The World Monetary System and External Relations of the EMU – Fasten your safety belts!

Norbert Weinrichter

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Abstract

Traditionally clustered around one leading "hegemonic" world currency, with the introduction of the euro the international monetary regime might become a "symmetric" dipolar system. This fundamental change would come at a time of already considerable uncertainty when, after the Asian, Russian and Latin American financial crises caused general dismay, the major institutional framework is in a constant reform process as the G7 are considering a "new financial architecture" and the IMF is facing fundamental critique. At the same time, the legal position of the ECOFIN and the ECB in the international field in the international monetary organizations is not yet clear. This article tries to point out some concrete areas of diversity of interest in the international consequences of the introduction of the Euro and analyzes the costs and gains from cooperation in different ways of dealing with these conflicts. From the structure of the issues some conclusions on the challenges facing the institutions can be drawn and some speculation as to the appropriate distribution of competences may be possible. Thus, I try to give an overview of the legal issues surrounding the representation of the EMU in the international monetary institutions in the light of a functional analysis of the challenges created by a transformation of a "hegemonic" monetary system to a "symmetric dipolar system".

Kurzfassung

Die Einführung des Euro könnte das Weltwährungssystem erstmals von einem rund um eine zentrale Leitwährung aufgebauten "hegemonischen" System in ein "symmetrisches" dualistisches System verwandeln. Diese fundamentale Änderung käme zu einem Zeitpunkt, in dem die Finanzkrisen in Südostasien, Rußland und Lateinamerika das Weltwährungssystem ohnedies bereits in tiefe Verwirrung geztürzt haben, die G7 über eine "neue internationale Finanzarchitektur" beraten und der IMF mit heftiger grundsätzlicher Kritik konfrontiert ist. Gleichzeitig ist die Position der neuen euroäischen Institutionen, insbesondere der EZB und des ECOFIN im Weltwährungssystem noch sehr unklar: Die Diskussion um die Vertretung im IMF, Präsenz in den G7 und die interne Kompetenzverteilung steht noch ganz am Anfang. Dieser Beitrag versucht zuerst, tatsächliche zwischenstaatliche Interessenskonflikte, die durch die Einführung des Euro ausgelöst werden könnten zu identifizieren und dann aus der Struktur dieser Konflikte Schlußfolgerungen für die institutionellen Rahmenbedingung der internationalen Währungs- und Wechselkurspolitik abzuleiten. Vor diesem Hintergrund werden dann die rechtlichen Probleme der Beteiligung der europäischen Institutionen im IMF, der OECD und den G7 analysiert und ihre Auswirkungen auf das Funktionieren internationaler Kooperation in diesem Bereich untersucht.

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Introduction

The introduction of the euro has set a new player in the world monetary system. Traditionally clustered around the dollar as a single "hegemonic" world currency, the international monetary regime might now for the first time become a "symmetric" dipolar system: As the Euro is very close to the dollar as to the size of the underlying economy and the volume of trade and finance, many commentators including the IMF, the Commission and the Bank of International Settlement expect a shift in the currencies held and used from the dollar to the euro. In contrast to the often recited internal efficiency advantages of a common currency area, the discussion of this external aspect of the EMU has raised suspicions against increased financial turmoil, newly inflamed by the recent exchange rate fluctuations between the dollar and the Euro. A shift between the world's two major currencies will directly affect interests of governments, central banks and industry in the US and the EU, but also in third countries and transnational cooperation on monetary issues will become increasingly important. This focus on international cooperation comes at a time of considerable uncertainty after the Asian, Russian and Latin American financial crises, when the major institutional framework is in a constant reform process as the G7 are considering a "new financial architecture" and the IMF is facing fundamental critique. With Japan still not recovered from a major economic crisis and the US growing at a constantly high rate, the EC faces very diverse partners in the administration of this reform process. At the same time, the legal position of the ECOFIN and the ECB in the international field in general and specifically in the international monetary organizations is not yet clear.

This article tries to point out some concrete areas of diversity of interest in the international consequences of the introduction of the Euro and analyzes the costs and gains from cooperation in the dealing with these conflicts. From the structure of the issues some conclusions on the challenges facing the institutions dealing with these problems can be drawn and some speculation as to the appropriate distribution of competences may be possible. Thus, I try to give an overview of the legal issues surrounding the representation of the EMU in the international monetary institutions in the light of a functional analysis of the challenges created by a transformation of a "hegemonic" monetary system to a "symmetric dipolar system".

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I. The background to the law: what needs to be done and who can do it

A. The need for cooperation from the introduction of the Euro

In today's international economic system, currencies are carefully monitored and sometimes consciously managed.(2) Central banks and governments direct the money supply, monitor interest rates and intervene in exchange markets.(3) Thereby, interests of creditors and debtors are influenced, exchange rate risks are shifted and financial interests of private actors are distributed.(4) Different interests struggle for different monetary policies.(5) Aside from the domestic arena, the use of money also has an international dimension that is typically analyzed in the following framework.(6)

Figure 1

1. A shift from the dollar to the euro and the interests affected

Currently, these functions of "international money" are mainly fulfilled by the dollar.(7) However, because of the size of the European Union in trade, equity and debt, its currency is predicted to be widely used in international markets.(8) Thus, the Euro may have the potential to achieve a position similar to that of the dollar within the next 10 to 25 years.(9) Then the international monetary system would be a duopoly instead of monopoly.(10) As very real financial interests are connected to the question which currency is used for the functions of an international currency, such a shift towards a dipolar system has the potential for many conflicts and inefficiencies.(11) Economic Literature(12) has identified and evaluated three main areas where the shift of the euro towards the size of a "world currency" might be important:(13)

Figure 2

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a) Trade: A shift in exchange rate risk

The first way in which the Euro is predicted to influence third countries is international trade.(14) Through the reduction of transaction costs, economists predict a better economic performance and a more efficient allocation of resources within the EC.(15) This should lead to an increase in trading activities as well and thus to positive spillover effects to third states.(16) However, it also involves a politically sensitive issue: if more people want to hold Euro, there will be an outflow of currency from the EC. This – assuming financial markets are balanced – implies a balance of trade deficit of the Community, who now has a surplus. Thus, a major shift in the import/export pattern could result.(17) Moreover, the use of euro in international trade will shift the exchange rate risk in many private transactions(18). Where Euro instead of USD are used for invoicing, the exchange rate risk shifts from the holders of Euro to the holders of USD. While Americans so far put the risk of devaluation on their counterpart,(19) an increasing use of the euro will put the transaction costs of hedging or the risk of unexpected changes in the exchange rate increasingly on Americans.(20) The Commission estimates that the use of the Euro in international invoicing will rise by 10% of the EC-trade(21) and that this will save transaction costs of about 35 billion USD annually for EC traders.(22) Countries that have pegged their currencies to the dollar for this reason might then be willing to peg to the Euro.(23)

b) Financial Markets: A shift in portfolios

The second aspect where European monetary integration will influence third countries concerns financial markets.(24) Generally, it is expected that a significant part of international public debt as well as private portfolio holdings will shift from dollar denominated securities to euro denominated securities.(25) On the one hand, this will increase size and liquidity of capital markets and positively influence third states.(26) Third states might profit from being able to choose in which currency to borrow.(27) However, it is not yet clear whether this increase will be balanced in assets or in debt: investors might find portfolios in euro denominated securities more or less interesting than issuers of bonds. If there is an unbalanced growth, exchange rate volatility might increase.

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The shift to the euro will also reduce US-profits from seignorage.(28) Holdings of US dollar notes are economically equal to a no-interest loan to the US central bank and provide for a profit of about 20 to 30 billion dollar per year.(29) When private and public portfolios shift from dollar to euro, this profit will have to be shared between the US and the EU.(30) Moreover, if the dollar is used only in the US, the government might find it difficult to borrow large amounts outside the US without promising a cautious fiscal and monetary policy and accept external restraints on economic politics.

c) The Public Sector: pegging and reserves

National central banks and governments can choose which currency they use to hold reserves,(31) to intervene in foreign exchange markets and to define their exchange rate against.(32)

A major shift from dollar to euro as a reserve currency(33) – i.e. a big selling of dollar and buying of dollar – might affect the exchange rate and redistribute substantially between holders of dollar and euro.(34) The Commission estimates that about 200 billion USD will be held less in official reserves in the EMU than in the countries before.(35) If a substantial number of countries that currently de facto or de iure try to fix their exchange rate to the dollar shift to a peg to the euro, this will redistribute exchange rate risks to the US. Moreover, the cycles of economic growth will be more synchronized: instead of 11 different, overlapping cycles, there will be basically one. Thus, effects of hausse or baisse in Europe will be of more relevance in third countries, as they will be more strongly developed.(36) Thus, third countries will have to take European macroeconomic policy into account more strongly when deciding about domestic policy making.(37)

2. The resulting need for cooperation

Thus, in the US, in the EU and in third countries, very real financial interests are affected by the possible international use of the Euro(38). Private business interests by shifts in the costs of the exchange rate risk in international transactions;(39) governments by a shift in the difficulty to get access to credits and the restraints they need to place upon their national economic policy in exchange for loans; and central banks by a shift in the profits of seignorage. Sometimes these interests will be in line;(40) sometimes they will conflict domestically (between governments and central banks, between private business and governments, or between the central bank and the government)(41) or internationally between the US and the EU.(42) In purely financial terms, the amount at stake is estimated to be about 70 billion dollars a year that is to be redistributed between holders of USD and holders of Euro.(43) The means of transformation focus on the exchange rate, but also concern a wider range of monetary and economic policy, including balance of payment issues, overlapping business cycles and decisions on currency pegs.

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However, it is not yet clear why this should lead to more cooperation. While political scientists, historians and politicians generally agree that cooperation is desirable, often with reference to the chaotic economic relations in the interwar period;(44) economists have argued that competition between currencies might actually lead to more efficient results.(45)

However, since the Plaza and Louvre Accord in 1985 and 1987, economic arguments on the desirability and efficiency of monetary cooperation have developed.(46) Spillover effects from domestic monetary decisions have been recognized as external effects that need to be internalized and the stability of the system as such is now seen as a public good that would be undersupplied without coordination.(47) Overall, economists estimate the difference between good and bad international monetary cooperation even without a major shift from dollar to euro at 0.5 to 1.5% of GDP annually, which would correspond to about 25 to 75 billion USD for the EC and the US each.(48) These stakes are likely to increase because of a change in the dollar-centered system.

Thus, it is reasonable to expect that there is a strong incentive for cooperation(49) between the EU and other parties.(50)

Figure 3

B. Conclusions for the Institutions

After the analysis of the institutional surrounding for the external representation of the Euro, the next conceptually important question concerns the interests affected within the EMU.

1. Motives in coordination: The choice from the magic triangle

On way to focus the discussion about the complex interplay of interests in international monetary policy within a country is the paradigm of the "magic triangle" of international finance.(51) In this pattern of analysis, decision-making in monetary matters concentrates around the trade-off between the following goals:

- Access to the capital necessary for large projects and investment requiring open financial markets
- Independent monetary policy to cope with asymmetric shocks to the economy, and
- Low volatility of exchange rates to avoid the social costs of speculative financial flows and the transaction costs of extensive movement of capital(52)

It is not possible to achieve all three of these goals, since arbitrage would occur.(53) One example might be useful as illustration: If a state lowers interest rates to facilitate growth after a recession, open markets and fixed exchange rates would lead to a massive capital flight as investors would invest outside the country where higher interest rates are achieved. To stop this, capital controls would be necessary, the exchange rate would have to be devaluated or the interest rates would have to be raised again. Thus, at least one goal has to be sacrificed.

This framework can be used to analyze the strategic decision making process in the Euro: The domestic monetary policy of the ECB as well as the attitude towards the openness of capital controls is highly predetermined. Thus, the magic triangle predicts that exchange rates will be the principal area in which the Community will be flexible enough to make adaptations.

First, in the Euro zone it will be difficult to adapt macroeconomic policy to specific circumstances. While fiscal policy is firmly in the hands of national states, monetary policy is tightly controlled by the ECB who is obliged to a very strict policy of price stability and is only loosely bound to assist the general economic policy of the Community, not to speak of that of single countries. Thus, macroeconomic policy is likely to be rather tight, irrespective of specific circumstances. Second, the new European financial market is, as compared to the US stock market, much less integrated. It will still for a long time be difficult in Europe to raise similar amounts of money as at the New York Stock exchange. Thus, access to open financial markets will be of decisive importance in Europe. Moreover, the introduction of capital controls is regarded very hostile in the TEC itself.

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This leaves the exchange rate policy as the only instrument to pursue flexible policy.(54) Here the interests of the Euro-Area are unclear: A low volatility of exchange rates reflects the external aspect of a stable value of money and will, according to the general importance of price stability, be important. Moreover, Europe has a tradition of being highly aware of the foreign value of its currencies. However, price stability is much more influenced by exchange rate fluctuations in small countries than in large economies. Thus the formation of one large currency zone to replace several relatively small currencies might significantly reduce the importance of exchange rate stability.

2. Exchange rate policy as center of international cooperation

The paradigm of the magic triangle predicts that the exchange rate will be the main target the Euroarea will uses for international coordination.(55) Concern about the exchange rate between the dollar and European currencies and the degree of intervention appropriate is inherent in the history of European monetary integration.(56) However, perhaps the element with the most continuity in this area is uncertainty: When the Bretton Woods system of par values was abolished in 1971/72 the Resolution setting the "snake" in place provided that fluctuations against the dollar should not exceed 4.5%.(57) One year later, it was decided no longer to intervene with regard to the dollar and to leave the snake as a joint free float.(58) The Foundation of the European Unit of Account in 1975 returned to a strong link to the IMF-SDR that was heavily influenced by the weight of the dollar. However, the ECU's external value was floating again and depended on the market value of its component currencies. The complex system of regulation of Art 111(59) enacted at the "final" stage of the monetary union reflects to a significant part the uncertainty that results from this history.(60)

Europe was always very aware of exchange rates.(61) The painful re-establishment of convertibility towards the dollar in the post-war era, the existence and breakdown of the dollar-centered Bretton Woods system, the establishment of the Special Drawing Rights and the efforts of monetary cooperation in the G7 context were fully recognized.(62) However, the rules of Art 111 that came into force on 1.1.1999 are a new development. For the first time there is a comprehensive system of regulations for the conscious management of the external value of the Euro. This system, however, does not prescribe any operational aims of monetary management or its mechanisms, but only the institutions and procedures of how to do it.(63)

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Also in international monetary organizations exchange rates are predicted to be a main focus.(64) However, also there is no conceptual agreement on what to do with exchange rates(65). While the

IMF still seems to emphasize stable exchange rate regimes, many commentators argue in the opposite direction.(66) In fact there are a lot of different types between the extremes of completely fixed exchange rate and completely floating exchange rates.(67) Whereas fixed exchange rate regimes today usually include some „exit strategy", floating exchange rates usually work on the hypothesis that they will only float so far, else someone will intervene.(68) Thus, we are confronted with a polycentric decision problem instead of simply two alternatives. In addition, the determination of exchange rates is linked to various elements of domestic economic policy: The various theories link exchange rates to exports, imports and the trade balance,(69) interest rate differentials, arbitrage opportunities, capital flows,(70) price differentials, inflation and expectations based on short term political events.(71)

While there is no theoretical agreement on a clearly optimal strategy, there are, however, significant interests of political economy involved: In developed countries,(72) overvalued currencies often are perceived to hurt concentrated, well-organized groups: export industries, whereas undervalued currencies hurt a widely dispersed, relatively unorganized interest group: consumers. Thus, devaluation will be much likely to be consciously pushed than appreciation. Of course, one country's devaluation is the others appreciation.(73) In this sense, U.S. Treasury Secretary John Connally could correctly state: "It's our currency but it's your problem."

3. Paradigms of Cooperation

The preceding analysis has shown the problems connected with the introduction of the Euro on the international plane, the institutions that will deal with these problems and the instrument that is most likely to be used. What are the implications of all this for the external relations law of the EMU? The main problems for the capability of the EMU to participate in international cooperation concern its internal institutional and legal division of competences– the question whether cooperation with Europe will be possible when it is not clear who speaks for the Euro.(74) What features will be required from a working institutional setting for external representation of the Euro?

