

Memorandum of Understanding  
between  
De Nederlandsche Bank NV  
and the  
Commission Bancaire et Financière

concerning their cooperation in the field of banking  
supervision, after the implementation of the  
Second Banking Coordination Directive

## TABLE OF CONTENTS

	Page
I GENERAL PROVISIONS	2
1 - Competent authorities	2
2 - Professional secrecy	3
II ESTABLISHMENT OF A BRANCH/NOTIFICATION	3
1 - Filing and communication of the notification	3
(i) Credit institutions	3
(ii) Financial institutions under Article 18	4
2 - Contents of the notification (branch managers, procedures of internal control, etc.); notification procedure; branches established prior to 1993	5
(i) Credit institutions	5
(ii) Financial institutions under Article 18	6
3 - Reply by the host-country authority	6
4 - Setting up of further places of business in the host country by a branch or the head office	7
5 - Notices of change/credit institution and financial institution	7
6 - Branches established prior to 1993	8
(i) Branches of credit institutions	8
(ii) Branches of financial institutions under Article 18	8
III COOPERATION IN THE FIELD OF SUPERVISION	9
1 - Sole responsibility of the home country	9
2 - Exchange of information	9
3 - Access to information on credit risk (Credit Register)	10
4 - Cooperation in special fields of supervision	10
(i) Market risks	10
(ii) Liquidity	11
5 - Reporting duties	12
6 - Interest of the general good/general law of the host country	12
7 - Customer complaints	13
8 - Crisis; bankruptcy; winding-up	14

	Page
IV COOPERATION IN THE FIELD OF ON-SITE EXAMINATIONS	14
V COOPERATION AS REGARDS SUBSIDIARIES AND FREE PROVISION OF SERVICES	15
1 - Subsidiaries; dual establishments (subsidiary and branch)	15
2 - Free provision of services	16
(i) Credit institutions	16
(ii) Financial institutions under Article 18	17
VI COOPERATION CONCERNING THE PROCEDURES PROVIDED FOR IN ARTICLES 7 AND 11, AND CONCERNING OWNER CONTROL	18
VII TECHNICAL ARRANGEMENTS	18
1 - Language; exchange of lists	18
2 - Exchange of staff	19
3 - Meetings	19

ANNEX TO MEMORANDUM OF UNDERSTANDING BETWEEN THE DUTCH AND THE BELGIAN AUTHORITIES

MEMORANDUM OF UNDERSTANDING

De Nederlandsche Bank NV  
(hereinafter: 'DNB')

and the

Commission Bancaire et Financière

(both hereinafter also referred to jointly as  
'the Dutch and Belgian authorities')

AGREE AS FOLLOWS

The purpose of this Memorandum of Understanding is:

- to apply in common the provisions of the First (77/780/EEC) and Second (89/646/EEC) Banking Coordination Directives and on cooperation between home and host-country supervisors;
- to clarify to full mutual satisfaction any provisions which need clarification, so as to eliminate any misunderstanding as to their implementation of the directives mentioned above;
- to come to working arrangements with regard to the practical execution of the cooperation envisaged by the directives.

The provisions of this Memorandum are without prejudice to the entitlements and competence of the parties or third party authorities with regard to monetary policy.

The Dutch and Belgian authorities agree to base their cooperation in the field of banking supervision after the implementation in both countries of the Second Banking Coordination Directive on the principles and procedures laid down in the First and Second Banking Directives and in this Memorandum.

A description of items which are specific to the supervision of credit institutions by DNB in the Netherlands and by the Commission Bancaire et Financière in Belgium and which are relevant with a view to the arrangements in this Memorandum is attached as Annex and forms an integral part of this Memorandum.

This Memorandum does not in any way preclude the parties hereto from extending their cooperation to issues beyond the scope of this Memorandum.

This Memorandum will be reviewed from time to time if experience gathered and/or changes in legislation require so.

The terminology of this Memorandum shall be construed in accordance with the definitions and provisions laid down in the Second and other Banking Directives of the European Communities.

In no way shall the provisions of this Memorandum limit the application of the underlying directives.

