed per article)

	supportive of position of EB	supportive of position of Governors
Art. 10.1:		
- Executive Board members part of Governing Council (GovC)	x	
- governors *de facto* in a majority position		x
Art. 10.2a:		
- voting in personal capacity	x	
Art. 10.2b:		
- one man, one vote		(x)
Art. 10.3:		
- weighted voting on patrimonial decisions	-	x
Art. 11.6:		
- Executive Board responsible for current business	x	
Art. 12.1a		
first sentence:		
- GovC has general power and duty to ensure the performance of the tasks entrusted to the eurosystem		x
second sentence		
- power to formulate monetary policy, including the setting of key interest rates, rests with the GovC		x
Art. 12.1b		
first and second sentence:		
- implementation of monetary policy is an exclusive, original and irrevocable power of the EB, including the right to instruct NCBs for the purpose of the implementation of monetary policy	x	
	supportive of position of EB	supportive of position of Governors
third sentence:		
- the GovC may delegate certain powers to the Executive Board	(x)	
Art. 12.1c:		
- operations decentralized to the extent deemed possible and appropriate	-	-
Art. 12.2:		
- Executive Board prepares the GovC meetings	x	
Art. 12.3:		
- GovC adopts the Rules of Procedure of both the Board and the GovC		x
Art. 12.4 and 12.5		
- opinions by the ECB are delivered by the GovC as well as decisions relating to the external presentation of the ESCB		x

Table 11-2: Overview of checks and balances covering the relation between the Executive Board (EB) and the governors (listed per article) – Click to enlarge

The most important articles are the ones that give the board or the council irrevocable powers. In our case these are Art. 12.1a, second sentence, which gives the Governing Council supreme power to define monetary policy, and Art. 12.1b, first and second sentence, which gives the Executive Board the sole right to execute the decisions and implement the guidelines adopted by the Governing Council. In this respect the Governing Council acts as the traditional 'legislator' and the Board as the 'executive branch'.

This comparison elicits the question whether the 'legislator' could not somehow seize the functions of the 'executive', in other words could the Governing Council turn into a 'Long Parliament'. In theory this could happen, namely when the Governing Council would start adopting very detailed guidelines, emptying the Board's executive competences, and very detailed Rules of Procedure. However, experience until now has shown that governors do not have a great desire to get involved in the daily practicalities of running monetary policy for the euro area. Furthermore, a practical difficulty would be that the governors would still depend on the Executive Board for designing such detailed guidelines (as it is the Board's staff who prepares the decisions) and the governors need to be almost unanimous, otherwise they do not have a majority in the Governing Council (in which the Board members have six votes). Therefore under normal circumstances, this is an unlikely development.

Actual situation

In practice, developments are rather pointing in the other direction, with the Executive Board becoming more dominant. To explain this we return to table 11-2 above. According to Art. 12.2 the Executive Board prepares the Governing Council meetings, which extends to monetary policy decision-making. We have seen that in practice one Board member, presumably in close consultation with at least the president of the ECB, both prepares and delivers the presentation and makes the interest rate proposal. Discussions on issues like the monetary strategy are presumably discussed in the full Executive Board, because the Board approves all ECB documents which are sent to the Governing Council. Therefore, we see a concentration of power in the area of policy-making which not necessarily follows from the Statute. Indeed, the second sentence in Art. 12.1a ('The Governing Council shall <u>formulate</u> the monetary policy of the Community …') would allow for a more active input from the side of the governors, to which end they could request ESCB Committees to study a specific topic. This possibility is specifically allowed for by the Rules of Procedure, which however at the same time specify that the ESCB Committees shall report to the Governing Council via the Executive Board. Though the Executive Board is not able to stop a committee paper from reaching the Governing Council, it can always add a dissenting opinion. The fact that most committees are chaired by one of the ECB staff directors also strengthens the hand of the ECB.[xxiv] As regards the important interest rate decisions, each Executive Board member determines its position independently. There are no signs of collusion between the members of the Board. However, the 'Board' has gained the lead, as the Board's member responsible for monetary policy preparation introduces the topic and formulates his preference. Thus the earlier conclusion is corroborated that the Executive Board has a strong policy-making influence, much stronger than would appear by just looking at their voting power. Their influence takes effect through their influencing decisions by the Governing Council, and not so much through independent decisions by themselves (i.e. by the Board). Neither does the General Documentation leave much room for the Board to choose instruments or procedures, except in emergency circumstances, though even then the Board has to operate within a Governing Council approved framework. Nonetheless, a number of smaller technical decisions is left to the Executive Board for practical reasons; e.g. relating to the allocation of liquidity to the banks under the ESCB's tender procedures. Delegation to the Executive Board in a formal sense is relatively rare, but has occurred in most non-monetary policy areas, like statistics, banknotes, accounting, payment systems and foreign reserve management. It would furthermore seem that the Executive Board has not yet attempted to define exhaustively the content of 'current business', which could lead – as we have earlier submitted[xxv] – to a larger role of the Board in the management of the ECB's foreign reserves.