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a) Friendly or Unfriendly Cooperation

Will dealing with the US about the exchange rate be like dealing with a friend or like dealing with an enemy? Realistically, the US will only support the European monetary policy where it believes to be in its self-interest. Three major points already described are raised in the literature to argue that the US might be less than friendly towards a strong international role of the Euro(75). First, the US (and it s central bank) will loose money from shrinking seignorage.(76) Secondly, credit in USD will become more difficult to get for budget deficits. Finally, US industry will have to bear the exchange risk more often. Thus, the US central bank, the US government and the US industry have very real interests against the replacement of the dollar by the euro in invoicing, capital markets and reserve and cash holdings. On the other hand, the US is likely to profit from higher growth in the EU as a result of monetary union in terms of increased exports, more profits from FDI and better access to international capital markets. While usually predictions are that overall the advantages are more significant than the disadvantages, this might be different in specific aspects. It is very likely that the EU will not entirely trust on full friendly and unconditional cooperation from the US.(77)

A related question is whether to arrange for cooperation on a formal, diplomatic level or on a technical level. On the one hand, the technical level promises competence and detailed cooperation, on the other hand the diplomatic level has more power for compromising across the borders of different substances and is usually trusted with dealing with significant conflicts. While there is no clear distinction, cooperation on a purely technical level would require mutual trust with information, data and predictions. Realistically, there is to be expected a two-tier process: sharing responsibility between a political and a technical level.

b) Financial crises and the need for speed

There is wide consensus that stunning recent financial collapses in Mexico (1995), Asia (1997), Russia (1998) and Brazil (1999) have caused enormous problems and social tragedies.(78) Moreover, there is consensus that they were at least partly consequences of a bad international monetary system and need not have happened.(79) The prevention of crises like that will be an important object of future monetary cooperation.(80)

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One perception of these crises concentrates on the ratio between short-term financial debt and official reserves(81). When open capital markets and little banking supervision allow a large inflow of foreign currency short-term credits to finance long-term investment projects, a liquidity problem arises. National commercial banks will turn towards their central banks to provide them with the necessary liquidity. Unlike purely domestic liquidity problems, the central banks cannot act as a lender of last resort but only provide liquidity through its official reserves. If these reserves are insufficient, then a “financial crisis” develops.(82) Thus, the task is to ensure that official reserves are sufficient to provide for enough liquidity to pay off short-term debt in foreign currency. This means to reduce short-term debt and to increase foreign reserves.(83) Reserves available for providing for liquidity can be increased by not using them for other things, especially not for financing pegged exchange rates regimes through intervention. Thus, the prevention of financial crises again points to the core element of external monetary policy: the exchange rate. The task for international cooperation thus is to allow a very fast reaction as to exchange rate policy. The key, in this context, is speed. The EMU will thus have to provide for institutions that are capable of fast reactions.

c) Benign Neglect or Active Management

The US at some points in time has been famous for an attitude best described in the words of its own finance minister: “The dollar is our currency, but its your problem.”(84) Macroeconomic policy was focused exclusively on domestic goals and the international effects were just seen as an inevitable result.(85) In Europe, the Council has repeatedly assured that it will actively engage in international cooperation and not adopt a perspective of “benign neglect” towards the exchange rate of the Euro.(86) On the other hand, the ECB has said that domestic price stability is its main aim and international aspects are clearly secondary to this aim.(87) From an abstract point of view, it might be possible to argue that there is an optimum level of surveillance of the international use of a currency, depending on the relation of costs and benefits of such surveillance. The more problems are expected to arise, the more use active management has. Since the introduction of the euro will create a serious need for additional cooperation, it is likely that the EU should try to manage the international use of the euro more actively than the US did.

d) Transaction costs and Agency costs: One voice instead of many?

Generally, cooperation gets easier if the number of partners decreases and transaction costs are reduced.(88) Thus, replacement of the G7 by a “G3” should make things easier.(89) One simple conclusion from this is that efficient cooperation requires a single and stable player in external relations.(90) Many authors have suggested that the Community institutions and the Member States should take all necessary steps to ensure the best possible cooperation in regard of the unity of representation in international organization.(91) To put it more directly, only one voice should speak for the euro in the international field.(92) Where different actors internally share competences, they should coordinate in advance who will speak and vote in the framework of an inter-institutional agreement.(93) This institution is then considered trustee of the other actors whenever their competences are at stake. (94)

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On the other hand, separation of powers and mutual control might improve monitoring (and reduce agency costs) and be even helpful for international findings of compromise(95). Pluralistic national authorities might allow the formation of cross-border coalition of interest groups.(96) Central banks and finance ministers can serve complementary functions as to political pressure, technical expertise and representation of interest groups. Thus, it might be easier to reach an agreement between the US if more than one actor represents both the EC and the US.(97) Moreover, internal distribution of power might be changed by who the negotiating partner is: the Fed, for example, might gain international competences from the Treasury if it turns out that the Europeans send the ECB to negotiate and the ECB can talk more easily to another central bank than to a finance minister.(98) This, in turn, might affect the outcome of negotiations. A conclusion might be that shared competences between ECOFIN and the ECB allow a more flexible approach to international agreements than the single voice – trusteeship model.

Figure 4

4. Conclusion

Cooperation between the US and the EC as well as between the EC and third states is necessary because of potential frictions due to a shift from the USD to the Euro, capable of bringing a very real financial gain, will focus on exchange rate policy and mostly take place in the G7. As there is neither a clear policy recommendation from economic doctrine nor a strict international legal system as between 1945 and 1973, a discretionary ad hoc approach is most likely. The EC should provide institutions that can deal with situations of mutual as well as conflicting interest, are able to react very fast but stable and predictable, and are relatively active. These institutional requirements can be used in analyzing the distribution of competences in the TEC and its consequences for the likelihood of success in international monetary cooperation.

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II. The EMU in the institutional framework of international monetary law

A. Arts 111 and 105 of the TEC – A short overview

1. The system as written

In the Intergovernmental Conference negotiating the final provisions of the EMU, external representation was a much-debated issue.(99) Ultimately, the member states agreed on a compromise(100) by interweaving the competences of the ECB and the Council in a complex scheme in Arts. 105 and 111,(101) the interpretation of which has produced extensive literature.(102)

As the purpose of this article is to analyze the consequences of the EMU for international monetary cooperation rather than an extensive treatment of the question of distribution of powers in the EC, a brief overview must suffice.

Art 105 (2) second intent and Art. 23 of the Statute assign explicit external competences to the ECB.(103) According to the former rule, the ECB is charged with the management of the reserves of the Member States and the conduction of foreign exchange relations as far as that is consistent with 111. According to Art. 23 of the statute of the ECB,(104) the ECB may establish relations with central banks and financial institutions in other countries and, where appropriate, with international organizations. Art 111(105) restricts the competences granted to the central bank in Art. 105 (2): While the day-to-day business is left to the ECB, specific issues of special importance are taken out of its competence. If the Council concludes a formal agreement under 111 (1) or an agreement concerning monetary of foreign exchange regime matters under 111 (3) the ECB cannot exercise autonomous discretion but is restricted to implementing the decision of the Council. Even were the ECB is competent, the Council can take influence on the substantive line of policy:(106) Under Art 111 (2) it can formulate “general orientations”(107) for exchange rate policy in relation to non-Community currencies that express general economic policy objectives which the ECB “shall” support.(108) According to Art. 111 (4) the Council can agree on the Communities’ position in international organizations.(109) However, both provisions contain a cross-reference to the powers of the ECB: general orientations have to be consistent with the objective of price stability, positions according to paragraph 4 have to take into account the competences of the ECB according to Art 105.

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Figure 5

2. Some Comments about practicability

This system might look more complex on paper than it turns out to be in practice: Formal Agreements in the sense of Art. 111 (1), e.g. a new agreement on fixed exchange rates, are highly unlikely in the intermediate future.(110) Moreover, it has been suggested that the effect of “general orientations”(111) might be rather limited(112) and, presuming that the term “community” in Art 111 (4) does not include the ECB as a separate legal person, that 111 (4) does not give the Council power over the ECB.(113) As the ECB is responsible for the actual day-to-day business, in the absence of strategic policy guidance from other institutions, it more or less does what it wants.(114) In addition, a negative statement of the ECB towards a policy favored by the Council will ruin the credibility of a measure in the international financial markets. Thus, in reality, the ECB might have an economic veto power even were the Treaty does not legally provide for it.(115) Moreover, the ECB as a permanent organization backed by over 700 employees has advantages of size, expertise, stability and speed compared to the ECOFIN Council. Therefore, within the Community the ECB has in fact a central role in external monetary policy: It can effectively block measures demanded by the Council that it does not like and instead propose the policy it believes to be appropriate. When no agreement is reached, it can pursue its own policy through the direction it gives to the day-to-day management of its competences.

Thus, practically, Arts 111 and 105 of the TEC organizes the external competences of the EMU in three layers: (116)

1. The conclusion of “formal agreements for an exchange rate system” is in the responsibility of the Council. (Art. 111 para 1)
2. The conduct of foreign exchange operations (interventions, daily management of exchange

reserves) is in the responsibility of the ECB.(117)

3. Everything else – the decisions in between the formal once and for all exchange rate system and the day-to-day business is subject to the somewhat open provision of Art. 111 (3) as to questions of competency, and to (2) and (4) as questions of cooperation between the ECB and the Council.

3. The central role of Art. 111 (3)

As paras (1), (2) and (4) of Art. 111 might be of more theoretical relevance, para. (3) comes to the focus of analysis. Art. 111 para. (3) reads as follows:

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> "By way of derogation from Article 300, where agreements concerning monetary or foreign exchange regime matters need to be negotiated by the Community with one or more States or international organizations, the Council, acting by a qualified majority on a recommendation from the Commission and after consulting the ECB, shall decide the arrangements for the negotiation and for the conclusion of such agreements. These arrangements shall ensure that the Community expresses a single position. The Commission shall be fully associated with the negotiations. Agreements concluded in accordance with this paragraph shall be binding on the institutions of the Community, on the ECB and on Member States."

a) Procedure or Substance

Does Art. 111 (3) give competences to the Council, or does it presuppose competences given in para. 1 and regulates their procedural implementation?

In a structural interpretation, one could argue that (1) is the substantive provision and (3) is the procedural one. However, this does not seem to fit the text, since both provisions contain procedural regulations. Moreover, the fact that (1) and (3) start with the same words suggests some kind of parallelism between the two provisions, not a difference. It is not very clear either, why (2) should interfere in the sequence, if (3) simply is the procedure to (1). Moreover, a comparison of Art 111 with ex 113 and ex 228 seems to argue against this interpretation. Ex Art. 228 is generally regarded as purely procedural. In contrast, ex Art 113 is generally regarded as creating a competence for the Community. Compared to these two articles, 111 (3) seems similar rather to ex Art. 113.(118) Thus it could be inferred that Art. 111 (3) does not require a competence defined somewhere else but in itself is a basis for action wherever there is the need to enter into an agreement.(119)

b) Horizontal Subsidiarity?

So, if (3) gives the Council additional competences and takes them away from the general competences of the ECB according to 105, what requirements have to be fulfilled for the Council to gain competence? The provision applies only when “agreements concerning monetary or foreign exchange regime matters need to be negotiated by the Community.”

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Zilioli/Selmayr propose the following convincing interpretation(120). The requirement for the

Community to justify its competence with a need for the conclusion of an agreement, is important with respect to the residual competence of the member states under Art 111 (5) and with respect to the external competences of the ECB. They thus propose a double test: In accordance with the subsidiarity principle it will not be very difficult to show that the Community is better suited to deal with the Euro than the Member States. However, they also propose a test of “horizontal subsidiarity” between the Community and the ECB: Whenever the Community cannot show that it needs to negotiate an agreement, it has no competence to do so and must defer to the ECB. Interestingly, ex Art. 113 refers only to the need for negotiation, not for the need for the Community to negotiate.(121)

Possible explanations for a need for the Community as opposed to the ECB to negotiate an agreement include a reference to the second sentence of Art 111 (3)(122) and a refusal of third states to accept the ECB as a negotiating party. However, a more open reading of the provision would suggest a test of comparative institutional expertise: When the nature of a problem requires political as opposed to technical negotiations, the Council will be better suited than the ECB to negotiate. Thus, while strategic long-term decisions are the competence of the Council and day-to-day decisions are the competence of the ECB, a large gray area in between has to be coordinated between the two institutions.

4. Clarifications in secondary law?

This regulatory approach leaves two general legal questions to be solved: First, what are the exact limits of the sole competences of Council and ECB respectively? Second, how is the coordination between ECB and Council supposed to work in the gray area? Asked more practically: Who is supposed to negotiate in the G7 meetings? What can he promise? And whom must he ask before promising anything?

Two European Councils in Luxemburg December 1997 and in Vienna in December 1998 have tried to secure a “single voice” in the G7, the G10, the OECD and the IMF through a Council-Resolution.(123) The proposal of the Commission suggested representation by a “trinity” of Council, Commission and ECB. The president of ECB, the competent member of the Commission or the president of the Commission and the president of the Council would represent the Euro in the G7. In the IMF, commission and ECB would take part in the executive director meetings and the interim committee and an informal “observer center” including the Commission and the ECB. The Member States were supposed to include representatives of the Commission(124) and the ECB in their delegations.(125)

Finally, the European Council in Vienna “endorsed” the report of the Council on the external representation of the Community,

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> “which foresees that the President of the ECOFIN Council, or if the President is from a non-euro area Member State, the President of the Euro 11, assisted by the Commission, shall participate in meetings of the G7 (Finance). The ECB, as the Community body competent for monetary policy, should be granted an observer status at the IMF board. The views of the European Community/EMU on other issues of particular relevance to the EMU would be presented at the IMF board by the relevant member of the Executive Director's office of the Member State holding the euro Presidency, assisted by a representative of the Commission. The European Council invites the Council to act on the basis of a Commission proposal incorporating this agreement.”

