



EUROPEAN CENTRAL BANK

LS/04/02

LEGAL COMMITTEE

30 December 2003

Aide Mémoire 56/03

FINAL

10 December 2003

- Extended composition -

The list of attendees is enclosed (Annex I).

0. Approval of the agenda

The agenda was approved.

1. Public access to ECB documents

Issue:

Continuation of the discussion that took place in LEGCO's October meeting. Based on the comments made during and after the above-mentioned meeting via a written procedure, the draft decision had been further revised and the members of LEGCO were invited to discuss the amended text during the December meeting.

Summary of discussion

Three LEGCO members were of the opinion that the scope of an ECB decision on public access to ECB documents cannot cover the non-participating NCBs if the General Council is not adopting the decision on the basis of Article 46 of the Statute. An ECB representative explained that Article 46 only covers the Rules of Procedure of the General Council and that the Governing Council is competent to adopt rules on the ECB's internal procedures according to Article 12.3 by which the non-participating NCBs are also covered. Another LEGCO member agreed that a mere consultation of the General Council would not suffice, for which reason he suggested that in order to formally ensure that non-participating NCBs are also covered by the decision, its adoption by the Governing Council could be complemented by the agreement of the General Council to abide by it.

An observer of LEGCO noted that the confidentiality agreements with the observers expire on 1 May 2004 for which reason the draft decision should take the national laws on public access of the

acceding countries into account. The Chairman stated that the ECB Legal Services would revert with an amended wording taking also the concerns of the out NCBs into account.

Several drafting suggestions were made. An ECB representative explained that the draft decision covers all documents made by the Committee of Governors, the EMI and the ECB and does not intend to include the documents made by NCBs.

In view of the ECB's vast use of its website to inform the public, it was agreed that it is not necessary to have a provision in the decision on the information of the public concerning its right of access to documents, providing the Executive Board reports to the Governing Council on these matters on an annual basis.

Follow-up

A revised version of the draft decision will be circulated to the LEGCO members for a last round of written comments.

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