Possible shifts in power

At first sight, likely developments seem to be limited to two cases: power shifting to the centre and/or to the larger NCBs. As regards the former, one should not mistakenly take full *centralization* as the logical end situation of any future development. There are many factors which support the logic of a decentralized system, including a federally structured decision-making body.[xxvi] The Governing Council is such a body; see section 11.2.2 above for the arguments in favour of both a role for the governors and for involvement of the board members. The ratio between the number of the board members and the number of governors is only relevant when the board and the governors would act as two distinct groups – this has not been the case and this would detract from their *ad personam* membership. The above means that even with further political integration in Europe there is no need for a general movement towards increased centralization. Even in the United States, which is a political union, the central bank system benefits from its federal character. In chapter 8.2.4. we have seen that the inclusion of the members of the Board of Governors in the FOMC in 1935 is better described as a correction of an earlier unexpected development towards decentralization (that is, a loss of power of the centre) in the area of providing liquidity to the banking system. However, one cannot take from the above that there will never be proposals to reduce the role of the NCB presidents, as has happened in the US with respect to the membership of the FRB presidents of the FOMC.

As regards the second possibility (i.e. power shifting to the larger NCBs), a significant development has already taken place. We refer to the change in the *voting modalities* in the Governing Council. The potential number of governors and, therefore votes, had already increased to fifteen with the accession of Austria, Finland and Sweden to the EU in 1993 and increased further with the accession of ten new members of the EU as of 2004, which would eventually also adopt the euro. The Treaty of Nice of 2000 had introduced an article in the ESCB Statute (*Art. 10.6* – the so-called enabling clause) allowing the Heads of State to amend by unanimity Art. 10.2, either based on a recommendation of the ECB (Governing Council) or on a recommendation by the Commission,[xxvii] 'in order to maintain the ECB's Governing Council's capacity for efficient and timely decision-making in an enlarged euro area.' [xxviii] The Governing Council responded to this article and adopted a recommendation, which was subsequently adopted by the Heads of State on 21 March 2003. [xxix] The recommendation limited the number of votes for governors to fifteen, while also introducing a rotation scheme, using a three group model with a first group of the five largest countries (i.e. large in terms of a weighted indicator based on GDP and a financial criterion) sharing four rotating votes, a second group consisting of half of all euro area NCB governors (again ranked according to size) who share eight votes and the remaining governors sharing three votes. Within these groups votes rotate on an equal basis. This system keeps alive the *ad personam* concept and the one person, one vote (i.e. equal weights for those who vote) system. The model allows all governors to speak, even when they do not have a vote.

An argument used by the proponents of Art. 10.6-ESCB had been that the ECB would lose credibility if very small states would in theory be able to tip the balance in any interest rate vote. (This would only be harmful, if the governors of these countries would not vote with the euro area interest in mind.) Also, there was some understanding for the fact that the governor of the Banque de France (large country (population of 60 million), large central bank staff) should have a higher voting frequency than the governor of the central bank of, say, Malta (400.000 people; small central bank staff). The economic reasoning seems to be that a governor of a large country is more likely to produce information which is relevant for the euro area as a whole than a small country – though of course this does not have to mean that this governor should have a vote (see also chapter 11.3 below).

The idea of an enabling clause had been tabled by the French government at a very late stage of the IGC leading to the Nice Treaty, and had been supported by Germany and Italy. The small countries had immediately feared this could lead to a relatively dominant position of the larger countries. The smaller countries operated along two lines: first, they ensured sufficiently strong safeguards in the procedure for activating the enabling clause, basically giving them a veto power. Second, during the negotiations within the Governing Council on the formulation of the recommendation under Art. 10.6, the NCBs of smaller countries firmly rejected proposals to reduce the number of votes for the governors to six. They feared that in such a constellation the largest countries would always manage to get their governors into the reduced Governing Council, while large countries would probably also be successful in filling a seat in the Executive Board. At the request of a few middle-sized NCBs the Governing Council first discussed equal rotation models with a large number of votes, with the rotation arranged in such a way that the governors with a vote would 'represent' countries covering at least 60% of the euro area's GDP. Discussion then moved to models with two or three groups of governors with a small number of votes, with each voting governor and each Board members having an equal vote; any form of weighted voting (or double weighted voting) was rejected, as weighted voting systems would invite political pressure on the governors representing a large weight – see Art. 10.2-ESCB. The Governing Council finally agreed on a three group model described above, which as a result also keeps the ratio Executive Board members – governors around the initial level. An important feature from the perspective of the smaller countries has been that the largest NCBs would not have a permanent vote, but would rotate as well. It was feared that NCBs with a permanent vote would, quite naturally, start consulting each other before each Governing Council meeting, thus possibly leading to precooked meetings and negative group dynamics. This aspect is also covered in the theoretical paper by Berk and Bierut.[xxx] When the Executive Board would not be unanimous, but would still decide to take a common position, the information of the Board minority is lost, and 'extra Board members need to be added to provide additional expertise necessary to correct for this loss.'

The system, as proposed under Art. 10.6, could be described as containing three circles: the largest circle is the Governing Council, containing all voting and non-voting members; the next, smaller circle contains only those with a vote; and the innermost circle contains the executive board members, who are responsible for the day-to-day management of the System's monetary policy.[xxxi] The rotation scheme will enter into force when the number of euro area countries exceeds fifteen[xxxii]. It would seem a natural moment to consider changing from the present decision-making by consensus to decision-making by voting – some would even like to see this happen earlier. We will come back to this important issue in chapter 11.3.