However, the same political conflicts that prevented a clear provision in the Treaty in the Maastricht negotiations also prevented the adoption of a Council regulation. On the one hand third states that dreaded overrepresentation for the euro resisted,(126) on the other hand, conflicts between large and small countries within the EU split the EU internally. While large countries objected to representation by the president of the Council, who could come from a small country, small countries argued that they should be represented in the G7 separately. Thus, while the European Council in Vienna "endorsed" the report by the ECOFIN "foreseeing" who "would" represent the Community, it also "invited" the Council to enact a Regulation. However, there still is no Regulation governing this area and it seems that, for the time being, there are no more plans for explicit legal regulation of the issue. Christian Noyer, vice president of the European Central Bank in January 2000 stated:

> "[G]iven that the allocation of responsibilities within the euro area and the scope of Community policies are likely to evolve over time, the external representation of the euro area will probably make progress in the future and this should therefore be considered to be an ongoing process."(127)

B. A comparative perspective: Treasury and Central Bank in the US and in Japan

1. The US-system

The legal basis of the division of responsibility between the US Treasury and the US Federal Reserve System with respect to exchange rate policy is – as in the EC – "unusually obscure" and "ambiguous."(128) Bargaining and decades of cooperation and conflict in practice show a strong mutual dependence.(129) Interestingly, proposals to clarify the relationship by an act of Congress have repeatedly been rejected by both institutions.(130)

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The Treasury is explicitly authorized by law to intervene in foreign exchange markets to stabilize the dollar with a special Fund, over which it exercises exclusive control with the approval of only the President. The Fed, on the other hand, has no such clear authority. Only in the dollar crises of the late 1960s, when the Fund was not sufficient and the time was to short to wait for extra money from the Congress, the Advocate General and the general legal counsel of the Treasury and the Fed hastened to agree that also the Fed could spend its money for exchange rate intervention. In case of a conflict between the Treasury and the Fed, this difference in legal authority gives the Treasury clear primacy.(131) In addition, as the Fed acts as agent of the Treasury in some operational aspects, a sectoral hierarchy is already established in some areas. Accordingly, the main negotiator for the paradigmatic examples of international monetary cooperation, the Louvre and Plaza accord, has been the Secretary of Treasury. (132)

However, also the Fed was a party to those agreements and commentators agree that without at least tolerance of the Fed, exchange rate intervention from the Treasury cannot succeed.(133) Control over large blocks of potentially available intervention funds makes the Fed an equal partner with the Treasury. In addition with the Fed's supremacy over domestic monetary policy(134) this makes cooperation between the two bureaucracies essential.(135) Thus, mutual agreement between the Treasury and the Fed is virtually a necessary condition for international monetary policy and some commentators have argued that this need for agreement that is sometimes difficult to achieve creates an inherent bias toward inaction within the institutional structure of the US.(136)

2. Japan

The Japanese system gives the political authorities primacy over the central bank in external monetary relations.(137)

Art. 40 (3) of the Bank of Japan (BOJ) Law states: "When buying or selling foreign exchange rate (…) the Bank shall conduct the business which the Minister of Finance designates as constituting cooperation in the field of international finance at the request of the Minister [of Finance] or upon receipt of the Minister's approval."(138) In intervening on exchange markets, the Bank uses money of the government and acts as its agent.(139)

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Traditionally the BOJ has been subordinated to the guidance of the Minister of Finance (MOF).(140) Even though recent reforms have enhanced the independence of the BOJ, the leadership of the MOF in external monetary policy is still undisputed.(141)

Figure 6

3. Lessons

What can be learned from this for the EMU or for international monetary cooperation? On the one hand, the US and the Japanese system both are different from the EC system in substantial elements: US law gives the Treasury clear authority for exchange rate intervention with its own funds and in its own name. In Japan, there is a possibility of clear directions from the MOF to the BOJ for concrete intervention acts. In contrast, in the EC the Council can give only "general recommendations" and only the ECB has funds to intervene in the market. Thus, it seems that neither US nor Japanese experience can be used to analyze the specific legal problems of coordination of exchange rate policy between central banks and finance ministers in the EC.

On the other hand, the somewhat unique position of the ECB might add to the dynamic of international cooperation between the US, the EC and Japan: Assuming that finance ministers and central banks have different perspectives, interests and focuses,(142) the new situation leads to an interesting "triangle" of strength(143). Between Japan, where the MOF has the decisive influence and the EC, where the ECB plays a very important role, the US with its complex balance between the Fed and the Treasury could play a very interesting role to facilitate compromise.

C. Symmetry or Hegemony

The European Commission has argued that the EMU will create much needed symmetry in international monetary cooperation: So far, a polycentric system of relatively open and relatively small European States confronted a big and closed US.(144) Thus, the US could influence the European domestic situation by spillover effects without fearing the same from Europe and therefore was too little concerned with international aspects of monetary policy.(145) The creation of one single, equally big and equally closed European counterpart might create the symmetry needed in game theoretical approach to reach a satisfactory result.(146) This approach has been heavily criticized: First, the perception that the US refused sufficient cooperation was contested.(147) Second, the prediction that the EC would be more interested than the US in cooperation was doubted.(148) Third, and perhaps most interestingly, the basic notion that a dipolar system is likely to produce more cooperation than a hegemonic system is criticized.

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There is an interesting contrast between the economic standard assumption that atomistic actors in uncoordinated competition provide for Pareto-optimal outcomes and a typical international relations paradigm that argues: “Structures of power that are dominated by a single country are most conducive to the development of strong international regimes whose rules are relatively precise and well obeyed.”(149) Since in international economic relations economics and foreign policy overlap, it is not clear which paradigm has higher prima facie credibility. Both arguments can be turned around: Economics recognize deviation from the market ideal for the purpose of internalization of external effects (like network externalities(150) or spillover effects of monetary policy) and the provision of public goods (like stable exchange rates). International Relations recognize that a system dominated by one power might lead to abuse.(151) While it can be argued that the duopoly between the EC and the US has produced beneficial effects of reciprocal commitments in the GATT/WTO system, it is not clear whether this argument can be simply transferred to the monetary system.(152)

D. The places of coordination: IMF, G7 and BIS

1. The legal framework of international monetary coordination

a) Lack of substantive law and the development of institutions

Money is an institution of municipal law.(153) Public international law recognizes every state’s sovereignty over its currency.(154) Traditionally, it is even seen as in the domestic jurisdiction in the sense of Art 2 (7) of the UN-Charter.(155) Inherent in this, a state is, as a rule, free to bring about the external depreciation or appreciation of its currency.(156) Customary international law only sets limits in exceptional situations.(157) Thus, monetary cooperation is left to treaties and international organizations.(158) Until relatively recently, international monetary cooperation occurred mainly through technical agreements like clearing systems, or Bilateral Payment Agreements.(159) Historically, the Sterling and the Franc Area set regional frameworks for currency areas.(160) After the 2nd World War, the establishment of an “international monetary system” (161) was attempted much more rigorously.(162)

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What remains from these attempts to form an international monetary constitution is not an established set of rules but an institutional framework. While this paper cannot provide a comprehensive history of international monetary relations,(163) it attempts to show some of the paradigmatic problems and the historic key decisions that led to the present system institutions.(164)

b) History Conceptualized

Figure 7

A historical perspective on international cooperation in the monetary field reveals four paradigmatic steps: First, there was no perception of a need for international cooperation of monetary policy: Money was viewed as naturally derived from the value of a metal.(165) This value was seen as independent of governmental management – and thus there was nothing to coordinate. When governments discovered the possibilities inherent in their power to print money, they started by using it for economic warfare and domestic adjustment rather than as a tool for international coordination. Then, international cooperation of monetary policy was recognized as an important objective and the

Bretton Woods conference created a central international institution wielding the power to veto devaluations and capital controls by denying access to liquidity. Finally, when liquidity lost its central relevance for developed countries due to the opening of capital accounts and the development of Eurodollar markets, the main focus shifted from vertical towards multilateral horizontal cooperation in the G7 and G20. The introduction of the Euro might trigger yet a new period of horizontal, but bilateral (or trilateral) cooperation.

c) BIS, IMF and G7: The lasting effects of a history of decision making

Thus, aside from a relatively technical level, best exemplified by the Bank of International Settlement,(166) the coordination between the big players US, Europe and Japan today basically works through relatively informal channels of the G5, G7 and G10 that discuss a very broad area of economic measures. (167) The IMF has still an important role to play as far as relations to developing countries, surveillance of monetary policy and crises management are concerned. These three levels of institutions represent the three layers of the international monetary system: the BIS for the technical element, the IMF as a regime for balance of payment surveillance, exchange rate stability and capital controls and the G5, G7 and G10 for general macroeconomic coordination.

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2. Formal Regimes and Development Policy: Cooperation in the IMF

a) Membership – The legal issue

One of the most important and most controversial issues of the external relations law of the EMU is the question of membership in the IMF.(168) The short version in Duisenbergs words is: “[The ECB’s] relations with the IMF are institutionally complex.”(169) Originally, some people expected that Euroland(170) would become a full member of the IMF replacing the participating states. They pointed to the fact that the Member States had deprived themselves of their sovereignty in their monetary policy and turned it over to the EMU institutions. Thus, meaningful participation could only be expected from the EMU as such.(171) A silent succession of the Member States by the EC was, however, rejected.(172) Moreover, the text of the Charter of the IMF restricts membership to “countries” and thus seems to exclude an explicit accession on the EC or any other European body to the IMF.(173) However, since an institution with political discretion – the Council of Governors – ultimately determines the conditions of a new accession it seems to be possible to argue that the Euro area in fact has all characteristics of a “monetary country.”(174) However, the IMF – in line with its tradition as to currency areas(175) – so far chose not to do that.(176) Thus, in the immediate future it is likely that the Member States of the EC will remain the main actors in the IMF.(177) The European Council has recognized this as a political reality and has expressed the willingness of the Member States to pursue a coordinated policy and to include representatives of EC institutions in their personnel.(178) Pursuant to the plan adopted at the Vienna Summit, the views of the EU or EMU would be presented there by the Executive Director of the country holding the Euro 11 presidency, assisted by a representative from the Commission.(179) In fact, the Member States act as trustee for the Community and the ECB.

b) The power game

What is behind the discussions about membership? Some have argued that full membership of the Euro area would have meant that the USA were to be replaced as the country with the highest quota and that the headquarters of the IMF would have to move to Europe – a mighty symbol of changed power structures. Others pointed to the fact that transaction between countries of the EC would no longer count as international transactions and thus the share of the EC(180) would shrink below that of the US,(181) the IMF could stay in Washington and the combined voting power of Europe in the IMF would shrink drastically.(182) Thus, a clarification of the position of the EC in the IMF has the potential to seriously redistribute power in this organization and therefore is regarded with some suspicion.(183)

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c) The pragmatic solution

In this light it is understandable that the European Council in Vienna decided to search for a solution that does not require an amendment to the IMF Articles of Agreement.(184) At the IMF Executive Board meeting on 21 December 1998 – only about 10 days after the European Council in Vienna on Dec. 11 and 12 1998 – a decision was made to grant observer status(185) to the ECB,(186) a position typical for the cooperation of the EC with other international organizations.(187) The ECB observer participates automatically in all meetings of the IMF Executive Board regarding the surveillance, under Article IV, of the monetary and exchange rate policies of the euro area, the surveillance of the policies of individual euro area Member States, the role of the euro in the international monetary system, the IMF World Economic Outlook, international capital market reports and world economic and market developments.(188) Moreover, the observer represents the ECB at IMF Executive Board meetings on agenda items recognized by the ECB and the IMF to be of mutual interest for the performance of their respective mandates. The observer can address the Board with the permission of the Chairman on matters within the responsibility of the ECB.(189) The Fund communicates to the ECB the agenda for all Board meetings and the documents for those meetings to which the ECB observer has been invited.

On February 8, 1999, Mr. Robert Raymond, former Director General of the European Monetary Institute, was appointed as the ECB permanent representative in Washington D.C. with observer status at the IMF. He has taken up his duties since then.

In the Executive Board,(190) the Executive Director of the country holding the Euro 11 presidency expresses the views of the EU or EMU.(191) The Commission has requested the appointment of a representative to serve as assistant to the IMF Executive Director from the Euro 11 country currently holding the Presidency. The large European Member States with single-country constituencies, however, were unwilling to set aside a position in their representation for the Commission and turned down this request in July 1999. They also claimed that the IMF might not accept any such arrangements anyway, but apparently the issue was never raised formally in Washington.(192)

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d) Substantive Issues

Aside from the formal question of membership and the poker for voting power, serious issues of substantive policy such as exchange rate policy cooperation,(193) recognition and notification of capital controls(194) and management of foreign reserves are at stake.(195) At the core of the IMF, however, is the credit mechanism.(196) First, this requires that the IMF itself gets money: by payment of a quota to the IMF, the obligation to buy the national currency of a third state in specific circumstances and the obligation to buy Special Drawing Rights. Second, Art. V (3) (b) and (c) of the IMF Agreement provide for the obligation to provide and the right to get help in case of balance of payment problems.(197) Since this help is provided only conditional on wide ranging commitments to specific macroeconomic policy goals, the management of this aspect of IMF policies is connected to issues of significant political relevance.(198)

While it has been some time that an EC country has borrowed money from the Fund,(199) the Euroarea can be affected in both areas: either in requiring credit or in providing credit. Technically, financial relations with the IMF are still in the hands of the member states: Every country designates a fiscal agent that acts as business partner of the IMF for conducting financial transactions and a depository that holds the account.(200) This nationally assigned responsibility was not altered after the introduction of the euro, and there do not seem to be plans to centralize the fiscal agent and depository functions.(201)

However, this decentralized system is problematic in two ways: First, is implies a “certain overlapping with the ESCB’s monetary sovereignty” – a payment from a national central bank to the IMF in euro changes the European money supply, a function otherwise exclusively attributed to the ESCB.(202) Second, the key indicators for the relations with the IMF, i.e. balance of payments and reserves, are centralized with the ECB. (203) Access to credit as well as the contribution of a country to subscriptions, financing and replenishment of the IMF’s own funds, is based on balance of payment indicators. While it is still possible to calculate balance of payments for each individual member states, a useful measurement(204) of balance of trade deficits would regard the Euro-area as one unitary zone.(205) Moreover, the ECB holds the bulk of foreign exchange reserves of the member countries.(206) However, only IMF member countries – i.e. not the Community or the ECB, only individual euro area countries – can request balance of payment assistance. However, taking into account the scope of obligations that the IMF conditions its loans upon, ranging from fiscal restrictions to trade measures and general economic policy prescriptions, a loan to the a Member State would probably require the consent of all of the EC, too. A similar issue where the introduction of the euro has led to a somewhat awkward situation is the consultation procedure provided for in Art. IV of the IMF Agreement. As these consultations are only possible with member countries of the Fund, the euro area, or the EC cannot be the partner of the IMF. However, the individual euro countries are no longer solely responsible for all aspects of monetary and economic policy concerned. A compromise was reached according to which the IMF every 6 months and independently of the country consultations holds consultations with the ECB, the European Commission and, as appropriate, with other European institutions which are considered to be legally part of the Art. IV consultations with the individual euro area countries.(207)

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The decision on the Community position as to lending by the Fund and managing conditionality pose yet different problems: It could very well be subsumed under developmental policy or foreign policy, as it involves serious influence on third states and their economic policy. (130u I) On the other hand, it also influences the stability of the international financial system and the exchange rate system and thus could be attributed to monetary policy. (111 IV).(208)

As a conclusion it seems apparent that there is a split between reality and the law: The IMF agreement does not recognize any body other than a country as debtor, creditor or partner. As a matter of law, the IMF has thus only formal relations with the Member States. However, in reality foreign exchange reserves, balance of payments and monetary policy decisions are centralized and largely outside of the influence of the individual states. This split between the law and reality is not particularly helpful for meaningful cooperation.

3. The Technicalities: BIS and OECD

a) Banking forums

With respect to central banking forums, the President of the ECB participates in meetings of the G10 Governors organized in the context of the BIS. In addition, ECB representatives also take part in the Committees set up under the G10 Governors's aegis. In contrast to intergovernmental institutions like the IMF and the OECD, the BIS is a central bank institution, as its shareholders come exclusively from the central banking community. Matters dealt with by the G10 Governors and its Committees (e.g. Basle Committee on Banking Supervision, Committee on the Global Financial System) are typically related to monetary and financial developments and systems. Currently the ECB is not a shareholder of the BIS. Thus, the central banks of the Member States act as trustees for the ECB.

b) The OECD

Although founded for the cooperation of States, Art. 12 (b) and (c) allow the OECD to maintain relations with international organizations and to invite the to participate. This would enable a simultaneous participation of the Community and the ECB in their respective fields of competences. Art. 13 and Supplementary Protocol No. 1 of refer to the internal division of competences of the EC as far as her participation in the OECD is concerned. Practically, the ECB would have a possibility of participation in Working Party 3 of the OECD consisting of representatives of central banks and finance departments.

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This division of competences requires intensive cooperation, perhaps best achieved by means of a common Community delegation.(209) Using Protocol No 1 to the OECD Convention as a legal basis, the OECD Secretary General confirmed in February 1999 that the ECB would be allowed to participate in the work of the relevant committees and working groups of the OECD. As a result, the ECB is a separate member of the European Community delegation in these meetings alongside the European Commission. As regards participation in the G10 Ministers and Governors proceedings, which are organized in connection with the IMF Interim Committee meetings, the President of the ECB attends with an observer status.

4. Where the action is: The G7, G10 and G20

a) Plaza and Louvre accord: How G7 became important

In 1960, ten countries agreed to lend money to the IMF in the General Agreements to Borrow, and had continued to meet as the Group of Ten. In July 1972 the governors of the IMF set up the Committee of Twenty (G 20), composed of the twenty country groups represented by an IMF executive director, supposedly because the US saw a better chance to realize its views there than in the G 10.(210) The finance ministers of the US, Germany, France and the UK began to meet informally in March 1973 at the invitation of the Secretary of the Treasury, George Schultz. Six month later, during the annual meetings of the IMF and World Bank in Nairobi, they were invited by the minister of finance of Japan – the Group of five. Later on, the central banks governors were also invited. In 1986, Canada and Italy were asked to join, and the Group of Seven was born.(211) Informal, less rule orientated forms of cooperation in various contexts play an important role in addressing pressing monetary issues of the time.