Where a branch is only a constituent of a single legal entity, the Belgian and Dutch authorities understand that it would not be justified to have a separate and comprehensive supervision of each branch, whether home or abroad, by the home supervisor over and above the global supervision of the whole credit institution. Nevertheless, branches in other Member States are expected to be subject to appropriate supervision by their headquarters and, accordingly the home supervisor will have to ensure that such internal controls exist to his satisfaction.

## **I GENERAL PROVISIONS**

The Second Directive is based on the principle of mutual recognition of banking authorizations and prudential regulations. The authorization and the supervision of a credit institution, including its activities in other Member States through branches and by way of the free provision of services, will rest with the competent authorities of the home Member State subject to the provisions laid down in the Second Directive.

### **1 - Competent authorities**

In the Netherlands, authorization and supervision of credit institutions is carried out by DNB.

In Belgium, the Commission Bancaire et Financière is in charge of the supervision of credit institutions. In this capacity and in order to protect public savings and the good running of the credit system,

- a) it is competent for the registration of credit institutions and the granting of authorizations and derogations in application of the law on the status and the supervision of credit institutions and of the decrees and regulations taken for the execution of this law;
- b) it supervises credit institutions with regard to their running in accordance with the provisions of the law and the decrees and regulations taken for the execution of the law;
- c) it is empowered to take exceptional measures which can lead to revoke the registration.

The Commission Bancaire et Financière is an administrative agency in the meaning of the Belgian regulation of the Council of State.

## **2 - Professional secrecy**

(For a description of the national legal provisions, see Annex)

Compliance with the obligation of professional secrecy by all officials who receive classified information from another Member State in the course of their activities is a necessary condition for successful co-operation between the Dutch and Belgian authorities. The Dutch and Belgian authorities will ensure compliance with the letter and the spirit of Article 12 of the First Directive as amended.

## **II ESTABLISHMENT OF A BRANCH/NOTIFICATION**

### **1 - Filing and communication of the notification**

#### **(i) Credit institutions**

A credit institution wishing to establish a branch within the territory of the other Member State must file a notification in its home country; in the Netherlands the notification has to be filed with DNB, in Belgium with the Commission Bancaire et Financière.



Upon receipt of such notification the home supervisor shall inform the host supervisor that a procedure aiming at the establishment of a branch in the territory of the latter has been instituted.

The Dutch and Belgian authorities will use the three-month period provided for in Article 19 (3) of the Second Directive to exchange information concerning the branch, its management and other items under the terms of the notification.

The home-country authority shall communicate the notification to the host-country authority within the three-month period of Article 19 (3) of the Second Directive, unless it has reason to doubt the adequacy of the administrative structure or financial situation of the credit institution for the activities envisaged. Both authorities understand that the home-country authority will take into account the adequacy of the internal controls and the financial accounting system of the credit institution as part of the administrative structure of the credit institution. The host-country authority shall acknowledge receipt of communication to the home-country authority and the credit institution without delay.

**(ii) Financial institutions under Article 18**

In Belgium, the financial institutions mentioned in Article 18 (2) of the Second Directive will have the possibility to move for authorization to establish a branch through the procedure provided for in that provision. When financial institutions make use of this possibility the required notification has to be filed to the Belgian authority, which will have to verify and to confirm that the conditions provided for in the Directive are met. Such financial institution will be subject to the supervision by the Belgian authority according to Article 18 (3) of the Second Directive. The practical arrangements agreed in this Memorandum will apply *mutatis mutandis*.

In the Netherlands, a financial institution under Article 18 of the Second Banking Directive must, before being permitted to open a branch or offer services in another Member State, receive a so-called 'certificate of supervised status' from DNB. In order to receive such a certificate a request must be filed with DNB. The request must be accompanied

by information showing that the financial institution complies with the requirements of Article 18 of the Second Directive. If the financial institution wishes to subsequently open a branch in another Member State, it should notify DNB in writing. The practical arrangements agreed in this Memorandum will apply mutatis mutandis.

2 - Contents of the notification (branch managers, procedures of internal control, etc.); notification procedure; branches established prior to 1993

(i) Credit institutions

Notifications will have to contain the information specified in the national regulations of the two countries in accordance with Article 19 (2) and (3), subparagraph 2) of the Second Directive.