11.3 Overview of Checks and Balances between Executive Board and NCB Governors, and Possible Improvements

11.3.1 Overview

We provide below an overview of the checks and balances, using the classification developed in chapter 2. (We follow the presentation used in chapters 5.4.1 and 8.3.1.) This will help us to form a judgement on the question whether the relation between the Executive Board members and the governors is balanced or, if not, a source of tension. There are at least fourteen articles or sub-articles containing checks and balances between Executive Board and governors, most of them concentrated in four articles (Art. 10-13). Some articles fall in more than one category.

Table 11-3: Overview check and balances Executive Board – NCB Governors

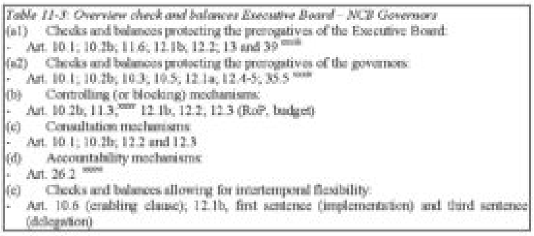
Table 11-3: Overview check and balances Executive Board – NCB Governors

(a1) Checks and balances protecting the prerogatives of the Executive Board:
- Art. 10.1; 10.2b; 11.6; 12.1b; 12.2; 13 and 39

(a2) Checks and balances protecting the prerogatives of the governors:
- Art. 10.1; 10.2b; 10.3; 10.5; 12.1a; 12.4-5; 35.5

(b) Controlling (or blocking) mechanisms:
- Art. 10.2b; 11.3, 12.1b, 12.2, 12.3 (RoP, budget)

(c) Consultation mechanisms:
- Art. 10.1; 10.2b; 12.2 and 12.3

(d) Accountability mechanisms:
- Art. 26.2

(e) Checks and balances allowing for intertemporal flexibility:
- Art. 10.6 (enabling clause); 12.1b, first sentence (implementation) and third sentence (delegation)

Table 11-3: Overview check and balances Executive Board – NCB Governors – Click to enlarge

Explanation: Line (a1) contains the inalienable rights of the Board members: inter alia their membership of the GovC; the Board's right to run the ECB's current business and to prepare the GovC's meetings, their duty to get monetary policy implemented (to the extent deemed possible and appropriate through the NCBs, but else through the ECB itself). Line (a2) relates to the membership of the governors of the GovC, their control over certain financial, so-called patrimonial matters, and the GovC's role as the top decision-making body of the System (in which body the governors hold a majority and which has to meet at least ten times a year).[xxxvii] Category (b) contains both examples where the Board is in control of the GovC (e.g. by its right to set the GovC's agenda) and examples where the GovC sets the framework for the Executive Board (e.g. the framework for monetary policy implementation. The fact that both Board members and governors are voting members of the GovC is a controlling mechanism in itself. Furthermore, the fact that they usually aim for consensus decisions creates an extra incentive to consult each other (category c). Category (d) contains an article relating to internal financial accountability of the Executive Board. Category (e) contains two articles, allowing for more or less discretionary power for the Executive Board and for a new voting rule for the Governing Council (at present one vote for each member).

The overview shows an evenly distributed presence of checks and balances, with the exception of category d (on which we will comment below) and at first sight category e – see also diagram 2 in chapter 12. When looking more in detail we observe the following. The position of <u>both</u> Board members and governors vis-à-vis each other is protected by their membership of the Governing Council (Art. 10.1), which is the supreme ruling body of the ESCB. The Executive Board members are in a minority. However, it can be noted that the governors are less likely to operate as an effective block, reducing the relevance of their majority.

Their *ad personam* membership of the Governing Council (Art. 10.2a) implies the governors cannot play strategic games by invoking binding instructions or a limited mandate of their own boards. Two further articles contribute to an effective power base for the Executive Board: first, their right to implement the Governing Council's monetary policy (Art. 12.2) , and second their right to prepare and chair (through the president) the Council's meetings (Art. 13). The special position of the president adds more to the weight of the Board than that of the governors.

For our exercise we equated the relative power of the governors with that of the Governing Council, because most of the System's powers are vested in the Governing Council, and due to the 'one man, one vote' principle (Art. 10.2b) the governors constitute a majority,[xxxviii] allowing them where necessary to protect essential rights through the Governing Council. Furthermore, the governors will always remain in complete control of their financial interests through Art. 10.3 (weighted voting).

Blocking (category b) may occur, when the governors block a decision using their majority (though they seldomly operate as a block). On the other hand, the Executive Board's power to set the Governing Council's agenda is also a real power lever, as it is rare for the Governing Council to force a decision without preparation by the Board. Furthermore, the Governing Council 'controls' the Board indirectly through determining the ECB's and the ESCB's Rules of Procedure (RoP). One example is the fact that the ECB's budget needs to be approved by the full Council, a rule contained in the RoP. Another example is that through the RoP the Governing Council could give more prominence to the role of ESCB committees, though these committees cannot substitute for the Board's preparation. (All ESCB committees are supported by ECB staff and are in the present set-up, as a rule, chaired by a person from the ECB.)[xxxix]

A number of the above mentioned factors also imply that governors and Board have to cooperate (category c). Decision-making by consensus, though not prescribed by the Statute, further strengthens this. Also, even when the Governing Council adopts the Council's and Board's Rules of Procedure, the Board writes the draft. (Art. 12.2 and 12.3). While the Board proposes the agenda for Governing Council meetings, the Council approves and Council members (governors) may add items.