The two most important instances of monetary cooperation in the last 30 years occurred in the forum of the G7.

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Eichengreen concludes in commenting on the 70s that there seemed to be a consensus on two things: exchange rates were important policy aims that required national policies to adapt and government intervention on the exchange markets was necessary.(212) In contrast, in the 1980s the US accepted a serious misalignment of the dollar in favor of domestic economic policy.(213) While at first the appreciation of the dollar seemed to be justified by the underlying “real” economic facts of an increasing budget deficit and increasing interest rates, from June 1984 to February 1985 the development of the dollar exchange rate was widely seen as a speculative bubble.(214) At first, attempts to internationally coordinate monetary policy failed. The US insisted that the markets would take care of exchange rates and that the dollar appreciation was due to successful monetarist measures to fight domestic inflation.(215) Europe pointed to the high budget deficit of the US and, left to its own device, built its own mini-system, the EMS.(216) Japan enjoyed the increasing competitiveness of its exports and the Reagan administration had other priorities.(217) It was again the G5 that found a way to break up the positions at the Plaza Accord in 1985 and then at the Louvre Accord in February 1987.(218) The agreements reached covered a variety of different measures from stimulation of aggregate demand in Japan through increased government spending to less subventions for oil prices in the US and changes of the interest rate policy of the Bundesbank of Germany.(219) Geoffrey P. Miller gives an interesting account on the origin of the Japanese bubble of asset prices:

(…) [T]he G-5 Plaza Accord of September 1985, an agreement designed, among other things, to coordinate economic policy in the major industrialized nations and to counteract protectionist forces. As part of the Plaza Accord, Japan agreed to stimulate its economy in order to enhance domestic demand for U.S. products. The signatories also pledged privately to intervene in foreign exchange markets to drive down a U.S. dollar widely perceived as overvalued. The Plaza Accord initiated a process of international consultation that also generated the Baker-Miyazawa agreement of October 1986, in which Japan agreed to implement specific stimulative measures, and the Louvre Accord of February 1987, in which Japan agreed to "follow monetary and fiscal policies which will help to expand domestic demand and thereby contribute to reducing the external surplus."(220)

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Whereas the IMF acts on the basis of rules designed to create a once and for all regulatory system, the member states continue to coordinate their monetary policy in a discretionary and flexible way on a case-by-case basis.(221) Since that time the dollar depreciated significantly, creating serious problems to Europe and Japan. However, monetary cooperation slowed down again, focusing on “benign neglect” for exchange rates in the US under the Bush- and Clinton administration. However, the Asian, Russian and Latin American crises from 1996 to 1999 forced an increasing focus on the international monetary system.

b) The current setting

Thus, the G7 today is perhaps the most important institution. Given its role in exchange rate policy co-operation, it is also a forum where the euro area's external representation is rather difficult to arrange. This is due to the fact that a trade-off has to be found between the need to accommodate the shared responsibilities at Community level between the ECOFIN and the Eurosystem, on the one hand, and concerns of non-EU members to avoid an over-representation of the euro area, on the other hand. The proposals of the Commission, adopted in a report of the ECOFIN and “endorsed” in the Resolutions of the European Council in Vienna(222) would require up to three additional representatives in the G7 (a Commission Member, The president of the Euro-11 and the ECB President). Klaus Guenter Deutsch points out that this would leave the meeting with 11 Europeans as opposed to 6 non-Europeans – hardly representative of the actual size of the European economy.(223) (224)

In fact, Wim Duisenberg, the current president of the ECB, was named as the monetary representative and since October 1998 has been participating in G7 meetings on issues related to monetary policy and multilateral surveillance, including exchange rate policy.(225) However, the non-European participants opposed the additional presence and finally, at US insistence, a compromise was found at the June 1999 Frankfurt meeting of the G7, subsequently endorsed at the July meeting of the ECOFIN Council, according to which the three governors would not be present in the first part of the meeting when the international economic outlook, multilateral surveillance and exchange rates are discussed; only the ECB President would sit in. But they will join the second part of the meeting when "all other issues concerning the international financial system" are discussed.(226)

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In addition, some controversy continues on the question of whether there should be an additional political representative. This seems especially important, as the key actors in G7 meetings still are the finance ministers.(227) At the conclusion of the Vienna Council, Rudolf Edlinger, then Austrian finance minister and chair of the Council, stated the main argument for separate monetary and political representatives: "We have to make it visible to the outside world that we are not just a monetary union but an economic and monetary union." On the other hand, Germany led the resistance to the proposal of a political representative in addition to the monetary representative due to the fear that it would decrease the independence of the ECB.(228) France and Italy, the other Euro11 members of the Finance G7, were also reluctant to see their voices diluted at future meetings. The fact that Britain, while participating in the Finance G7, is not a member of the Euro11 further complicates matters. As pointed out in The Economist, "If the euro were represented at political level on the international stage, it would become absurd for a country as small as Britain to play the role it does today...."(229)

The current compromise, envisaged in the Conclusions of the Vienna Summit, of including the Euro-11 or ECOFIN Council President in the G7 meetings is imperfect in several dimensions: First, it seems that the non-European members of the G7 are not too happy: While the first sentence of the statements of the finance minister after G7 meetings acknowledges the presence of the Euro-11 president, from the second sentence on, he is excluded from the homely “we” of the rest of the text.(230) While this is only a formality, it might well show the reluctance of the non-European partners to accept the further increase in European participants. Second, the European foundation of the representatives seems somewhat weak: Deutsch concludes that the Commission member seems dispensable, that the participation of the three national central bankers could be reviewed and that political leadership as a whole is rather fragmented, leaving the Euroarea too inflexible.(231) Finally, neither the conflict between the EC-members on a focus of political and/or technical representation nor the conflict between European and non-European G7 partners on the weight of Europe in the G7 is really addressed by the current setting. Thus, it seems that further changed are likely.

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c) Changes by a shift to the Euro

The number of states involved (5, 7, 10, 20), the officials present (central banks, finance ministers, heads of states) and the policy instruments discussed (fiscal and monetary policy, sometimes general issues as labor standards or antitrust issues) require flexibility and a broad power of implementation. Neither the ECB, nor the Council or the Member States could agree to an agreement in the scope of the Plaza Accord on their own, since it involves competences assigned to each of the three entities. Deutsch has concluded that, rather than a formal solution on the design of institutional representation, an efficient bundling of interests is required. In this respect many questions remain open. "A lesson to be learned from the Common Trade Policy of the European Community is that three factors are of utmost importance: first, efficient delegation to a common institution of representational powers, second, the political authority of the representatives, and third, flexibility in international negotiations." (232)

One candidate for a delegation would be the Commission. Indeed, since his advent as Commission President in 1984, Jacques Delors -- a former French Finance Minister -- has made every effort to assert the Commission's authority in this domain at the summit. The Commission's views on economic and monetary policy have assumed an independent character, and have by no means always represented the contemporary opinions of the twelve individual EC member states in this contentious sphere. The Commission's autonomous and rather aggressive stance in economic and monetary affairs in international summitry was dealt a significant blow at the Tokyo Summit of 1986, where it was excluded from the Group of Seven finance ministers (G7), an extension of the G5 which was already in existence. The United States vetoed Commission involvement, on the grounds that it lacked the legitimacy and authority of a sovereign state in the monetary domain; that is, the EC lacked a central bank, intervention funds, power to fix interest rates and a single currency. The American and Japanese leaders also strongly opposed the inclusion of the EC on the reasoning that it would transform the relatively manageable G-7 into an unruly and unstable G-15(233) Following pressure from the United States, a compromise was found according to which a Commission representative would participate in the G7 (Finance) meetings only when questions relevant to EMU are under discussion. This judgment is to be made by the ECOFIN/Euro 11 President and will probably reflect a restrictive interpretation as the other G7 participants are rather hostile to the Commission's presence.(234)

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This leaves the representation of the Euroarea in the G7 in the hands of the ECB and/or the Council, between which the distribution of powers in Art. 105 and 111 de facto is likely to leave decisive responsibilities in the hands of the ECB.(235) It might be that the triangle of the respective strength of central banks and finance ministers can bring an important improvement in international cooperation: It seems fair to assume that central bank economists can talk easier to each other than to politicians in the finance ministry and vice versa. In the current system, a strong interest of a central bank (like the ECB) might find an ally in the US central bank that can bring the US treasury with it and then the US and the EC together should have a certain leverage vis-à-vis the US. Similarly, the Japanese Minister of Finance will find an ally in the US secretary of the treasury, who might convince the US central bank and then, in turn, the ECB. Moreover, "the three central bank governors will be able to tackle questions such as the "right" euro-dollar exchange rate or target zones in a more pragmatic manner, away from the public eye and uninhibited by political disputes and official parlance."(236)

E. Conclusion

What will be the effect of the introduction of the Euro in general and of the legal details of the EMU in particular on international monetary cooperation? I believe that a centralized representation of the EC in international monetary cooperation and the resulting institutional consequences will have a positive impact.

First, the introduction of the Euro and the possibility of a major shift in the use of the dollar to the Euro increase the financial gains that can be made from international monetary cooperation. This can provide a powerful incentive to strengthen the structures and the institutions of cooperation that then can operate independently from this one time starting point.

Second, there will be a change as to which institutional framework will be used most effectively: While technical cooperation will be largely unaffected, political cooperation will further concentrate on the level of the G7: the inflexible approach of the IMF that leaves major power questions unsolved and does not accept the EC as member will make it very difficult to reach agreements on this level. In contrast, the G7 has the necessary flexibility to accept the relevant players without too many difficulties. This further shift from formal cooperation in the institutional structure of the IMF to a more flexible and informal forum of the G7 corresponds to the conceptual framework of monetary and financial policy: there is no general agreement on optimal economic policy and no consensus on a strict legal regime. Thus, cooperation in the framework of the legal restraints of the IMF Agreements is less adequate to the general uncertainty on the correct concepts. Cooperation in the more flexible forum of the G7 might come easier than in the IMF.

Finally, within the G7, the inclusion of the ECB into the negotiations might facilitate the findings of international compromise: On the one hand, the reduction of the players from 7 to basically 3 reduces transaction costs and makes it easier to reach agreements. On the other hand, the triangle of a strong Minister of Finance in Japan, a strong central bank in the Euroarea and a balanced system in the US might prove helpful: The central banks as well as the Finance Ministers can form flexible majorities and thus it is assured that both the interest of general growth politics and the interest of price stability will be well represented.

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Endnotes

(*) The author would like to acknowledge the helpful comments of the two anonymous referees of the EIoP.

(1) „Fasten your safety belts" was, to my knowledge, used for the first time to describe the challenges of the EMU for the world monetary system in a lecture by Richard Cooper at the Harvard Law School in May 1999.

(2) Cf. Amtenbrink, The Democratic Accountability of Central Banks. A comparative study of the European Central Banks, 7ss (1999).

(3) Cf. Duwendag et.al. (eds.), Geldtheorie und Geldpolitik in Europa, 5. Auflage, 343 (1999).

(4) Altmann, Wirtschaftspolitik, 6th edition, 425ss (1995).

(5) Large debtors, like the state, may hope that inflation will make their burden smaller, unions may hope a low interest rate will create more jobs trough investment, creditors will perceive inflation as a more subtle form of expropriation and so on.

(6) See Kenen P., the role of the dollar as an international currency, (1983); Krugman, Paul, Currencies and Crises (1991).

(7) Wyplosz, Charles, An International Role for the Euro? Report Prepared for the European Capital Market Institute, 5ss (1997).

(8) See Sollignon/Munschek, Die Internationale Bedeutung der Waehrungsunion, 77 (1999).

(9) Cf. Bergsten, Fred, The Impact of the Euro on Exchange Rates and International Policy Coordination, in Masson/Krueger/Turtelboom, (eds.) EMU and the International Monetary System 17-48, 39s (1997). The classical criteria are size of the economy and trade, independence from external constraints, aviodance of capital controls, breath, depth and liquidity of capital markets and the strength and stability of an economies external position. See Bergsten, Fred, Dilemmas of the Dollar: The Economics and Politics of US International Monetary Policy 197ss (1996).

(10) European Commission, Euro Papers 26, The implications of the Introduction of the Euro for non-EU countries, by Peter Bekx, 17 (July 1998).

(11) Cf. Eichengreen, Hegemonic Stability Theories of the International Moentary System, in: Cooper (ed.) Can nations agree? Issues in international economic cooperation 255-298 (1989); Scott, Hal S./Wellons, Philip A, International Finance. Transactions, Policy, and Regulation, 378 (1999).

(12) Economic Literature has evolved in a two by two matrix over time and author: A first wave of papers appeared in the context of the Maastricht treaty 1992, a second wave in 1997 when the third stage of EMU was determined to actually happen. Authors are, on the one hand, private academics that have typically tried to increase the relevance of the issue, whereas papers sponsered by the „official institutions“ (BIS, the IMF and the European Commission) tried to calm down the audience.

While the literature by know is significant, the following survey attempts to list the „classics“: As far as I can see, the first paper that shaped the discussion was Alogoskoufis, George/Portes Richard, International Costs and Benefits of EMU, in The Economics of EMU (Special Edition, European Economy, 1992, 231-245). One reaction was a conference at Georgetown University, published in Canzoneri/Grilli/Masson Establishing a Central Bank: Issues in Europe and Lessons from the US (1992).
In 1992, the European Commission started a major economic project that included work on international implications of the Euro and was published as European Commission: One Market, One Money (1992). After that, the Commission sponsered a series of „Euro Papers“, two of which concentrate on international issues.
In 1997, when the third stage of EMU became a serious issue for third countries, The Bank of International Settlement in McCaulney, Robert N., The Euro and the Dollar, BIS Working Papers 50 (1997); and the IMF in Masson/Krueger/Turtelboom, EMU and the International Monetary System (1997) have taken up the issue and the Commission has again ensured the audience that it believes it

knows what it is doing: European Commission, External Aspects of Economic and Monetary Union, Directorate General for Economic and Financial Affairs, Euro Papers No. 1, 5ss (Brussels, July 1997) and Ilzkovitz, Prospects for the Internationalization of the Euro, European Commission, Directorate General II Economic and Financial Affairs Doc II/362/96-EN (June 1996). Correspondingly, the Institute of International Economics in the US with Fred Bergsten and Randall Henning have considered the issue, see Henning, Cooperating with Europe's Monetary Union, 15 (1997); Bergsten, The impact of the Euro on Exchange Rates and Policy Cooperation (March 1997); Benassy-Quere, Agnes, Potentialities and Opportunities for the Euro as an International Currency, Economic Papers 115 (1996); Cooper, Richard N, Will and EC Currency Harm Outsiders?, Orbis 36 No. 4, 517-531 (1992).

(13) Cf. Bergsten, C., America and Europe: Clash of the Titans? 78 Foreign Affairs ¾ (1999-II); Cooper, R., Key Currencies after the Euro, 22 World Economy (1999-I); McCauley R., The Euro and the Dollar, BIS Working Paper No. 50. Usually it is mentioned, that Euroland prevails in terms of GDP and trade volume, but that the Dollar prevails in the depths of its financial and stock markets and in the amount of dollar assets.

(14) European Commission, Euro Papers 26, The implications of the Introduction of the Euro for non-EU Countries, by Peter Bekx, 17(July 1998).

(15) European Commission, One Market, One Money, European Economy No. 44, 1ss (October 1990).

(16) European Commission, External Aspects of Economic and Monetary Union, Directorate General for Economic and Financial Affairs, Euro Papers No. 1, 5ss (Brussels, July 1997).

(17) On this issue see McCaulney, Robert N., The Euro and the Dollar, BIS Working Papers 50 (1997). The argument is that foreign holdings of euro will require a non-monetary consideration – trade. However, possibly a shift in assets or debt denominated in euro might replace the need for a balance of payments defficit.