The home-country authority will lay down the requirements of the programme of operations, including those concerning the structural organisation of the branch and the application of the credit institution's internal controls. The Dutch and Belgian authorities expect their respective national regulations to require the programme of operations to include the activities the credit institution intends to engage in, with those listed in the Annex to the Second Banking Directive and other activities shown separately.

The Dutch and Belgian authorities are of the opinion that for the purpose of a sound banking management every initiative to carry on an activity in another country can only be taken with full knowledge of the facts taking into account not only the commercial appropriateness but also the institutional and legal framework of the host country, and in particular its impact on the conditions of exercise of the proposed activities.

Responsibility for the appointment of a branch manager rests with the individual credit institution. The Dutch and Belgian authorities will - so far as they become aware - inform each other of the criminal conviction of a branch manager, with special reference to any sentence barring him from banking activities, and of other facts putting his fitness or properness in doubt, irrespective of whether he has already



taken up his post at the branch. The home-country authority will act on such information in accordance with her national regulations.

In that respect, it is understood that the examination of the administrative structure will include the way in which the credit institution exercises her responsibility concerning the appointment of the branch managers.

If the host-country authority comes to know of the establishment of a branch in his territory by a credit institution incorporated in the other Member State before receiving proper notification, it will inform the home-country authority without delay. The latter will take the necessary steps to ensure immediate compliance with the regulations and inform the host-country authority.

The provisions of the last paragraph are without prejudice to other measures the host country may consider appropriate.

**(ii) Financial institutions under Article 18**

The content of the notification by financial institutions under Article 18 incorporated in the Netherlands or in Belgium will be specified by the Dutch and Belgian authorities respectively in accordance with Article 19 (2). The practical arrangements agreed in this Memorandum will apply mutatis mutandis.

**3 - Reply by the host-country authority**

Pursuant to Article 19 (4) of the Second Directive, the host-country authority will, within two months upon receipt of the notification, advise the credit institution of the conditions (see point III, 6) it must observe in the interest of the general good in carrying out in the host country the activities listed in the Annex to the Second Directive. The reply will also, if such should be the case, specify any conditions which, pursuant to legislation on credit institutions, apply to credit institutions as regards business activities which are not listed in the Annex to the Directive.

The host-country authority will provide the home-country authority with a copy of any advice given to the credit institution.

Any advice given by the supervisory authorities shall not diminish the responsibility of the branch to gain its own information on the non-supervisory legal provisions valid in the host state, and applicable to its establishment and its operation.

#### **4 - Setting up of further places of business in the host country by a branch or the head office**

A credit institution that has established a branch in the host country in accordance with the provisions of Article 19 of the Second Directive may open further 'places of business' in the host country. As Article 1 (3) of the Second Directive stipulates that any number of places of business set up in the same Member State shall be deemed to be one branch, the opening of another place of business in the host country, irrespective of whether it is to the head office or to a branch inside or outside the host country, is exempt from the notification requirement of Article 19 (2) of the Second Directive.

The host-country authority may require the branch to give notice in writing of any place of business established or to be established in its territory.

The home-country authority will see that a credit institution with several places of business established in the host country specifies one place of business as the head branch, the managers of which shall answer to the host supervisor and for that purpose such managers shall have the necessary powers and responsibilities for all the places of business in the host country.

In the Netherlands, the managers of the branch shall give notice to DNB, in Belgium to the Commission Bancaire et Financière.

#### **5 - Notices of change/credit institution and financial institution**

Notices of change shall be filed with both the home and host-country authorities, in accordance with Article 19 (6) of the Second Directive.

Where the change concerns the management of the branch, the Dutch and Belgian authorities will use the one-month interim period between the

notice and the occurrence of the change provided for in Article 19 (6) to exchange information on the fitness and properness of the designated manager of the branch.

The home-country supervisory authorities may then, if necessary, take measures according to national legislation. The home authorities shall immediately inform the host authorities of any such measures.

#### **6 - Branches established prior to 1993**

##### **(i) Branches of credit institutions**

Branches which engaged in activities in accordance with the provisions in force in the host country before the entry into force of those implementing the Second Directive shall be presumed to have been subject to the procedure laid down in Article 19 (1 through 5) of the Directive (cf. Article 23(1) of the Directive) and may continue to engage in such activities.