Art. 26.2, contained in category (d), provides for accountability of the Executive Board vis-à-vis the Governors, because the Executive's Board's Annual account has to be approved by the GovC (in which the governors/shareholders hold a majority). In other areas there is no real hierarchy and no accountability mechanisms; governors and board members are already together when they take decisions.

Category (e) is at first sight weakly represented, containing only two articles. However, we will see that the two articles can potentially have a wide-ranging impact and could thus be seen as relatively powerful attributes of flexibility. Category (e) contains an article (Art. 12.1b) allowing the GovC to change the Executive Board's room for discretion by (i) making the guidelines for monetary policy implementation more (or less) detailed and/or by (ii) delegating some of its tasks to the Executive Board, though limits apply as to which tasks may be delegated (which limits are further explained in the footnote with Art. 12.1b in table 11-2). Remarkably, the Governing Council cannot delegate responsibility to NCBs, which within limits is the case in the FRS (see section I.2 of the genesis of Art. 12.1a above). Whereas in the United States <u>new</u> tasks can only be endowed to the Board of Governors (which subsequently may or may not be delegated by them), and not to the Federal Reserve System, in the case of the eurosystem new (European) tasks can only be endowed to the System as a whole, to which the decentralization principle would apply immediately.[xl] However, endowing the System with a new task would require an amendment of the Treaty, in which case the amendment could of course specify that the new tasks are to be performed by the ECB itself, i.e. there is no general enabling clause.

Category e contains another article introducing flexibility over time, i.e. Art. 10.6. This article, which was introduced in 2000 by the Treaty of Nice, can be used to protect the role of the Executive Board by enabling the Council of Ministers in the composition of the Heads of State and Government to maximize the number of votes for the governors, which would rise when new EU Member States would qualify for the euro area. It should be added that this was not per se the aim of the Member States proposing this article at a late moment of the IGC negotiations leading up to Treaty of Nice. The proposal came from the larger Member States, which hoped that Art. 10.6 would lead to a system giving the NCBs of the larger Member States a larger weight than the NCBs of the smaller countries. We have seen that the outcome is beneficial to the Executive Board (though the Board might have wished a lower maximum for the governors' votes than the chosen fifteen). In contrast to the wishes of some of the larger Member States, the governors of the large NCBs will periodically lose their right to vote, though less often than the governors of smaller NCBs[xli]. This outcome has preserved the federal character of the System, or more precisely: it has helped prevent the introduction of intergovernmental processes in the governance of the ESCB, with those NCBs having permanent votes probably increasingly seeking to work together, creating a dichotomy within the System and making these NCBs a more attractive object for pressure from their national capitals.

11.3.2 Possible Improvements

- We do not see an imminent need to improve the checks and balances between the centre and the regions as regards the decision-making process. As seen in diagram 2 in chapter 12, most categories of checks and balances are well represented. Category e, relating to flexibility over time, is small, but contains two articles which could lead to a substantial shift in relative power. Accountability mechanisms are also low in supply, but are less needed because governors and Executive Board members are together when they decide as Governing Council. One could say though that on paper the Executive Board lacks substantial original (non-delegated) powers. However, in practice the ECB has created for itself an influential role. This is due to its central role in the preparation of Governing Council meetings and probably also to its sizeable, highly-qualified staff which allows it to build-up, where necessary in a short time, knowledge and expertise in almost any area important to the System. If the Executive Board would also be allowed to take monetary decisions, power would one-sidedly accumulate in the Board. There would not seem to be any need to do so. The Governing Council is also not comparable to the German Zentralbankrat before EMU, where – as we have noted – the chairman of the Direktorium was sometimes annoyed by the provincial positions taken by the Landeszentralbankpresidenten. An important difference is that the NCB governors are internationally oriented and more involved in market operations than the Landeszentralbankpresidenten, which sets them less apart from the Executive Board members than the LZB-presidents from the Direktorium.
  We observed that the Executive Board is better positioned to use its staff

effectively to influence the discussion in the Governing Council, because it prepares Governing Council meetings and most ESCB committees are chaired by ECB staff. This adds considerably to the influence of the Executive Board. This is not necessarily detrimental to the System, but it would if it would effectively shut out the views and insights of NCBs in the early stages of policy preparation. While respecting the Executive Board's role of preparing Governing Council meetings, the Governing Council could ask ECB staff to seek co-operation with NCB staff when preparing special topics. This could take several forms, like inviting NCB staff for secondments or through small-scale committees or liaison-officers.[xlii]