(18) In addition, it will likely increase volatility, which in itself raises transaction costs. Cf. Cooper, Richard N., Key Currencies after the Euro, 27 (1997).

(19) See Page, Currency Invoicing in Merchandise Trade, National Institute Economic Review No 81/3 77-81 (1977) and Black, The International Use of Currencies, in Suzuki/Myake/Okabe (eds) The Evolution of the International Monetary System (1990).

(20) Henning, Cooperating with Europe's Monetary Union, 15 (1997); Bergsten, The impact of the Euro on Exchange Rates and Policy Cooperation (March 1997); Benassy-Quere, Agnes, Potentialities and Opportunities for the Euro as an International Currency, Economic Papers 115 (1996); see already Cooper, Richard N, Will and EC Currency Harm Outsiders?, Orbis 36 No. 4, 517-531 (1992).

(21) Currently, (only) about 15% of EC exports are invoiced in USD but a much higher percentage of imports, since most raw materials (especially oil) is traded in USD. European Commission, One Market, One Money, 180 (1992). Moreover, trade of Europen Multinationals between to non-European states is mostly invoiced in USD. The estimation for the 10% shift is based on the assumption that the EC as a whole will reach the percentage of Germany, (which would indicate a shift of 15%) and a deduction for reasons of caution. Bergsten estimates a larger shift of nearly 20%. See also Eichengreen, Barry, Should the Maastricht Treaty be Saved, 57 (1992).

(22) European Commission, One Market, One Money, 178 (1992).

(23) Cf. Temperton, Paul, The euro, 112 (1998). Obvious candidates are Central and Eastern Europe, North Africa, the States of the Franc Area and perhaps Russia and the Middle East.

(24) Ilzkovitz, Prospects for the Internationalization of the Euro, European Commission, Directorate General II Economic and Financial Affairs Doc II/362/96-EN (June 1996).

(25) Henning, Cooperating with Europe's Monetary Union, 21 (1997); Noelling, Wilhelm, Monetary Policy in Europe after Maastricht 221 (1993).

(26) Cf. McCauley/White, The Euro and European Financial Marktes, BIS Working papers 41 (May 1997); Bergsten, The Dollar and the Euro, Foreign Affairs July/August 1997.

(27) McCaulney, Robert N., The Euro and the Dollar, BIS Working Papers 35ss (1997).

(28) Henning, Cooperating with Europe's Monetary Union, 21 (1997).

(29) Wyplosz, Charles, An International Role for the Euro? Report Prepared for the European Capital Market Institute, 33ss (1997) speaks of annualy 0.2% of the US GDP and 3.3% in total. See also Alogoskoufis/Portes, European Monetary Union and International Currencies in a Tripolar World, in: Conzoneri/Grilli/Masson (eds.) Establishing a Central Bank: Issues in Europe and Lessons from the US (1992) and Rogoff, Foreign and Underground Demand for Euro Notes: Blessing or a Curse, Economic Policy 26 (1998).

(30) In European Commission, One Market, One Money, 178 (1992), the Commission estimates that the EC will gain approxiately 2.5 billion USD in seignorage annually.

(31) Bergsten, Fred, The Import of the Euro on Exchange Rates and International Policy Cooperation (1997).

(32) Especially countries in Eastern and Central Europe, (Czech Republic, Hungary, Poland, Slovenia and the Slovak Republic), the Middle East and North Africa, (Israel, Turkey and Morocco) are likely to align themselves with the euro. Latin America and Asia will most likely be widely unaffected. Russia might prove an interesting „battle field" for the dollar and the euro. Cf. McCaulney, Robert N., The Euro and the Dollar, BIS Working Papers 21ss (1997).

(33) The amount of reserves held depends on the amount of transactions in foreign currency (and the denomination of foreign debt). If less transactions in Europe will be done in dollar, a comparable reduction in reserves is likely. Moreover, third countries might decide to hold more reserves in Euro than now.

(34) Cooper, Richard N., Key Currencies after the Euro, 27 (1997).

(35) European Commission, One Market, One Money, 178 (1992).

(36) European Commission, Economic Policy in EMU, Part B: Specific Topics, Directorate General for Economic and Financial Affairs, Economic Papers 126 (November 1997).

(37) European Commission, Euro Papers No. 26, The implications of the Introduction of the Euro for non-EU countries, Peter Bekx, page 7 (July 1998).

(38) Actual empirical data are still not conclusive. In „The international impact of the euro", a speech delivered by Christian Noyer, Vice-President of the European Central Bank, on the occasion of his

visit to the United States, January 2000, it was argued that the data collected by the BIS so far are consistent with the predictions of the Commission. Avinash Persaud, The euro is already a success, Euromoney August 1999 analysis recent bond issues and concludes that the international role of the euro is already developing (He uses Mannesmann's, Olivetti's and Repsol's bond issuance as example and predicts a long term appreciation of the euro according to the yield curve of euro vis-à-vis dollar).

(39) The analysis of private interests in international monetary issues is in fact rather complex. Randall Henning, Currencies and Politics in the United States, Germany and Japan (1994) presents a modell relating to the closeness of the banking system to industrial interests and the relationship of the finance minister and the central banks to the commercial banks in turn.

(40) One example might be quotation of raw materials. There is consensus that for reasons of efficiency it makes no sense to quote oil in three currencies. Thus, coordination on one currency (likely the USD) is required. European Commission, One Market, One Money, 180 (1992).

(41) See also Jeffry A. Frieden, The political economy of the Euro as an international currency 1, 20 (1999).

(42) Randall Henning, Cooperating with Europe's Monetary Union, 2 (1997).

(43) This number represents the total from 35 billion USD from seignorage and slightly more from a shift in exchange risk. In addition, there is a one time gain for the Community of about 200 billion dollar in savings from excess reserves.

(44) Cf, e.g., Putnam, Robert/Henning, Randall, The Bonn Summint of 1978: A Case Study in Coordination, in: Cooper/Eichengreen/Henning/Holtham/Putnam (eds.) Can Nations Agree? Issues in International Economic Cooperation 12-141 (1989).

(45) Cf, for example, Rogoff, Kenneth, Can International Monetary Coordination be Counterproductive?, 18 Journal of International Economics, 199-217 (1985).

(46) For a general survey see, e.g., Artis, Michael/Ostry, Sylvia, International Economic Policy Coordination (1985); Cooper, Richard N., Economic interdependence and coordination of economic policies, in: Jones/Kenen (eds.), Handbook of International Economics II 1194-1234 (1985); Feldstein, Martin (ed.) International Economic Cooperation (1988); Kenen, Peter, Exchange Rates and Policy Coordination (1987).

(47) Cf. Frenkel/Goldstein/Masson, The Rationale for, and Effect of, International Economic Policy Coordination, in: Branson/Frenek/Goldstein, International Policy Coordination and Exchange Rate Fluctuation 9-63 (1990).

(48) Currie D./Holtham G./Hallet H., The theory and practice of international policy coordination: Does Coordination pay? In: Macroeconomic policies in an interdependent world (1989).

(49) Coordination shall be defined here as „a significant modification of national policies in recognition of international economic interdependence." Cf. Wallich, Henry, International cooperation in the world economy, in: Frenkel/Mussa (eds.) The world economic system: Performance and prospects, 85-99 (1984). This is to be distinguished from the wider term of cooperation which includes coordination but also mere exchange of information and consultation. Other possible definitions are „decision making that maximizes joint welfare and enables international independence to be positively exploited" [Artil, Michael/Ostry, Sylvia, International economic policy coordination 14 (1986)] and „agreements between countries to adjust their policies

in the light of shared objectives or to implement policies jointly."[Horne, Jocelyn/Masson Paul, Scope and limits of international economic cooperation and policy coordination 30 (1988)].

(50) The key economic concepts in favor of coordination are internalization of spillover effects and the existence of international public goods. In fact, national economic and monetary policy especially in large economies has effects on other countries, which allows "beggar thy neighbor" policy that harms the system but may be beneficial for single actors in the short term. Thus, contrary to the atomistic market model, in dealing with monetary policy, reliance on prices is not per se presumed to be more efficient. Dominguez, Kathryn M., and Jeffrey A. Frankel, Does Foreign Exchange Intervention Work?, Washington: Institute for International Economics, 1993 establish empirical evidence that coordinated exchange rate intervention from several states works better than uncoordinated or unilateral intervention.

(51) Duwendag et.al. (ed.) Geldtheorie und Geldpolitik in Europa, 264ss (1998).

(52) In a recent work Barry Eichengreen has presented a slightly different preception: In his view, there is actually only a twofold trade off between domestic policy (especially employment policy) and echange rate policy. Open capital markets in his view are not an aim but merely a technique that is likely to make the inherent conflict between the two aims apparent. See Eichengreen, Barry, Globalizing Capital (1996). Others have included free trade as a fourth element (which is inherent in the triangle by means of capital markets, since imports and exports of course influence the capital flows).

(53) For a short explanation of the basic economis see Duwendag et.al. (ed.) Geldtheorie und Geldpolitik in Europa, 264ss (1998).

(54) This is consistent with a simplified version of the "neoclassical synthesis," a mainstream macroeconomic perception of good economic policy: An economy is considered to be working well if it is based on a free market principle in the long run and occasionally provided with a little extra help through fiscal and monetary policy in the short run. Thus, open markets and independent policy are chosen as dominant goals from the magic triangle and exchange rates are referred to coordination. This common understanding was formulated as the "optimal currency area" – analysis for the purposes of the scientific audience, stressing the costs of a fixed exchange rate system. Cf. Mittendorfer, Roland, Wirtschafts- und Waehrungsunion und Foederalismus. Ein interdisziplinaerer Beitrag zur Optimal Currency Area Theory, zum Europarecht und zur Foederalismustheorie (1984).

(55) See also Eichengreen, Barry, Should the Maastricht Treaty be Saved, 59 (1992) who argues that the exchange rate policy will be the decisive instrument of international monetary coordination.

(56) See Vanthoor, European Monetary Union since 1948 – A Political Historical Analysis (1996); Ludlow P., The Making of the European Monetary System. A Case Study of the Politics of the EC (1982); Tsoukalis L., The Politics and Economics of European Monetary Integration (1977); Szasz, Andre, The Road to European Monetary Union, (1999)

(57) OJ 1972 C 83/3, Compendium 1974, 33. This equaled the maximum float then allowed in the IMF-Agreement.

(58) Council Statement of 12 March 1973, (Compendium 1974, 63f).

(59) Art. 111.For a history of the negotiations cf. Corbett, Richard. The Treaty of Maastricht: from conception to ratification: a comprehensive reference guide 41ss (1993).

(60) Consider the following example: If the Euro-area measures inflation with a consumer product

basket that includes 20% of imported products and the exchange rate of the Euro depreciates in an amount of 50% over a time frame of one year, these imports become 50% more expensive. This means (ceteris paribus) that the overall price of the consumer good basket will increase 10%. In other words, depreciation might cause a significant increase in inflation. (My example assumes very little price elasiticity of consumer behaviour, but on the other hand it also assumes that the rise in prices of one product will not make other products more expensive, which could very well happen in case of intermediate products like oil). The result of this consideration is that the ECB is bound to look at exchange rates when they allow for „imported inflation“.

(61) See Roy Jenkins, European monetary union, in: Johnson Christopher, Changing Exchange Rate Systems, 145ss (1990).

(62) Karl Otto Poehl, The path to European monetary union, in: Johnson Christopher, Changing Exchange Rate Systems, 159ss (1990).

(63) See Suerzopf/Selmayr, Das Europaeische System der Zentralbanken als Hueter eines stabilen Euro, Der Wirtschaftstreuhaender, 12, 14 (1998).

(64) Bergsten, Fred, The Impact of the Euro on Exchange Rates and International Policy Coordination, in Masson/Krueger/Turtelboom, (eds.) EMU and the International Monetary System 17-48, 39s (1997).

(65) See Eijffinger, Sylvester (ed.) Foreign Exchange Intervention: Objectives and Effectiveness (1999). Cf also Lamfalussy, Alexandre, International financial integration: policy implications, in: Johnson, Christopher, Changing Exchange Rate Systems, 15ss (1990).

(66) Cf. Blinder, Alan S., Eight Steps to a New Financial Order, Foreign Affairs September/October 1999, 50, 54.

(67) For an economic description and analysis of the currently existing systems see, e.g., Edison, Foreign Currency Operations: An Annotated Bibliography (1990) and, less technical, Kenen, Managing Exchange rates (1988).

(68) Even in the case of the supposedly free floating US Dollar from 1985 to 1991 there have been 17 internationally concerted excchange rate intervention by central banks – on avarage one intervention every four months. See Pietro Catte/Giampaolo Galli/Salvatore Rebecchini, Concerted Interventions and the Dollar: An Analysis of Daily Data, 5s (1992).

(69) Cf. Parhizgori, Ali M./DeBoyrie, Marie, On Forecasting Foreign Exchange Rates, in: Gosh/Ortiz: The global structure of financial markets 170ss (1997).

(70) Koundinya, Rama S., Exchange Rate Theories and the Behavior of Exchange Rates: The Record Since Bretton Woods, in: Gosh/Ortiz: The global structure of financial markets 182ss (1997).

(71) The literature on exchange rate determination is extensive, for a textbook treatment see e.g. Hallwood Paul/MacDonald Ronald, International Money and Finance 155ss (1994).

(72) In Developing Countries, import substition strategies will usually involve overvalued currencies in connection with high tariffs whereas export led growth strategies might involve tactical devaluations and undervalued currency. See, e.g. Cypher/Dietz, The Process of Economic Development271ss, 302ss (1997).

(73) The comprehensive analysis of private interests in international monetary cooperation and the

international use of a specific currency is a relatively recent research agenda. See, e.g., Katzenstein Peter J., (ed.), Between Power and Plenty: Foreign Economic Policies of Advanced Industrial States (1978) and Henning, Randall, Currencies and Politics in the United States, Germany and Japan (1994).

(74) See European Commission, One Market, One Money, 190 (1992).

(75) Eichengreen, Barry, Should the Maastricht Treaty be Saved, 60 (1992) agues on three different levels: domestic political contraints (e.g. a expansionary monetary policy comittments for employment reasons), international political disputes (e.g. trade disputes) and an incompatible analytical framework (e.g. neoclassical interventionism and neo-liberalism).

(76) Cf. Henning, Cooperating with Europe's new currency (1997). Seignorage gains simply mean that holding cash is, in fact, a loan without interest to the central bank of the country that prints the money. While this is less than one percent of the US GDP, it is still a lot of money.

(77) "Americans can now say, 'the dollar is our currency, but its your problem'. We (Europeans) need a currency that can stand up to the dollar." Norbert Walter, chief economist at Deutsche Bank. http://www.eurunion.org/news/eurecom/1996/ecom0796.htm

(78) Cf. Blinder, Alan S., Eight Steps to a New Financial Order, Foreign Affairs September/October 1999, 50, 50: „(...) financial crises afflict literally hundreds of millions of innocent bystanders who play no part in the speculative excesses but nonetheless suffer when the bubbles burst."

(79) Cf. Blinder, Alan S., Eight Steps to a New Financial Order, Foreign Affairs September/October 1999, 50, 53, arguing that there is a widely shared consensus that the current design needs to be brought update. „The current system breeds too many crises that are too severe."

(80) See only the agenda of the G7 council in Cologne, where the „new financial architecture" was the primary topic. For an analysis of proposals see, e.g., Kenneth Rogoff, International Institutions for reducing global Financial Instability, NBER Working Paper 7265 (1999).

(81) Another account of financial crises refers to the underlying domestic economic factors and thus brings the third aspect of the magic triangle into play: domestic macroeconomic politics. Especially the IMF has consistently interpreted external financial crises as representing internal misalignments. Shortcomings in macroeconomic management – especially exchange rate regimes and asset price bubbles – and lingering microeconomic structural reforms – especially lacking banking supervision, too high and partly corrupt government intervention in lending and the maintenance of large corporate conglomerates – were made responsible for the crises. See, for example, International Monetary Fund World Economic Outlook Interim Assessment, December 1997, 2ss.