The Dutch and Belgian authorities understand that both the host and the home-country authorities should have the information required in Article 19 (2b through 2d) of the Second Directive on branches established in the host country prior to 1993. They will help each other to update their files on such branches and give any other information necessary. The home-country authority may require credit institutions to furnish any extra data needed for that purpose.

The host supervisor will inform the relevant credit institutions incorporated in the other Member State of the implications of home-country control for their establishment and operations in the host country. Such information shall be copied to the home supervisor.

##### **(ii) Branches of financial institutions under Article 18**

The Dutch and Belgian authorities understand that Article 23 (1) of the Second Banking Directive does not apply to financial institutions. Financial institutions incorporated in the Netherlands or in Belgium and doing business through branches in Belgium or in the Netherlands respectively can either apply for a certificate of compliance or of supervised

status and complete the notification procedure as provided for in Articles 18 and 19 of the Directive or continue to do business under the host-country regime.

### **III COOPERATION IN THE FIELD OF SUPERVISION**

#### **1 - Sole responsibility of the home country**

Pursuant to Article 13 of the Second Directive, responsibility for the prudential supervision of credit institutions and financial institutions, including their branches in other Member States, rests exclusively with the home-country authority. Save for the supervision of liquidity, credit institutions and all their branches will be subject only to the prudential supervisory rules of their home country.

The Dutch and Belgian authorities understand that Article 13 of the Second Directive makes the home-country authority solely responsible at least for the following matters:

- licensing (issuance and revocation);
- fitness and properness of the management, dismissal of the management;
- requirements as regards internal controls;
- own funds;
- supervision of solvency position;
- supervision of risks arising out of positions on markets (market risks);
- large exposures;
- qualifying holdings;
- owner control;
- all other domestic banking supervision law (e.g. provisions on connected lending).

#### **2 - Exchange of information**

The Dutch and Belgian authorities will comply with the obligation under Article 7 of the First Directive as amended and advocate a broad principle of exchange of information between home and host supervisor to support and facilitate their respective supervisory tasks.

In broad terms this means that there will be contact, in writing or orally, whenever home or host supervisor considers this useful or necessary on the basis of relevant facts or developments for his own or each other's supervisory purposes. In particular, the host supervisor will timely inform the home supervisor of any event of which it becomes aware concerning the branch which is estimated to be of importance for the supervision of the institution as a whole. They will inform each other of administrative penalties imposed or other actions taken on a branch or an institution as a whole. In addition there will be communication of any substantial changes in the respective domestic supervisory regulations and policies. Furthermore, any additional information, to the extent it is available, would be exchanged upon request.

### **3 - Access to information on credit risk (Credit Register)**

In the Netherlands, a Central Credit Register does not exist. In Belgium, there is a credit register (see Annex).

The Commission Bancaire et Financière declares it is prepared to help the auditors of branches of credit institutions established in the Netherlands to obtain the information they will need when they carry out inspections as mentioned under IV.

### **4 - Cooperation in special fields of supervision**

#### **(i) Market risks**

The Dutch and Belgian authorities understand that Article 14 (3) on the Second Directive assigns responsibility for the supervision of market risks exclusively to the home-country authority, even before the adoption of the Capital Adequacy Directive and its implementation in the domestic supervisory regimes.

Article 14 (3) of the Second Directive expressly provides for special collaboration between home and host-country supervision where market risks result from transactions carried out on the financial markets of the host country. In this respect, the importance of the host supervisor informing the home-country authority of any development in the market which may be of particular concern to the position of the branches, is

acknowledged. If necessary, the host-country authority will, upon request and to the extent possible, assist the home-country authority in the prudential assessment of the market risks to which branches in the host country are exposed. They will also inform each other of any crisis emerging which could affect the domestic financial market as a whole (e.g. such as requiring the closing of the stock exchange or a general moratorium on the banking industry), as soon as and to the extent legally possible.

The host-country authority shall inform the home-country authority of a breach of market rules by a branch, if such information could be important for the home-country authority. If necessary, the home-country authority will inform the host-country authority of any measures adopted on the basis of such information.

#### **(ii) Liquidity**

The home-country authority shall supervise the overall liquidity of credit institutions, including that of their branches in the host country. Pending further EEC coordination, Article 14 (2) of the Second Directive provides for the liquidity of such branches to be supervised by the host-country authority in cooperation with the home-country authority. The home and host-country supervisors will coordinate their activities, where necessary, to ensure that branches observe local liquidity requirements. If the host supervisor establishes that the branch has problems with complying with the host country's liquidity requirements, the host authority shall immediately inform the home authority.