- This would seem the right place to bring together the following issues touched upon before: the size of the Governing Council, the rotation scheme and the issue of voting versus consensus decision-making.[xliii] First we recall remarks we made earlier. It is sub-optimal when governors do not share their information. A governor with relatively more information or more important information does not necessarily have better decisional skills, assuming he shares his information with others. When the Board votes as a block information is lost, leading to sub-optimal decisions. From this follows that there is no a priori reason to limit the size of the Governing Council, except for practical reasons. There is no a priori reason to differentiate between governors from large and small NCBs, as regards their voting frequency. On the other hand, the Governing Council also decides on many non-monetary issues, like the development of TARGET (the System's payment system) and banknote related issues, in which case the larger NCBs have more at stake. This might be an argument for a somewhat higher voting frequency for larger NCBs, though of course the interests of the larger NCBs do not necessarily coincide. We also mentioned the argument that in the context of the 2004 EU enlargement the new members were sometimes perceived as coming from a different stability culture, leading to the fear that they might change the way inflationary risks are evaluated. As most of the new member states are small or even very small, this translated into the idea that smaller countries should receive a lower voting frequency. We observed earlier that the introduction of the rotation scheme raised the issue whether voting should replace the present procedure of decision-making by consensus (not be confused with unanimity). The optimal rule is to weigh the votes according to the decisional skills of the members. Of course, in practice this is impossible. Another form of weighing is to take into account the conviction with which a certain position is held. Indeed, as in the case of interest rate decisions absolute certainty does not exist, some committee members will be strongly convinced of a certain position, while others may at the same time hold a different position, but with less conviction. Consensus decision-making allows the chairman to take this into account. The degree of conviction is an additional piece of information which is not used when a simple vote count is taken.[xliv] Taking this into account leads to a better decision. This requires special skills of the chairman. To prevent possible deadlock or undecisiveness[xlv] each Council member should have the right to ask for a vote (which is already the case under Art. 4.2 of the present Rules of Procedure). After the presentation by the ECB, the non-voting members could be asked to share their information with the meeting first (or possibly not all), and subsequently the voting governors and the Board members. Therefore, we conclude contrary to intuition that for this kind of single-issue decision-making the group does not need to be small (in fact to the contrary) and decision-making by consensus does not necessarily slow down the decision taking, while in fact allowing for better decisions. This, combined with the threat of pressure by their national political authourities once individual voting behavior is published or leaked, leads to the conclusion that voting is not necessary, not optimal and not in the interest of the independence of the System.

- A related issue is whether to continue the practice that Governing Council meetings on monetary policy start with not only a presentation, but also an interest rate *proposal* by one of the Executive Board members. If this procedure allows others to side with this authorative interest rate proposal and thus to present only arguments in favour of this proposal, not all possible information becomes available, and the result may be suboptimally informed decision-making. Therefore, the presentation should not contain an interest rate proposal. Combining such a procedure with decision-making by consensus leads to the optimally informed decision-making process by the Governing Council. Such decision-making procedure is practical, the outcome would seem to be more open-ended (i.e. not predetermined) and in case of a close call which is not solved satisfactorily by the chairman anyone could ask for a vote. However, in the latter case it would seem really uncertain what is the right step and therefore the outcome of a vote is not necessarily a better one than the consensus proposal by the chairman. The described procedure is not only practical in case of voting where the chairman formulates a decision at the end of the discussion which he puts to a formal vote. It is also practical in case of consensus decision-making because in practice the monetary policy decision will be to change or maintain the interest rate. Governors and Board members could express their preferences after having listened to a staff presentation and to each other, after which the chairman weighs the convictions and formulates a decision, which can only be contested by asking for a vote. Changing the current rule of decision-making by consensus to voting would weaken the president's position; changing away from the practice that a Board member presents an interest rate proposal at the beginning of the monetary policy discussion would on the one hand eliminate the possibility for the president to influence the discussion by pre-arranging the interest proposal by his Board member (which is not necessarily present practice)[xlvi], while on the other hand and to the extent such pre-arranging was not current practice, it would strengthen his position, while also allowing for a better discussion.

Priorities

Of the three mentioned possible improvements (i.e. making better use of committees, continuing the practice of consensus decision-making in an enlarged Governing Council, and abolishing the practice of starting the monetary meetings with an interest rate proposal) the third one lends itself for early implementation. The first one needs more preparation, while the second one probably needs to be decided before the new voting system is activated (which happens when the size of the Governing Council increases over twenty-seven members (Board members included)).

Appendix 3: Bank deutscher Länder (1948)[xlvii]