(82) For a more elaborate discussion of this model and empirical support see Radelet S./Sachs J., The Onset of the East Asian Financial Crisis, Harvard Institute for International Development, March 30, 1998.

(83) Short-term debt inflow can be reduced especially by regulations of the free flow of capital. A different solution focuses on banking supervision to reduce microeconomic incentives for short term financing. However, capital controls would have to come from the capital importing country and banking supervision is a rather long term strategy. Thus, in this context, they are of less interest.

(84) See Dornbusch Ruediger, The overvalued dollar, in: Johnson Christopher, Changing Exchange Rate Systems, 116ss (1990).

(85) For a closer analysis see Hanning Randall, Currencies and Politics in the United States, Germany and Japan 253ss (1994).

(86) See, e.g. Speech made by John Maddison, Ambassador and Head of Delegation http://home.sol.no/~europako/nor/publikasjoner/brosjyrer/speech.htm.

(87) Willem Duisenberg, New York, 12 November 1998.

(88) Noelling, Wilhelm, Monetary Policy in Europe after Maastricht 222 (1993).

(89) European Commission, One Market, One Money, European Economy No. 44, 180s (October 1990); Eichengreen, Barry, Should the Maastricht Treaty be Saved, 57 (1992).

(90) See Gros, Daniel/Thygesen, Niels, European Monetary Integration, 293s (1992).

(91) Triffin, How to End the World `Infession': Crisis Management or Fundamental Reforms, in R. Masera and R. Triffin (éds.), Europe's Money – Problems of European Monetary Coordination and Integration (1984) 13-78; De Boissieu, Système monétaire international et intégration monétaire européenne, in P. Van Den Bempt, J.V. Louis et M. Quintyn (dirs.), Intégration financière et union monétaire européenne (1991) 243-261.

(92) Williamson, External Implications of EMU, in R. Barrell (éd.), Economic Convergence and Monetary Union in Europe (1992) 212-219.

(93) Cf. e.g. Case C-25/94, Commission v. Council (FAO) [1996] ECR 1996 I-1469. In addition, international organizations may require a „declaration of competences: listing the respective fields in which the different institutions of the community are competent.; See for the FAO O.J. 1991, C 292/8.

(94) Kregel, The EMS, the Dollar and the World Economy, in P. Ferri (éd.), Prospects for the European Monetary System (1990) 236-251.

(95) Putnam, Robert/Henning, Randall, The Bonn Summin of 1978: A Case Study in Coordination, 104ss, in: Cooper/Eichengreen/Henning/Holtham/Putnam (eds) Can Nations Agree? Issues in International Economic Cooperation (1989).

(96) Cf. Putnam, Robert/Henning, Randall, The Bonn Summit of 1978: A Case Study in Coordination, in Cooper/Eichengreen/Henning.Holtham/Putnam (eds.) Can Nations Agree? Issues in International Economic Cooperation 12-141, 104ss (1989).

(97) This idea assumes a situation like this: If in country A 40% of the interests (e.g. exporters) argue for a competitive currency and 60% (e.g. consumers and importers) for price stability and there is only one external representative, there will be a 100% message of price stability to third countries. If in country B 70% favor a competitive currency and 30% prive stability, the the countries will oppose each other and will not be able to find a solution. However, if both interests within each country are present at international negotiations and engage proportional to their support within their constituencies, it is more likely that a solution will be found.

(98) Cf. Henning, Randall, *Cooperating with Europe's Monetary Union, Policy Analyses in International Economics No. 49,* 30s *(Washington, D.C.: Institute for International Economics, 1997).*

(99) Corbett, Richard. The Treaty of Maastricht: from conception to ratification: a comprehensive

reference guide (1993) provides for a very helpful collection of materials.

(100) Cf. Henning, Randall, *Cooperating with Europe's Monetary Union, Policy Analyses in International Economics No. 49 (Washington, D.C.: Institute for International Economics, 1997):* "First, the treaty leaves up in the air the question of how the EU is to negotiate international monetary agreements and who will represent the monetary union in international organizations. Recent discussions among Europeans have been useful but have not sufficiently clarified these matters. Ambiguity about representation in the making of informal accords, such as those typically struck in the finance G-7, is particularly troubling. Second, the treaty does not specify who within the monetary union will be responsible for international cooperation in managing financial and currency crises and what latitude they will have in reaching emergency agreements with non-European governments and central banks. "

(101) Cf. Deutsche Bundesbank, Germany's realtions with the IMF following the introduction of the euro, Monthly Report, 15, 17 (Sept. 1999).

(102) Cf. Louis, A legal and Institutional Approach for Building a Monetary Union, CMLR 33 (1998). Cf. Taylor, C., The Separation of Monetary and Fiscal Policy in Stage Three of EMU, in Gormley/Hadjiemmanuil/Harden (eds.) European Economic and Monetay Union: The Institutional Framework, 171 (1997), Cf. also Eichengreen, Barry, European Monetary Unification: A Tour dHorizon, 14 Oxford Review of Economic Policy (1998-III). Di Buci, La Corte di Giustizia, L' Unione Economica e Monetaria ed il Passagio alla Moneta Unica, in Scritti in Onore di Giuseppe Frederico Mancini, II, 307, 332ss (1998). European Commission, The Euro: Explanatory Notes, Part F: External aspects of EMU (1997). Slot, The Institutional Provisions of the EMU, 229, 238 in Curtin/Heukels (eds.) Institutional Dynamics of European Integration. Essays in Honours of Henry G. Schermers, II (1994). Pipkorn, Joern, Legal Arrangements in the Treaty of Maastricht for the Effectiveness of the Economic and Monetary Union, CMLR 263, 286 (1994) Stadler, Der rechtliche Handlungsrahmen des Europaeischen Systems der Zentralbanken, 170ss (1996). Dehousse Franklin/Ghemar Katelyne, Europe and the World, The Post Maastricht Interface EJIL 1994, 154 Selmayr, Martin, Die Wirtschafts- und Waehrungsunion als Rechtsgemeinschaft, 124 Archiv des oeffentlichen Rechts, 357-399 (1999-3). Zilioli/Selmayr, The European Central Bank, its System and its Law, EUREDIA 1999/2, 187ss.

(103) Cf. Deutsche Bundesbank, Germany's realtions with the IMF following the introduction of the euro, Monthly Report, 15, 17 (Sept. 1999): „only the ESCB is responsible for the implementation of exchange rate policy."

(104) Which forms part of primary community law according to Art. 239 ECT.

(105) The formulation is „somewhat tortured", Ungerer, A concise history of European monetary integration: from EPU to EMU, 232 (1997). Pipkorn, Joern, Legal Arrangements in the Treaty of Maastricht for the Effectiveness of the Economic and Monetary Union, CMLR 263, 285 (1994) speaks of „lacking clarity."

(106) Art. 111 is the result of a compromise, and this shows in its wording. Cf. Stadler, Der rechtliche Handlungsrahmen des Europaeischen Systems der Zentralbanken, 170ss (1996). Pipkorn, CMLR 1994, 285; Dehousse Franklin/Ghemar Katelyne, Europe and the World, The Post Maastricht Interface EJIL 1994, 154.

(107) On the nature and bindung or nonbinding force of „general orientations" see, e.g., Geiger, EGV (2nd edition 1995), Art. 109 Rn. 7; Slot, in: FS Schermers II, 1994, 229, 238; Ungerer, Host, A concise history of European Monetary Integration: From EPU to EMU, 232 (1997). Bognar, Europaeische Waehrungsintegration und Aussenwirtschaftsbeziehungen, 360ff (1997); Pipkorn,

Joern, Legal Arrangements in the Treaty of Maastricht for the Effectiveness of the Economic and Monetary Union, CMLR, 263, 285ss (1994); Martenczuk, Die Aussenvertretung des Europaeischen Gemeinschaft auf dem Gebiet der Waehrungspolitik, ZaoeRV 93, 100 (1999).

(108) Art. 105 (1) second sentence.

(109) The scope of this provision depends upon what is meant by the Commnunity: If the ECB is not included (cf. the discussion on the separate legal personality in international law of the ECB fn. infra), then the clarificattion of the position of the Community does not affect the acts of the ECB and does not help in clarifying the distribution of competences. If „Community“ in Art. 111 (4) includes the ECB, the Council could in this area effectively tell the ECB what to do. Cf. Zilioli/Selmayr, The external relations of the euro area: legal aspects, 36 CMLR 273-349,(1999).

(110) Deutsche Bundesbank, Wirtschaftspolitische Koordinierung, Wechselkurspolitik und Auûenvertretung der Europäischen Gemeinschaft in der Endstufe der Wirtschafts- und Währungsunion, in: Informationsbrief zur Europaeischen Wirtschafts- und Waehrungsunion, No. 10, p. 13, 17 (Feb. 1998), comparing the competences of the Council over exchange rate policy with the effective influence of the ECB and concluding “es waere nahegelegen, die EZB mit der Aussenvertretung in allen Waehrungspolitischen Fragen au beauftragen.”

(111) Cf. Ulrich Haede, Art. 111, Rz 10 in: Christian Calliess, Matthias Ruffert, Kommentar des Vertrages ueber die Europaeische Union und des Vertrages zur Gruendung der Europaeischen Gemeinschaft (1999).

(112) Cf. e.g. Deutsch, Klaus Guenter, External representation and Exchange Rate Policy of the Euro Area, Deutsche Bank Research, EMU Watch 64, 4 (1999).

(113) This interpretation is, of course, highly controversial. See fn on Art. 111 (4) and and fn on the separate legal personality of the ECB and its consequences.

(114) In this context a wide literature as to a separate legal personality of international law has developped in interpreting Art. 107 II TEC and Art. 9.1. of the Statute of the ECB. Groeben/Thiesing/Ehlermann (Hrsg.) Kommentar zum EU-/EG Vertrag Art. 102a – 136a EGV, Fuenfte Auflage (1999) are of the opinion that only singular authors believe in a separate legal personality of the ECB, Zilioli/Selmayr, The external relations of the euro area: legal aspects, 36 CMLR 273-349, 282 (1999) believe that it is nearly undisputed in literature.
See, e.g. Schweitzer/Hummer, Europearecht Rn. 132 (5th edition 1996) [ECB has „Organqualitaet“]. Somewhat different Schweitzer, in Grabitz/Hilf, Das Recht der Europaeischen Union. Kommentar Art. 289 Rz 9f Art. 290 Art. 14, Rz 291 Rz 11ff. Similar also Weber, Das Europaeische System der Zentralbanken, WM 1998, 1465; Rhode, Europarecht. Schnell erfasst. 1995, 140 [ECB as the EIB as „eigenstaendige Institution der EG]. Not totally clear are Pipkoren, Eur 1994, Beiheft 1, 85, 86: [„EG – Einrichtung"]; Weinboerner, Die Stellung der Europaeischen Zentralbank (EZB) und der nationalen Zentralbanken in der Wirtschafts- und Waehrungsunion nach dem Vertrag von Maastricht, 1998, 387 [Einrichtung der Gemeinschaft]. Pernice, in: Due/Lutter/Schwarze (ed.) Festschrift Everling II, 1057, 1059 [Gemeinschaft in der Gemeinschaft]; Hahn, Der Vertrag von Maastricht als voelkerrechtliche Uebereinkunft und Verfassung, 1992, 42, 73 [eigenstaendiger Handlungstraeger, nicht Teil der Aemterverfassung der EG]. For an extensive discussion see also Selmayr, Martin, Die EZB als Neue Gemeinschaft – ein Fall fuer den EuGH?, Europablaetter 182ff (1999). Ramon Torrent, Whom is the European Central Bank the Central Bank of?: A reaction to Zilioli and Selmayr, CMLR Dec. 1999, 1228, 1228ss (1999).

(115) Cf., also Deutsche Bundesbank, Wirtschaftspolitische Koordinierung, Wechselkurspolitik und Auûenvertretung der Europäischen Gemeinschaft in der Endstufe der Wirtschafts- und

Währungsunion, in: Informationsbrief zur Europaeischen Wirtschafts- und Waehrungsunion, No. 10, p. 13, 16 (Feb. 1998), comparing the competences of the Council over exchange rate policy with the effective influence of the ECB.

(116) This explanation follows a Paper of the European Commission, The Euro: Explanatory Notes, Part F: External aspects of EMU (1997).

(117) Cf. Noelling, Wilhelm, Monetary Policy in Europe after Maastricht, 220 (1993).

(118) The phrase „need to be negotiated“ seems particluarly relevant. Art. 111 (3) refers to Agreements that need to be negotiated by the Community, Art. 113 (3) only refer to Agreements that need to be negotiated.

(119) This is one of the few points on which Torrent, R., Whom is the Euroepean Central Bank the Central Bank of?: Reaction to Zilioli and Selmayr, CMLR 1999, 1228, 1238 and Zilioli/Selmayr, The external relations of the euro area: legal aspects, 36 CMLR 273-349, 316 (1999) seem to agree.

(120) The second question is whether (3) refers only to formal agreements on foreign exchange systems for the Euro or generally to public international law treaties on monetary and foreign exchange regime matters.

(121) Torrent, R., Whom is the Euroepean Central Bank the Central Bank of?: Reaction to Zilioli and Selmayr, 36 CMLR 1228, 1238 (1999) argues that the similarity (or: identity) of the formulation of Art. 113 (3) and 109 (3) have to mean that Art. 109 confers an exclusive competence as Art. 113 does. However, it seems that in the crucial aspect the articles are not similar: 109 refers to a need that a treaty is negotiated by the Community, and Art. 113 only refers to the need that a treaty is negotiated.

(122) Agreements concluded by the Community under Art. 111 (3) are internally binding for the Community, its organs, the ECB and the Member States 111(3)(2). This means that these Agreements form an integral part of Community law in the sense of the Haegemann decision. E contrario, this internal status of Agreements might be excluded for Agreements concluded by the ECB.

(123) “A consummation devoutly to be wished” Noelling Wilhelm, Monetary Policy in Europe after Maastricht 222 (1993).

(124) The Commission is in this game via Art. C of the EU Treaty and Art. 103 EC Treaty.

(125) This trinity was justified by reference to the treaty itself, political agreements in Luxembourg 1997 and the close connections of exchange rate-, monetary and economic policy.

(126) Tommaso Padoa-Schioppa, (Member of the Executive Board of the European Central Bank) The external representation of the euro area, Introductory statement at the Sub-Committee on Monetary Affairs, European Parliament, Brussels, 17 March 1999.

(127) The international impact of the euro, Speech delivered by Christian Noyer, Vice-President of the European Central Bank, on the occasion of his visit to the United States, January 2000.

(128) Destler, I.M./Henning, RC., Dollar Politics, Exchange Rate Policymaking in the United States, 83ss (1989).

(129) See Cohen Stephan D./Meltzer Ronals I., US International Economic Policy in Action, 28-45

(1982).

(130) See public testimony of former Secretary William E. Simon in US Congress, House, Commitee on Banking, Currency and Housing, Subcommittee on International Trade, Investment and Monetary Policy, To Provide for Amendment of the Bretton Woods Agreements Act, hearings, 94th Congress, 2nd session, 1 and 3 June 1976, 43ss.

(131) The treasury argues, moreover, that its role as chief financial office, the explicit responsibility for representation of the US in International Organizations, its function as chairman of the National Advising Council and the Presidents supreme role in foreign policy underlines its supremacy over the Fed. Destler, I.M./Henning, RC., Dollar Politics, Exchange Rate Policymaking in the United States, 83ss (1989).

(132) See Cohen Stephan D./Meltzer Ronals I., US International Economic Policy in Action, 28-45 (1982).

(133) Cf. Volcker Paul A./Gyohten Toyoo, Changing Fortunes: The World's Money and the threat to American leadership, 232-235 (1992).

(134) The literature on this issue is extensive. See, e.g. Woolley, John T., Monetary Politics: The Federal Reserve and the Politics of Monetary Policy (1984); Greider William, Secrets of the Temple: How the Federal Reserve Runds the Country (1987).