In case of non compliance, the procedures provided for in Article 21 (2 to 4) will apply. If, despite the freedom of capital movements, the liquidity problem of the branch cannot be solved, it shall be assumed that the credit institution faces a problem, which is for the home-country authority to deal with. The host-country authority will nonetheless retain the power to take appropriate measures towards the branch in accordance with the provisions of Articles 21 (4) and 21 (7) of the Second Directive.

The Dutch and Belgian authorities will examine whether they can avoid duplication of work and/or reporting in the area of liquidity super-



vision and better define their respective roles, taking into account the ongoing discussion within the EEC regarding this field of supervision.

#### **5 - Reporting duties**

The host-country authority will retain the right to impose reporting requirements on branches of credit institutions of the other Member State, either in the interest of the general good or with regard to matters for which it retains supervisory control or for statistical purposes.

If the host supervisory authority has doubts concerning the completeness and correctness of the reported data, the host authority will act to this within the bounds of its competence. If however, the situation cannot be solved in a satisfactory way, the host supervisory authority will inform the home supervisory authority. Subsequently, the host and home supervisory authorities will then cooperate in order to assess, how to react to this irregularity.

In the Netherlands, the reporting requirements will be notified to the branches before 1 January 1993.

In Belgium, the reporting obligations of the branches of EEC-credit institutions have been redefined as part of a global redefinition of the reporting obligations of credit institutions, with effect from 1 January 1993. For the matters remaining the competence of the host country, the branches will have to communicate the same information as these imposed to the national credit institutions. As periodical reporting on the operations carried out in Belgium (Article 21 (1), subparagraph 1 of the Second Directive), the Commission Bancaire et Financière will use the information that the branches will transmit to the National Bank of Belgium.

#### **6 - Interest of the general good/general law of the host country**

The Dutch and Belgian authorities understand that the conditions which the host supervisory authority, if necessary, indicates according to Article 19 (4) of the Second Directive, i.e. the conditions under which to their knowledge, in the interest of the general good, the branch must

carry on its activities in the host country, would only comprise the provisions which directly affect the carrying out of activities listed in the Annex to the Second Directive.

The host supervisor declares its intention to keep the home supervisor informed of the provisions adopted or upheld in the area of banking regulation. The Dutch and Belgian authorities will try to identify any double constraint.

The Dutch and Belgian authorities will cooperate when they become aware that the activities of a branch violates general law of the host country or legal rules in the meaning of Article 21 (5) of the Second Directive. The home-country authority will, if necessary, draw the attention of the management of the credit institution to that issue.

Besides that, the host country will retain the power to prevent or to punish in accordance with Article 21 (5) of the Second Directive irregularities committed within its territory which are contrary to the rules it has adopted in the interest of the general good.

#### **7 - Customer complaints**

The Dutch and Belgian authorities only examine complaints to the extent that these complaints concern their supervisory duties, in particular the quality of management, the financial position of the credit institution, and the adequacy of their organisation.

If, however, any information comes to the attention of the host-country authority which reflects on aspects of supervision which are considered to be relevant to the home authority, the host authority will communicate this information to the home authority immediately.

If a complaint about a particular branch is lodged by a customer with either the home or the host-country authorities, the relevant authority will act according to its legal rules or customary practice. It will have the possibility to consult the authorities of the other Member State whenever an intricate case calls for the special expertise and knowledge of the latter.

8 - Crisis; bankruptcy; winding-up

The Dutch and Belgian authorities will inform each other on a continuous basis and without delay, if they learn of any development which could critically affect credit institutions with branches in the other Member State.

The same applies if such development is limited to the branch of the credit institution established in the other Member State.

In both cases the host-country authority will collaborate with the home-country authority if the latter adopts supervisory counter-measures. In this respect, the importance is stressed that home and host-country authorities know each other's formal powers which can be used in case of a crisis situation (see Annex). Besides, the host country keeps the right to apply to branches its own procedures concerning the reorganisation and winding up of credit institutions as a directive or a convention dealing with this field has not been adopted yet.