The Bundesbank, though being an institution with a unitary structure (i.e. a Head Office with branches), borrowed many elements from its two-tier predecessor, the Bank deutscher Länder (BdL). The BdL itself was inspired strongly on the American Federal Reserve System. This is why we look into the creation of the BdL. We lean heavily on C. Buchheim (1999), 'The establishment of the Bank deutscher Länder and the West German Currency Reform', in: Deutsche Bundesbank (1999), *Fifty Years of the Deutsche Mark* (esp. p. 55-80). The Potsdam agreement proscribed a policy of decentralization for post-war Germany, also in economic life (though it was also stated that Germany should be treated as a single economic entity). The Americans were keen in breaking up the big banks and establishing a separate central bank and bank supervisor in each Land. The Americans established *Landeszentralbanken* (Land Central Banks (LCBs)) in their zone in 1946, followed in 1947 by the French in their zone, while the British relied on the remnants of the Reichsbank unitary structure with branches. The LCBs in the American zone clearly resembled the American FRBs. At the same time a Bank Council was established, which issued quasi-binding recommendations on monetary policy. (In the French zone a similar Coordinating Committee was set up, its decisions however were binding.) Not only the two-level structure resembled the Federal Reserve, also a number of more specific features. The capital stock of the LCBs was linked to the total size of deposits held by banks in that Land. The capital stock was to be subscribed by local credit institutions, but was initially subscribed by the Länder – and this was not changed, until 1957 when the LCBs became part of the Bundesbank (see below). The LCBs functioned as state bank for the individual Länder. The LCBs were given instruments, most of which had already been available to the Reichsbank. One innovation was a minimum reserve policy based on the American model. The governing bodies of the LCBs were an Executive Board, which included the President or General Manager and his alternate, and a Supervisory Board. Each Supervisory Board was charged with deciding the level of minimum reserves to be held with the LCBs by the commercial banks as a proportion of their customers' deposits, as well as the level of interest rates applied by the central bank to its operations. The President of the Executive Board and his alternate were nominated by the Land Prime Minister (the shareholder) and could be recalled any time for substantial reasons. The Prime Minister also nominated the chairman of the Supervisory Board. The *ex officio* deputy chairman was the President of the LCB. Further members included the head of the banking supervisory authority and representatives from agriculture, industry, and employees, to be nominated by the finance minister. There was no mention in the laws of direct, binding instructions from the government.

Rather quickly it became clear the zones needed to coordinate. In 1947 the three western zones opened an interzonal clearing system. In 1948 the British also established LCBs, while the Americans accepted the central board to be placed above the LCBs would have more than just a weak coordinating function, as the Americans had wanted. This institution, the *Bank deutscher Länder*, was also necessary to implement the still needed currency reform. Unlike the LCBs the BdL was allowed to issue new currency (the LCBs had only been allowed to reissue currency).[xlviii] Furthermore, the BdL set monetary policy, it was authorized to engage in foreign transactions and to act as federal fiscal agent. It was prohibited from dealings with credit institutions, which was reserved for the LCBs. Concurrently an Allied Banking Commission was constituted. One of its duties was to supervise the BdL and its monetary policy. The BdL's capital was held by the State central banks according to their total deposits. The BdL comprised a Board of Directors (Zentralbankrat (ZBR)) and a Board of Managers (Direktorium). The Board of Managers had the task of executing the policies and decisions of the ZBR. The ZBR which consisted of a chairman, the presidents of the LCBs and the president of the Board of Managers was the policy board of the Bank. The ZBR elected its own chairman for a renewable term of three years. During his term of office the chairman was excluded from being board member of any LCB.[xlix] There was no channel for pressure from the German government authorities to put pressure on the management of the BdL. 'The independence of the BdL from any political authorities whatsoever (apart from the Allied Banking Commission) was firmly anchored in the law.' [l] Article I.3 of the law establishing the BdL read: '[e]xcept as otherwise provided herein or by law, the Bank shall not be subject to the instructions of any political body or public non-judicial agency.' [li]

In 1951 the Allied High Commission offered to dispense with the powers of the Allied Bank Commission if these could be governed elsewhere by federal law. The Ministry of Finance then drafted a bill in which the words 'Allied Bank Commission' were replaced by 'Federal Government'. This met with strenuous protests from the bank and the general public.

Subsequently the following text was adopted and designed to remain in force until the Bundesbank Act envisaged in the Basic Law (Constitution) had been passed: 'In the performance of its duties the BdL is obliged to observe ('zu beachten') and to support the general economic policy of the Federal Government.' (Therefore, this is the origin of a similar provision in section 12 of the Bundesbank Act of 1957, which would find its way to Art. 2 of the ESCB Statute.)

When the Bundesbank was established the German central bank system took its own identity. The Federal government preferred a one-tier system and the Länder the existing two-tier system. A compromise was found by retaining the LCBs as the main administrations of the Bundesbank in the Länder, though they lost their legal personality.[lii] The LCB presidents however retained their vote in the (enlarged) central decision-making body, the Zentralbankrat.[liii] On the independence views also diverged, with Adenauer being critical of the central bank's past independent behaviour and Ludwig Erhard defending it.[liv] The independence from instructions was regulated in section 12: 'The Deutsche Bundesbank shall be obliged insofar as is consistent with its functions, to support the general economic policy of the Federal Government. *In the exercise of the powers conferred on it under this Law it shall not be subject to instructions from the Federal Government.*' In section 13 a provision was added according to which the Ministers of Finance and Economic Affairs were allowed to participate in the meetings of the Bundesbank's Zentralbankrat, without a right to vote, but with the right to suspend for two weeks to taking of a decision.[lv]