(135) Henning Randall, Currencies and Politics in the US, Germany and Japan, 110 (1994).

(136) Cf. Volcker Paul A./Gyohten Toyoo, Changing Fortunes: The World's Money and the threat to American leadership, 232-235 (1992).

(137) Cf. Yoichi Funabashi, Managing the Dollar: From the Plaza to the Louvre, 87ss (1989).

(138) See The Bank of Japan Law (Preliminary Translation by the Bank of Japan),, Quaterly Bulletin of the Bank of Japan, 49, 56s August 1997. The law is in effect since April 1, 1998.

(139) Ibid., para (3).

(140) The issue of independence of the BOJ has been very controversial and is beyond the scope of this analysis. See, e.g. Toshihiko Yoshino, The creation of the Bank of Japan: Its Western Origin and Adaptation, 15 Tthe Developing Economies 381-401 (1977)l Eisuke Sakakibara/Yukio Noguchi, Dissecting the Finance Minstry-Bank of Japan Dynast, 4 Japan Echo 100 (1977).

(141) I thank Takaharu Totsuka for his comments and suggestions on this part of the paper.

(142) To express it somewhat bluntly, finance ministers want to be reelected every 4 years or so and thus need to make economic policy that visibly helps the voters: full employment, growth and the like will be in the focus. In contrast, central bankers do not run for election, they have a clear focus on price stability and might thus look at the same problems very differently.

(143) Cf. Figure 6.

(144) See generally Keohane, Robert o., The theory of hegemonic stability and changes in international economic regimes 1967-1977, in: Ole Holski et. Al (eds.) Change in the International System (1980).

(145) For a similar argument on symmetry in international monetary relations, see Richard Cooper, Eurodollars Reserve Dollars and Asymmetries in the International Monetary System, Journal of International Economics, Sept. 1972, 325 – 344.

(146) European Commission, One Market, One Money, 190s (1992).

(147) Temperton, Paul (ed.), The Euro, 119 (1998).

(148) Usually, two arguments are mentioned at that point: the ECB will want to establish its credibility as to tight monetary policy and the EC is relatively closed and thus not very much interested in international cooperation.

(149) Keohane, Robert O., The Theory of Hegemonic Stability and Changes in International Economic Regimes, 1967-1977, in: Holsti/Siverson/George (eds.) Change in the International System, 131-162, 132 (1980).

(150) Network externalities are usually examplified by a telephone system: the utility of a telephone increased with the number of others that have telephones, since more people can be reached. This does not cause costs for those who already have telephones but brings additional utility. To start a second, independent telephone system would not make sense in this paradigm.

(151) Welfare and security are different in that growth in economics is a goal whereas growth in military power is only a means. If you are the strongest military power it makes no sense to become even stronger just for the sake of it. On the other hand, it is always good to get still richer, even if you are already the richest in you neighborhood.

(152) Barry Eichengreen developed the theory that a stable monetary system requires one clear leader, one most powerful actor. Eichengreen, Hegemonic Stability Theories of the International Monetary System, in: Cooper, Richard, et. Al. (eds.), Can Nations Agree? Issues in International Economic Cooperation 255-299 (1989).

(153) Mann, F.A., The Legal Aspect of Money, 465 (1981). The challenge to this statement is not so much whether domestic or international law define money, but rather whether money is a creation of law at all.

(154) Serbian and Brazilian Loan case, PCIJ, Series A, No 20, p.44

(155) Gold, Joseph, Legal and Institutional Aspects of the International Monetary System, Selected Essays I, 17ss (1984).

(156) Mann, F.A., The Legal Aspect of Money, 468 (1981). Cf. Gottlieb, Canadian Yearbook of International Law 1967, 268.

(157) Limits may lie in the law of expropriation. Cf Borchard, State Insolvency and Foreign Bondholders, 137 (1951); Wortley, Expropriation in Public International Law, 107 (1959). In 1961 the Cuban Government declared all Cuban currency held outside of Cuba to be null and void. Other exceptions have been found in non discrimination, abuse of rights, arbitrary intervention or denial of justice. So, if monetary legislation or practice of a state pursues the deliberate purpose of injuring foreigners, thus amounts to an international injury. Also in times of war, boycott or terrorist activities there can be a duty to restrict financial practices. (Oppenheim, International Law, 292 8th edition 1955)

(158) „Monetary“ in this sense is narrower than „economic“ and different form „financial“. Monetary

refers to the means of payment, financial refers to the provision or usse of monetary ressources. Cf. Gold, Joseph, Legal and Institutional Aspects of the International Monetary System, Selected Essays II, 75ss (1984).

(159) See Scott Hal/Wellons Philip, International Finance 544ss (1999). The essence of a settlement or payment union can be described as follows: When currencies are not generally convertible, a trade surplus of A vis-a-vis B cannot be netted with a deficit vis-a-vis C. Instead, settlement through Gold or a convertible currency (usually the dollar) is necessary. As gold is scarce, each country is inclined to intervene into trade to prevent a net outflow of gold. Thus, non-convertibility is a major barrier to trade, as the effectiveness of payment for exports is always doubtful and all countries have an incentive for protectionism to get access to foreign currency. However, if a country makes its currency convertible unilaterally, its currency becomes an equivalent to gold and all other countries will try to get a trade surplus with that country, eventually forcing it to abandon convertibility again. Thus, a multilateral solution is necessary: All participating countries agree to establish a settlement agency or payment union and calculate their surplus or defficit not towards a country but towards the union. There, surplusses and deficits are netted and only the overall deficits have to be settled. Thus, between the participating countries, in effect convertibility is achieved. See, e.g. Gros/Thygesen, European monetary Integration, 5ss (1997).

(160) While these agreements are sometimes regarded somewhat skeptically, they represented about 70% of world trade at their heights and also led to the only ICJ-case dealing with monetary matters that I am aware of. Cf. Case Concerning Rights of Nationals of the United States of America in Morocco, ICJ Reports 1952, 176.

(161) Although the concept of an “international monetary system” is widely used, there is no common understanding of its meaning. In a very narrow sense, the term simply denotes the technical way of clearing international payments. However, issues of reserves-management, exchange rates and balance of payments aspects are closely connected to this clearing system and obviously have important political implications. Finally, also national macroeconomic policy is affected by and affects these elements of the international monetary system. Thus, I will use the term as referring to three layers of issues: First, a technical issue of clearing and settlement; second, issues of exchange rates, capital controls and reserve policy; third, a broad framework for economic policy that influences the value and supply of money.
For an attempt to track the use of the term through official records and academic literature see Gold, Joseph, Legal and Institutional Aspects of the International Monetary System II, 17ss, 39ss, 59ss (1984). The Articles of the IMF contain no definition of the term, and only in 1965, in Chapter II of the Annual Report of the Fund for 1965, p. 9-14 a more or less official and equally unsuccessfull attempt to get closer to something like a definition was made: „The system combines two features that are complementary in character: the financing of imbalances and the elimination of imbalances.“ In 1968 Lazar Foscanean for the first time attempted a legal definition from an academic point of view. Cf. Foscaneanu, Lazar, Les aspects juridique du systeme monetaire international, 95 Journal du droit international, 239-281 (1968). In 19777 the Atlantic Council Working Group on the International Monetary System, The International Monetary System: Progress and Prospets 1ss (1977) took up the effort.
Basically three approaches were used: In an attempt to use the objectives of the IMS for purposes of a definition, balance of trade adjustment, the provision of liquidity and stability were found to be constituent of the IMS. Another approach used the elements of the IMS, especially adjustment, convertibility and liquidity. Finally, the quality of the IMS was used. See Scammell, W.M., International Monetary Policy, Bretton Woods and After, 17ss (1975). One of the reactions to the apparent difficulties of definition was to negate the existance of an International Monetary system at all, see e.g. Adress by Frank Southhard to the E.Owens Memorial Foundation, March 27, 1964, in 16 IMF International Financial News Survey, 113ss (1964). Perhaps more useful is Foscaneanu’s formulation of resignation: „The expression „international monetary system“ does not denote a

coherent legal concept with strictly defined contours. We are confronted with a term in common use, with a flexible and evolving meaning comparing a moving ensemble of incongruous elements.“, ibid. P. 246.

(162) Gold, Joseph, Law and Reform of the International Monetary System, 10 Journal of International Law and Economics, 371-421, 371f (1975) reprinted in Gold, Joseph, Legal and Institutional Aspects of the International Monetary System, Selected Essays II, 75s (1970): “A system (…) has existed only for 30 years.”

(163) See, for instance, Kenneth W. Dam, The Rules of the Game. Reform and Evolution in the International Monetary System (1982); Richard W. Edward, International Monetary Collaboration (1984). For a survey over more recent events cf. Solomon, Robert, Money on the move, The Revolution in International Finance since 1980 (1999) or Eichengreen, Barry, Globalizing Capital, A History of the Internaitonal Monetary System (1996).

(164) The idea to show a connex between legal issues and a „history of decision making“ is one of the research agendas of the „new institutionalism“ in EU Legal Studies. See Keneth Armstrong, New Institutionalsm and EU Legal Studies, in: Craig/Harlow: Law Making in the EU, 101ss (1998); Bulmer, The Governance of the EU: A new institutional appreoach, 13 Journal of Public Policy, 351 (1994).

(165) The history of the gold standard has repeatedly rewritten and it has been shown that, in fact, there was active management of gold reserves and bilateral relations. However, in this context it is not so much historic reality as its perception by the drafters of the Bretton Woods system that is of interest. For literature see the footnotes immediately following.

(166) The Proposal of the Commission KOM(98)0637 – C4-0638/98) mentions in addition certain aspects of the OECD work. Those, however concern largely economic policy.

(167) European Commission, One Market, One Money, European Economy No. 44, 180 (October 1990).

(168) I thank Christoph Sobotta for his suggestions on this part of the paper.

(169) The stability-oriented monetary policy strategy of the European System of Central Banks and the international role of the euro, Speech by Dr. Willem F. Duisenberg, President of the European Central Bank,at the Economic Club of New York on 12 November 1998 in New York.

(170) The Eurozone as such is not a legal entity. The term euro area has, however, been used in title and recitals of the elegantly named „Agreement between the European Central Bank and the national central banks outside the euro area laying down the operating procedures for an exchange rate mechanism in Stage Three of Economic and Monetary Union, OJ 1998, C 345/6“

(171) See, already rejecting this approach, Martha, The Fund Agreement and the Surrender of Monetary Sovereignty to the European Community, Common Market Law Review 1993, 749 (763 f.).

(172) Cf. Deutsche Bundesbank, Germany’s realtions with the IMF following the introduction of the euro, Monthly Report, 15, 16 (Sept. 1999). See also Ulrich Haede, Art. 111, Rz 20 in: Christian Calliess, Matthias Ruffert, Kommentar des Vertrages ueber die Europaeische Union und des Vertrages zur Gruendung der Europaeischen Gemeinschaft (1999); There is an explicit rule on accession of new members. Cf. Art. II para 2 of the IMF Agreement and Art. D of the Rules and Regulations of the International Monetary Fund; (http://www.imf.org/external/pubs/ft/bl/rr04.htm)

that supercedes customary international law; cf. Grundsätzlich Wittkowski, Die Staatensukzession in völkerrechtliche Verträge, Frankfurt 1992, S. 136 ff.

(173) „Membership shall be open to other countries at such times and in accordance with such terms as may be prescribed by the Board of Governors. These terms, including the terms for subscriptions, shall be based on principles consistent with those applied to other countries that are already members." Art. II (2) IMF Agreement. See Louis, Jean-Victor, Union monetaire europeenne et Fonds monetaire international, 201, 207 in: Albrecht Weber et. al (eds) Waehrung und Wirtschaft, Das Geld im Recht, FS Hahn (1997).

(174) Some have suggested that the term „country" as compared to the more usual „state" could indicate an inreased flexibility. On the other hand, the IMF includes explicit provisions for the cooperation with international organizations (Art. X), so it is hard to argue that the EC as an international organization could be a country in the sense of Art. II of the IMF Agreement. Here, some point to the fact that the EC is somewhat unique and not the typically international organization.

(175) Belgium and Luxenbourg have joined a monetary union but still are separated members of the IMF. The same is true for all countries of the Franc Zone. The membership list of the IMF shows only states as „contries."

(176) IWF, The European Economic and Monetary Union, April 1998, http://www.imf.org/external/np/exr/facts/emu.htm; Intent 10 of the Resolution of the European Council on Economic Policy Coordination in stage 3 of EMU and on Treaty Articles 109 and 109b, European Council of Dec. 12. und 13. 1997 in Luxemburg, http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=PRES/97/400|0|AGED&lg=D
Martha, aaO. (Fn. 14), S. 780 f.; Maystadt, Implications of EMU for the IMF, IMF-Survey Vol. 26, No. 7 v. 7. April 1997, S. 104.

(177) Suggestions that the Member States have given up the necessary competences and thus their memberships has been silently transfered to the EC appear to be contrary to Art. XXVI para 2 of the IMF Agreement that proscribes an explicit procedure for the loss of membership. However, it might be argued that Art 234 II of the TEC ultimately requires the Member States to end their membership in the IMF and seek a change in the IMF Agreement to allow Membership of the EC.

(178) Intent 10 of the Resolution of the European Council on Economic Policy Coordination in stage 3 of EMU and on Treaty Articles 109 and 109b, European Council of Dec. 12. und 13. 1997 in Luxemburg, http://europa.eu.int/rapid/start/cgi/guesten.sh?p_action. gettxt=gt&doc=PRES/97/400|0|AGED&lg=DE.; Martha, aaO. (Fn. 14), S. 780 f.; Maystadt, Implications of EMU for the IMF, IMF-Survey Vol. 26, No. 7 v. 7. April 1997, S. 104.

(179) The system of Executive Directors creates another problem, as the members of the European Community form part of different groups represented by different Executive Directors, who in turn represent additional countries. On this issue see Cf. Louis, Jean-Victor, Union monetaire europeenne et Fonds monetaire international, 201, 208 in: Albrecht Weber et. al (eds) Waehrung und Wirtschaft, Das Geld im Recht, FS Hahn (1997), who generally seems to be sceptical as to this solution: „Cette „solution" artificielle auverait les apparences mais serait peu credible au regard de la necessite pour l'UE de parler d'une seule voix au FMI." (p.212).

(180) Cf. Louis, Jean-Victor, Union monetaire europeenne et Fonds monetaire international, 201, 208 in: Albrecht Weber et. al (eds) Waehrung und Wirtschaft, Das Geld im Recht, FS Hahn (1997): „la realisation du marche interieur (...) ren[d] problematique la subsistence des quotes-parts individuelles attribuees actuellement a chaque Etat membre te l'Union."

(181) Gros, Daniel/Thygesen, Niels, European Monetary Integration, 295 (1992).

(182) In the Smithonian Agreement 1971 the Europeans achieved an increase in majority voting for Treaty amandement from 80% to 85% which in effect granted them a veto-power as quid pro quo for the dollar devaluation. (Art. XXVIII) On the Smithonian Agreement see, e.g., Dam, Kenneth W., The Rules of the Game. Reform and Evolution in the International Monetary System, 189 (1982). While extact data are hard to come by, it is possible that a consolidation of the European quotas might leave the Euroarea without this veto-power. Gros, Daniel/Thygesen, Niels, European Monetary Integration, 295 (1992). On the intricacies of voting in the IMF see Gld, Josef, Voting and Decisions in the International Monetary Fund: Some Limits and Some problems, in Gold, Josef: Legal and Institutional Aspects of the International Monetary System: Selected Essays 292, 292ss (1992). Cf. also DeVires, Margaret, The International Monetary Fund 1966-1971: The System under Stress 195 (1976).

(183) Cf. Louis, Jean-Victor, Union monetaire europeenne et Fonds monetaire international, 201, 208 in: Albrecht Weber et. al (eds) Waehrung und Wirtschaft, Das Geld im Recht, FS Hahn (1997): „on ne peut pas imagines qu' une telle eventualite ait une incidence decisive sur le reglement des questions touchant a l'avenir de le cooperation monetaire internationale.“

(184) Cf. Deutsche Bundesbank, Germany's realtions with the IMF following the introduction of the euro, Monthly Report, 15, 19 (Sept. 1999).