This paragraph will, if necessary, be reviewed in the light of ongoing discussions in the international fora.

#### IV COOPERATION IN THE FIELD OF ON-SITE EXAMINATIONS

(For a description of the national systems, see Annex)

In their capacity as home-country authorities, the Dutch and Belgian authorities will be solely responsible for the on-site supervision of branches, either by using their own examiners or auditors, and for determining their own standards. Neither country shall object to the on-site inspections conducted by the home supervisor, or impose any limitations with regard to the accessibility of information within the scope of these examinations.

Pursuant to the provisions of Article 15 of the Second Directive the home-country authority will notify the host-country authority in advance of its intention to inspect a branch in the other Member State.

The notification will contain the following information:

- name of the examiner/auditor;
- name of the branch;
- nature of the examination/audit;
- anticipated begin of the examination/audit;
- expected duration of the examination/audit.

The home and host authorities will decide whether a visit to the host-country authority before the start of the examination/audit is necessary. Upon request, the host supervisory authority shall give technical assistance to the examiner/auditor to the extent reasonable and on conditions to be agreed. The examiner/auditor may contact other supervisors in the host country to obtain supervisory information concerning the branch. If it is relevant for the host-country authority, particularly with regard to matters falling within its competence, the home-country authority will furnish the host-country authority with a copy of the report or a summary of the relevant findings.

#### **V COOPERATION AS REGARDS SUBSIDIARIES AND FREE PROVISION OF SERVICES**

##### **1 - Subsidiaries; dual establishments (subsidiary and branch)**

Although this Memorandum deals only with cooperation in the framework of the implementation of the Second Directive, the Dutch and Belgian authorities take this opportunity to affirm their determination to cooperate closely in the supervision of credit institutions on a consolidated basis. Once the Directive 92/30/EEC of 6 April 1992 on the supervision of credit institutions on a consolidated basis has been implemented, the Dutch and Belgian authorities will define the procedures for their cooperation in that field by amending this Memorandum.

In the meantime DNB lacks legal authority to give up its sole supervision of Dutch subsidiaries of credit institutions incorporated in Belgium. The same applies, conversely, to the supervision by the Belgian authorities of Belgian subsidiaries of credit institutions incorporated in the Netherlands. Both authorities shall not object to on-site examinations of subsidiaries by examiners/auditors of the supervisory authority responsible for consolidated supervision.

Besides, the Dutch and Belgian authorities stress the need for enhanced collaboration in the supervision of subsidiaries dual establishments. They will in particular coordinate inspections of such subsidiaries and branches, and exchange their assessments of the findings in the course of such inspections. Especially the effectiveness of supervision of both subsidiary and branch will be reviewed, as activities may be shifted from one establishment to the other.

## **2 - Free provision of services**

### **(i) Credit institutions**

As for the exercise of the freedom to provide services, Article 20 of the Second Directive only requires the communication of the notification received by the home-country authorities from the credit institution to the host-country authorities. In the Netherlands, the notification will be addressed to DNB as home-country authority, in Belgium to the Commission Bancaire et Financière.

Responsibility for the supervision of credit institutions exercising the freedom to provide services will rest with the home-country authorities.

The host-country authority shall inform the home-country authority of any violation of the law in the host country by cross-border provision of services and related advertising if it judges such information may be important for the home-country authority. The latter will take the necessary steps to make the credit institution concerned comply with the law, and will report to the host-country authority.

Credit institutions which provided cross-border services in the host country before 1 January 1993 and continue to provide services after 1 January 1993, will not be obliged to complete the notification procedure of Article 20 of the Second Directive.

If the host-country authority has reason to believe that a credit institution incorporated in the other Member State is transacting business in its territory, which, albeit qualifying as provision of services within the meaning of the Second Directive, it had not been notified of, it shall advise the home-country authority.

The latter will investigate, take the necessary steps to obtain compliance with the law, and inform the host-country authority of the result. This procedure will not be applicable to credit institutions which provided cross-border services in the host country before 1 January 1993.

The establishment of representative offices, the employment of intermediaries, or advertising activities in the territory of the host country by a credit institution incorporated in the other member may be an indication that cross-border provision of services is being transacted.