Notes

[i] The Federal Reserve Act, as amended in 1935, envisaged five seats for FRB presidents. To this end the twelve FRBS were divided over five groups, in casu two groups of three FRBs and three groups of two FRBs. Tradition has it that membership of the FOMC rotates on an equal basis within each group (the presidents being either member of the FOMC once every second year or once every third year, depending on their group). In 1942 New York became a group of its own, with permanent FOMC membership.
[ii] Weighted voting is applied to patrimonial decisions (see Art. 10.3-ESCB).
[iii] A. Greenspan (2000), Productivity and Efficiency in the Federal Reserve System, speech given at the dedication of the new Birmingham Branch Building of the Federal Reserve Bank of Atlanta.
[iv] Rotation would come back as an option under the so-called enabling clause, not for principle reasons, but for practical reasons, as some quarters advanced the idea that the Governing Council threatened to become too large to function effectively after accession countries would have joined not only the European Union, but also the euro area – see section 11.2.4 below.
[v] Determination of the salaries of the Executive Board members.
[vi] Decision to forbid certain non-System function, when considered to interfere

with the System.
[vii] Introduction of other instruments of monetary control, imposing obligation on third parties.
[viii] Art. 28.5, 29, 30, 32 and 33 (‘technical’ articles from Chapter VI on Financial Provisions) and Art. 51, which is part of Chapter IX on Transitional Provisions (though it rather belongs to Chapter VI – see Article 51).
[ix] Unanimity is required for a recommendation to start this procedure; applicable to both monetary and financial (technical) articles.
[x] Delors report, par. 32.
[xi] The Rules of Procedure also provide for the establishment of ESCB committees. For their role see chapter 11.3 below.
[xii] See study by Berk and Bierut (2003), Committee Structure and its Implications for Monetary Policy Decision-Making, *De Nederlandsche Bank Meb Series* No. 2003-05. If there are no costs to adding an additional member, then the optimum size is unbounded. When marginal costs are introduced, the optimum size varies depending on the height of the marginal cost of adding one new member and with differences in the skill level q of the average committee member. Theoretically the size could vary from smaller than 13 to over 50.
[xiii] The efficiency factor would seem to be dominant over the cost factor, because over a certain size the exchange of views and information will become too time-consuming. From the study by Berk and Bierut follows that the optimum size of the committee is larger for cases where the members do not share all information. See also chapter 11.3 below.
[xiv] See Broaddus (1999) and Goodfriend (2000).
[xv] A large Governing Council and a strong board can go together.
[xvi] This probably also explains why Pöhl liked to refer to the example of the FOMC, in which body the Board members have a majority.
[xvii] Bundesbank Law 1957, Art. 7(2) and 8(1). Berlin had a special status and would only late become the eleventh Land with its own LZB.
[xviii] This is seen as supportive for the Executive Board, as governors cannot say they are bound by the position of their own board, which would have given them a tool to block decisions in the Governing Council. (At the same time, this *ad personam* rule strengthens the independence of the governors vis-à-vis their governments.)
[xix] This has to be seen in combination of Art. 10.1: if the Board would have constituted a majority, the one man-one vote principle would have strengthened their position.

[xx] Relates only to issues affecting the relative income position of the NCBs, but concerns vital issues like the size of the ECB's capital.
[xxi] This power 'to instruct' cannot be delegated, also not to the Governing Council. Art. 12.1b, first and second sentence, refers, unlike the first sentence of Art. 12.1a, to implementation of *monetary* policy, and not to other policies, e.g. in the area of payment systems or financial stability. Therefore, the non-monetary powers, including those relating to their implementation, pertain only to the GovC. Handing over such powers to the Executive Board requires formally an explicit act of delegation by the Governing Council (ex Art. 12.1b, third sentence). Thus while it might be possible to give an extensive interpretation to the words 'implementation', 'monetary policy' as used here cannot be interpreted in a generic sense, i.e. encompassing all central bank functions.
[xxii] We note that the GovC may not delegate discretionary policy powers to the Executive Board. This also applies to normative powers connected with issuing regulations, though in both cases some of the powers may be delegated to the Executive Board, when they of necessity follow from the Executive Board implementing guidelines or regulations decided upon by the GovC – see for instance Art. 17.3 of the Rules of Procedure: 'The Governing Council may delegate its normative powers to the Executive Board for the purpose of implementing its regulations and guidelines. The regulation or guideline concerned shall specify the issues to be implemented as well as the limits and scope of the delegated powers.' The formulation of Art. 17.3-RoP confirms that the Executive Board is not empowered to <u>issue</u> regulations, even though the <u>implementation</u> of a regulation itself may entail, of necessity, normative (judgemental) aspects.
[xxiii] We mention Art. 12.1c, which was covered in cluster II, here in order to show that the right of the Executive Board to instruct NCBs does not include the right to *decide* on the degree of centralization of monetary policy operations. This is left to the 'ECB', in other words to the Governing Council, which sets the overall framework.
[xxiv] See Art. 9.2 and 9.3 of the Rules of Procedure of the ECB.
[xxv] Art. 30-ESCB.
[xxvi] We remind the reader that we have seen that also in the operational field more centralization does not necessarily imply more efficiency, because many tasks entail activities which could best be performed locally. That is not to say that each NCB (also the very small ones) should undertake all operations themselves. For instance, payment systems could probably be shared. (A

decentralized system only works with a centralized decision-making body, though this body itself could be federally composed.)