(185) Already the European Monetary Institute has worked closely with the IMF on a technical level under the regime of Art. X of the IMF Agreement, see EMI, Annual Report 1997, p. 95 f.; IMF Committee on Balance of Payments Statistics, Annual Report 1997, p. 7 and 16.

(186) Cf. Press Release of the ECOFIN meeting of Dec. 1, 1998, No. 13462/98 (http://eu.eu.int/Newsroom) The IMF has agreed to this, see Press Release No. 98/64 of the IMF.

(187) Röttinger in: Lenz, EG-Vertrag, Bonn 1994, Art. 229 – 231, Rn. 5 ff. enumerates the UN, the OECD and, formally, the GATT as examples.

(188) Deutsche Bundesbank, Germany's realtions with the IMF following the introduction of the euro, Monthly Report, 15, 19 (Sept. 1999).

(189) Ibid.

(190) The Executive Board includes 24 Executive Directors and the Managing Director. Currently seven Executive Directors are natives from an EU country. Cf. Deutsche Bundesbank, Germany's realtions with the IMF following the introduction of the euro, Monthly Report, 15, 16 (Sept. 1999).

(191) The system of Executive Directors creates another problem, as the members of the European Community form part of different groups represented by different Executive Directors, who in turn represent additional countries. On this issue see Cf. Louis, Jean-Victor, Union monetaire europeenne et Fonds monetaire international, 201, 208 in: Albrecht Weber et. al (eds) Waehrung und Wirtschaft, Das Geld im Recht, FS Hahn (1997), who generally seems to be sceptical as to this solution: „Cette „solution“ artificielle auverait les apparences mais serait peu credible au regard de la necessite pour l'UE de parler d'une seule voix au FMI.“ (p.212). Cf. also Deutsche Bundesbank, Germany's realtions with the IMF following the introduction of the euro, Monthly Report, 15, 20 (Sept. 1999): „The Executive Directors of the EU countries regularly coordinate their views „on site“ within the framework of the instructions given to them by their hoem authorities.“

(192) Niels Thygesen, External Representation of the euro area in Multilateral Fora (Brussels, 25 January 2000), http://www.ceps.be/Events/EuroDlr/extrep.htm.

(193) In this area, the discussion of Art. 111 (4) and 105 (2) seems to be directly relevant.

(194) Here, the Community generally provides for freedom of movement of capital with regarg to third states that can be infringed by measures to protect tax enforcement and public order by the Member States as long as the Community has not haronised the protective standard. Cf. Weber in: Lenz, EG-Vertrag, Bonn 1994, Art. 73b, Rn. 11 und Art. 73d; vgl. EuGH 1995, I, 4821 (4837 f., Rn. 20 ff.) – C-163/94 – Sanz de Lera. In the area of capital controls the proceedings of Art. 228 TEC will be relevant for external relations.

(195) Art. V (1) of the IMF Agreement. Here it is not entirely clear whether the ECB has to deal with the IMF through the national central banks or can deal directly with the IMF (which would be more useful). Art. 30.5 and 31.1 Statute of the ECB say that the national central banks stay competent to handle their „rest-reserves“ vis-avis international organizations. However, the ECB – Council can transfer these competences to the ECB according to Art. 10.2 and 12.1 (and 105 II TEC). This, however, does not mean that the IMF will necessarily accept this distribution of competences.

(196) See, e.g. Zoltan Bognar, Europäische Wäherungsintegration und Aussenwirtschaftsbeziehungen. Eine Analyse des gemeinschafts- und völkerrechtlichen Rahmens der europäischen Aussenwährungsbeziehungen 373ss (1997).

(197) Driscoll, What is the International Monetary Fund, Financial Assistance, http://www.imf.org/external/pubs/ft/exrp/what.htm.

(198) IWF, Financial Organization and Operations of the IMF, Pamphlet Series No. 45, 1996, S. 62.

(199) Deutsche Bundesbank, Germany’s realtions with the IMF following the introduction of the euro, Monthly Report, 15, 23 (Sept. 1999) give the year 1977.

(200) Deutsche Bundesbank, Germany’s realtions with the IMF following the introduction of the euro, Monthly Report, 15, 22 (Sept. 1999).

(201) Ibid. The only adjustment so far has been that part of the transactions are actually made in euro instead of the national currencies.

(202) Ibid. 25. Realistically, the size of these payments, however, will usually not be large enough to cause serious problems.

(203) Ibid.

(204) Deutsche Bundesbank, Germany’s realtions with the IMF following the introduction of the euro, Monthly Report, 15, 23 (Sept. 1999): It is widely held that there is no such thing as an indivudal balance of payments need for geographical parts of the euro area. (...) The euro has replaced the national currencies and defines the new currency area, which means that a balance of payments need can only exist for the euro area.“

(205) Ibid: Notwithstanding this, its is conceivable that a single country might be able to trigger such a need, say, through excessive government indebtndness in foreign currency.“

(206) This presupposes that the ECB has already overtaken the management of national reserves according to Art. 30.5 of the Statute.

(207) Deutsche Bundesbank, Germany's realtions with the IMF following the introduction of the euro, Monthly Report, 15, 20 (Sept. 1999)

(208) Within the IMF, a members' request for the use of the Funds general resources is approved by the Executive Board upon recommendation of the Managing Director. See „Guidelines on Conditionality", Rc. 7, Decision of the Executive Board No. 6056-(79/38) of 2 March, 1979, reprinted in Lowenfeld, Andy F., The International Monetary System, DS-228ss (1984).

(209) Zilioli/Selmayr, The external relations of the euro area: legal aspects, 36 CMLR 273-349, 341 (1999).

(210) Barry Eichengreen argues that this development was due to a feeling of isolation of the US in the G 10. Cf. Eigengreen, Barry, Globaizing Capital. A History of the International Monetary System, 140 (1996).

(211) Cf. Solomon, Robert, Money on the Move. The Revolution in International Finance since 1980, 5 (1999).

(212) Eichengreen, Globalizing Capital, A History of the International Monetary System 143ss (1996).

(213) Cf. Solomon, Robert, Money on the Move, The Revolution in International Finance since 1980, 14ss (1999).

(214) Cf. Dominguez/Frankel, Does Foreign Exchange Intervention Work? 41-43 (1993); Frankel/Rose, Empirical Research on Nominal Exchange Rates, 1755ss in Handbook of International Economics, vol 3 (ed. Gene Grossmann and Kenneth Rogoff) (1995).

(215) Pauls, US Exchange Rate Policy: Bretton Woods to Present, 76 Federal Reserve Bulletin 891-908 (1990).

(216) Cf. Szasz Andre, The Road to Monetary Union, 52ss (1999).

(217) See Putnam, Robert/Bayne Nicholas, Hanging Together: The Seven Power Summits 179 (1987); Eichengreen, Globalizing Capital, A History of the International Monetary System 148 (1996).

(218) The Plaza Accord and the Louvre Accord are available in Funabashi, Yoichi, Managing the Dollar: From the Plaza to the Louvre. Washington, D. C.: Institute for International Economics, 1988 and on the internet at http://www.library.utoronto.ca/g7/finance/fm870222.htm.

(219) See Frankel, Jeffrey, Exchange Rate Policy 293-341, 301ss, in Feldstein, Martin (ed) American Economic Policy in the 1980s (1994).

(220) Geoffrey P. Miller, The Role of a Central Bank in a Bubble Economy, http://www.gold-eagle.com/editorials/cscb001.html.

(221) Cf. Loehnis Anthony, The international monetary system in the 1990s, in Johnson Christopher, Changing Exchange Rate Systems, 127ss (1990).

(222) See p. 26 supra.

(223) Deutsch, Klaus Guenter, External representation and Exchange Rate Policy of the Euro Area, Deutsche Bank Research, EMU Watch 64, 4 (1999).

(224) The statement reads as follows: We, the Finance Ministers of the G-7 countries, the Central Bank Governors of Canada, Japan, the United States, and the United Kingdom, the Euro-11 Presidency, and the President of the European Central Bank, met today with the Managing Director of the International Monetary Fund to review recent developments in the world economy. The Finance Ministers and Central Bank Governors of the G-7 countries reviewed the progress underway towards strengthening the international financial architecture; new strategies for addressing poverty reduction in the poorest developing countries; building on the Cologne HIPC Initiative; and other issues. Since that time, in Tokyo Jannuary 22, 2000 and in Washington, April 16, 2000, this formulation has been maintained. The delegation of the EC for the next meeting in Okinawa, July 2000 includes Pedro Solbes Mira, European Commissioner for Economic and Financial Affairs.

(225) He has participated in Washington on 3 Oct. 1998 and in Bonn on 20 Feb. 1999 and in all meetings since. Cf. http://www.library.utoronto.ca/g7/finance/index.htm.

(226) Niels Thygesen, External Representation of the euro Area in Multilateral Fora (Brussels, 25 January 2000), http://www.ceps.be/Events/EuroDlr/extrep.htm.

(227) Eichengreen, Barry, Should the Maastricht Treaty be Saved, 59 (1992) not only states this empirically but ads an „unfortunately" – he would rather like central banks in this feature.

(228) For the three large G7 participants the presence of the Euro-11 President suggested a hierarchical structure which they did not appreciate. Niels Thygesen, External Representation of the euro Area in Multilateral Fora (Brussels, 25 January 2000), http://www.ceps.be/Events/EuroDlr/extrep.htm.

(229) Economist of Sept. 18th, 1999, page 82.

(230) The statement reads as follows: We, the Finance Ministers of the G-7 countries, the Central Bank Governors of Canada, Japan, the United States, and the United Kingdom, the Euro-11 Presidency, and the President of the European Central Bank, met today with the Managing Director of the International Monetary Fund to review recent developments in the world economy. The Finance Ministers and Central Bank Governors of the G-7 countries reviewed the progress underway towards strengthening the international financial architecture; new strategies for addressing poverty reduction in the poorest developing countries; building on the Cologne HIPC Initiative; and other issues. Since that time, in Tokyo Jannuary 22, 2000 and in Washington, April 16, 2000, this formulation has been maintained. The delegation of the EC for the next meeting in Okinawa, July 2000 includes Pedro Solbes Mira, European Commissioner for Economic and Financial Affairs. See e.g. http://www.library.utoronto.ca/g7/finance/fm001604.htm, providing the text of the final statements of the Finance minster meetings in the G7.

(231) Deutsch, Klaus Guenter, External representation and Exchange Rate Policy of the Euro Area, Deutsche Bank Research, EMU Watch 64, 4 (1999).

(232) Ibid. 5s.

(233) Susan Hainsworth, Coming of Age: The European Community and The Economic Summit (1990), published on http://www.library.utoronto.ca/g7/scholar/hainsworth1990/

(234) The Commission has protested against the view that there is a need for the Council to make such an interpretation, Niels Thygesen, External Representation of the euro Area in Multilateral Fora

(Brussels, 25 January 2000), http://www.ceps.be/Events/EuroDlr/extrep.htm.

(235) See supra, p. 22s.

(236) Deutsch, Klaus Guenter, External representation and Exchange Rate Policy of the Euro Area, Deutsche Bank Research, EMU Watch 64, 6 (1999).

Figure 1

World Currency Functions

Function	Private Use	Official Use
Medium of exchange	Vehicle currency	Intervention currency
Unit of account	Quotation, Invoicing	Exchange rates, (Pegs)
Store of value	Investment currency	Reserve currency

Figure 2

Financial Impact of the Introduction of the Euro

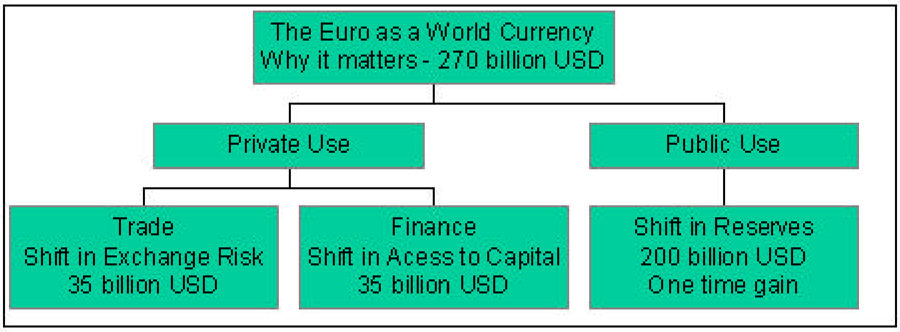


Figure 3

Aspects of Cooperation

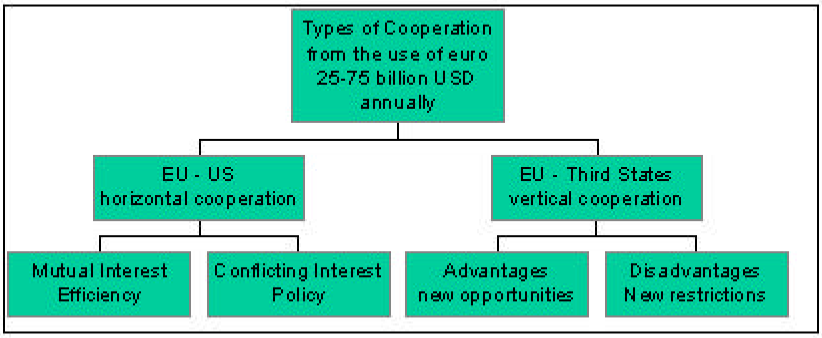


Figure 4

Institutional Requirements for International Monetary Cooperation

Interests	**Conflicting**	**Mutual**
Level	Political	Technical
Speed	Ad hoc	Permanent
Activity	Passive	Active
Players	Several	One

Figure 5

111 and 105 – The distribution of competences

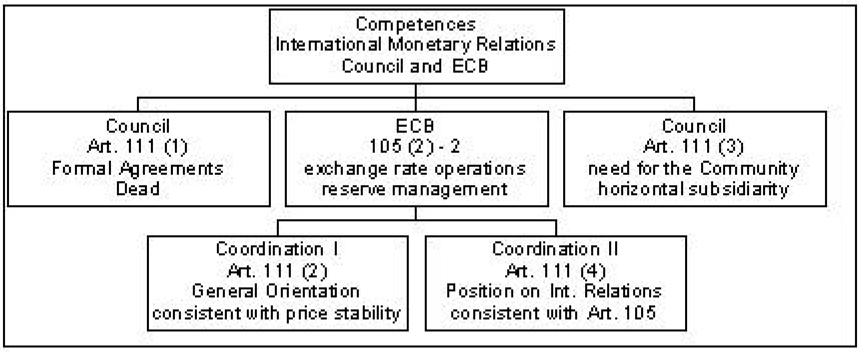


Figure 6

Central banks and finance ministers in the US, the EC and Japan

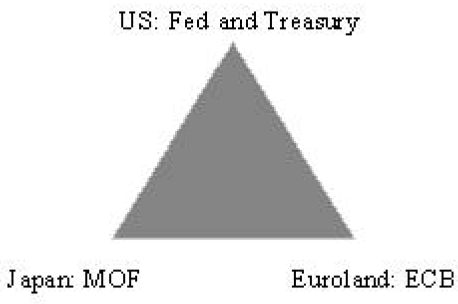
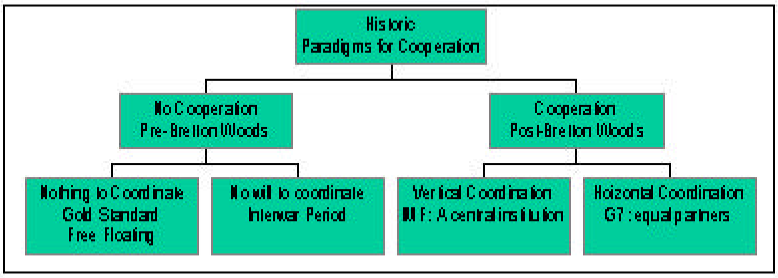


Figure 7

History Conceptualized: Institutions of Cooperation



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