**(ii) Financial institutions under Article 18**

In the Netherlands, financial institutions referred to in Article 18 (2) of the Second Directive may apply the notification procedure in order to be permitted to provide services in another Member State; they will have to file the required notification with DNB and they will be supervised by DNB who will verify and confirm that the conditions provided for in the directive are met. The notification shall include the name of the Member State where the services are offered, the activities envisaged. The practical arrangements agreed in this Memorandum will apply mutatis mutandis.

In Belgium, the financial institutions mentioned in Article 18 (2) of the Second Directive will have the possibility to apply for authorization to freely provide services through the procedure provided for in that provision; they will have to file the requested notification with the Belgian authority, which will have to verify and to confirm that the conditions provided for in the Directive are met. Such financial institution will be subject to the supervision by the Belgian authority according to Article 18 (2) of the Second Directive. The practical arrangements agreed in the Memorandum will apply mutatis mutandis.

The Dutch and Belgian authorities understand as the underlying notion of Article 18 (2), subparagraph 6) of the Second Directive that cross-border provision of services by a financial institution that has not observed the procedure laid down in Article 20 of the Second Directive or that would no longer comply with the requirements of that provision would be fully subject to the legislation of the host country.



**VI COOPERATION CONCERNING THE PROCEDURES PROVIDED FOR IN ARTICLES 7 AND 11, AND CONCERNING OWNER CONTROL**

(i) DNB and the Commission Bancaire et Financière will consult each other before any authorization referred to in Article 7 or any acquisition referred to in Article 11 (2) of the Second Directive as required by the Directive.

(ii) The Dutch and Belgian authorities will inform each other - upon request and to the extent reasonable - of domestic enterprises which own one or more credit institutions incorporated in the other Member State. The information shall include all relevant facts regarding the shareholding enterprise itself and the ownership structure as a whole.

**VII TECHNICAL ARRANGEMENTS**

**1 - Language; exchange of lists**

The official notification from the credit and financial institutions, as referred to in II(1), II(5) and V(2), shall be conveyed to the home supervisory authority along with an certified translation in one of the languages of the host country.

The Dutch and Belgian supervisory authorities shall provide each other with organograms. They will exchange lists of correspondents, in order to facilitate contacts and will keep each other up-to-date with postal addresses and relevant fax and phone-numbers.

The Dutch and Belgian authorities shall also exchange on a regular basis the following lists of:

- the credit institutions which they have authorized and which transact business within the territory of the other Member State through subsidiaries or branches, or by provision of services pursuant to Article 20 of the Second Directive with the individual subsidiaries and branches specified;
- the credit institutions which they have authorized and in which enterprises incorporated in the other Member State have direct holdings of more than 10%;

the branches in their respective countries of credit institutions authorized in the other Member State; and

- the credit institutions which they have authorized and which have representative offices in the other Member State.

The following information shall also be updated on a regular basis:

- the principal institutions responsible for banking supervision (see I(1) above);

- substantial changes in the domestic supervisory regulations and policies (see III(2) above).

## 2 - Exchange of staff

The Dutch and Belgian authorities will encourage their cooperation, through visits for informational purposes, and through exchange of staff.

## 3 - Meetings

The Dutch and Belgian authorities agree that it would be convenient to have regular meetings to discuss various questions relating to the credit institutions established in both countries and their supervision. The Dutch and Belgian authorities will consider once a year whether such a meeting is needed. At these meetings any improvements to this Memorandum will be considered.

Done in the English language in Amsterdam on *2 October* 1993 and in Brussels on *26 October* 1993.

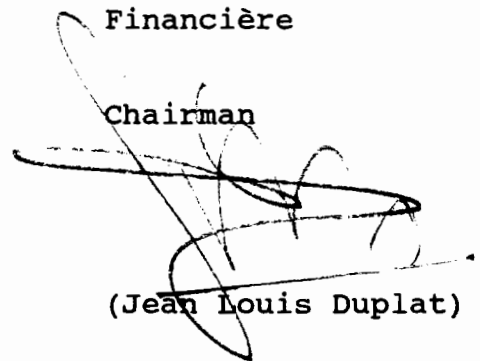
For De Nederlandsche Bank NV

For the Commission Bancaire et Financière

Executive Director

Chairman

  
(Tom de Swaan)

  
(Jean Louis Duplat)