[xxvii] Art. 10.6-ESCB became known as the ‘enabling clause’, because it allows the protocol to be changed without a regular IGC procedure, though still requiring national ratification by all Member States. It allows for a change in the voting regime (not in the composition) of the Governing Council. Art. 10.6 was not triggered by a disfunctioning of the Governing Council at that moment (2000) or a lack of effectiveness, but was based on the idea that the Governing Council could not increase in size unlimitedly.

[xxviii] Formulation used in provisional Conclusions of Council meeting on 21 March 2003.

[xxix] The decision has been ratified by each Member State (April 2004).

[xxx] Berk and Bierut (2003), p. 25.

[xxxi] One could earmark the General Council as the fourth, most outer circle; however, the General Council only meets every quarter, does not take policy decisions and only comprises part of the Executive Board members (president and vice-president), though the other Board members are allowed to be present.

[xxxii] There will be a transitional two-group rotation system as long as the number of governors is smaller than twenty-two.

[xxxiii] Art. 13 and 39 vest the president of the Board with special representation power.

[xxxiv] Decisions to bring an action before the Court of Justice are the sole right of the Governing Council.

[xxxv] Also mentioned in cluster I, as the Governing Council fixes the Board’s salaries following a proposal by a partly external committee.

[xxxvi] The obligation to publish an Annual Report (Art. 109b) and its regulations and to notify decisions to those affected could be seen as a form of external openness showing how the respective decision-making bodies performed their tasks.

[xxxvii] A low frequency would mean power shifting to the Executive Board.

[xxxviii] At present the ratio of votes between the Executive Board and the governors is 6:12 (6:15 when the UK, Denmark and Sweden would have joined the euro area); in the future after accession the ratio will be at most 6:15.

[xxxix] On the surface the ESCB committees might look more useful for the NCBs than for the ECB, but they also increase the exchange of ideas within the System, and allow for smoother (non-monetary) decision-making in the Governing Council, provided the committee members act in a cooperative spirit. The committees are

especially important, when the Governing Council decides by consensus (which is not the same as unanimity). But NCB representatives should not misuse this. For some ideas on improving the functioning of committees see chapter 8.3.

[xl] An exception being specific tasks relating to prudential supervision as defined under Art. 25.2-ESCB.

[xli] There are some similarities with the composition of the Commission as debated in the context of Europe's draft Constitution. The Commission, with each Commissioner having a specific portfolio, cannot grow one to one with the increasing number of EU Member States. The Commission proposed an equal rotation system, implying each Member State would periodically not have a national in the Commission. The larger Member States have suggested to divide the smaller number of Commission seats in important and less important ones, with a natural claim of the large countries on the important seats. This resembles the composition of the Executive Board of the ECB, where rumour has it that the large countries claim that four of the six seats have been reserved for the governors of the NCBs of the largest euro area countries – a claim not substantiated by others and not approved by national parliaments when ratifying the Treaty of Maastricht.

[xlii] See chapter 8.3.

[xliii] These issues were mentioned in chapter 11.2.2 and 11.2.4.

[xliv] Other arguments against voting were mentioned in chapter 5.4 (under Practical improvements, proposal 5).

[xlv] There is no convincing theoretical or until now empirical proof that the Governing Council has been acting behind the curve due to procrastination in its decision-making process. See Blinder and Morgan (2000) and M. Artis (2002) respectively. In fact, Blinder and Morgan conduct two laboratory experiments, the outcome of which invalidates the commonly-believed hypothesis that groups make decisions more slowly than individuals do. Furthermore, they conclude that group decisions are on average superior to individual decisions. (In their experiment they conducted a statistical "urn problem" and a monetary policy experiment. In both cases decision-makers have to decide on the basis of subsequent drawings (information) whether the composition is deviating from a given previous composition.) Of course, issues like drafting communiqué's will take more time with larger groups, but this can be handled by setting time-constraints.

[xlvi] In the early years of the ECB, its first president Wim Duisenberg put a large weight on achieving a European (i.e. not national or regional) view of the Governing Council when it was taking interest rate decisions. In case of important

interest rate decisions he would contact members of the Governing Council beforehand – see interview with Duisenberg in the International Herald Tribune of 6-7 November 2004.
[xlvii] See also chapter 9.
[xlviii] On 21 June 1948 the Deutsche Mark replaced the Reichsmark as the currency unit in the western occupied zones of Germany.
[xlix] Amtenbrink (1999), p. 86-87.
[l] Buchheim (1999) in Deutsche Bundesbank (1999), *Fifty Years of the Deutsche Mark*, p. 76-77.
[li] Amtenbrink (1999), p. 87-88.
[lii] See also footnote [9] in chapter 6.
[liii] Amtenbrink (1999), p. 90.
[liv] Buchheim (1999) in Deutsche Bundesbank (1999), p. 114. See also chapter 6 above and Loedel (1999), p.46.
[lv] See also Konrad von Bonin (1979), *Zentralbanken zwischen funktioneller Unabhängigkeit und Politischer Autonomie*, p. 79-82. Like Buchheim (1999), in Deutsche Bundesbank (1999), *Fifty Years of the Deutsche Mark*, p. 67 and 73, also von Bonin (p. 81) explicitly states that the American concepts for a post-war German central bank system were heavily inspired by the situation in the US itself.