EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

of 7 June 2002

at the request of the Banque centrale du Luxembourg on a draft regulation on the designation of the competent national authorities with regard to counterfeiting

(CON/2002/17)

1. On 21 May 2002 the European Central Bank (ECB) received a request from the Banque centrale du Luxembourg (BCL) for an opinion on a draft Grand Ducal regulation on the designation of the authorities referred to in Article 8 of the Law of 13 January 2002 concerning (1) the approval of the International Convention for the Suppression of Counterfeiting Currency and the Protocol thereto, signed at Geneva on 20 April 1929[1]; and (2) the amendment of certain provisions of the Criminal Code and the Code of Criminal Procedure (hereinafter the 'draft regulation'). The aim of the draft regulation is to ensure compliance with Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting[2] (hereinafter the 'Council Regulation').

2. The ECB's competence to deliver an opinion is based on the second indent of Article 105(4) of the Treaty establishing the European Community, and on the first and third indents of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions[3], since the draft regulation contains provisions concerning both currency matters and the BCL. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council of the ECB has adopted this opinion.

3. The Council Regulation required Member States, *inter alia*, to designate competent national authorities for the identification of counterfeit euro banknotes and coins, the gathering and analysis of technical and statistical data relating to counterfeit euro banknotes and coins, and the gathering of data relating to counterfeiting of the euro for their subsequent analysis, in accordance with its Article 2(b).

   Such competent national authorities are to comprise: (1) a National Analysis Centre (NAC) for counterfeit euro banknotes, designated or established by Member States in agreement with the ECB, as set forth in Article 4 of the Council Regulation; (2) a Coin National Analysis Centre

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1 League of Nations Treaty Series No. 2623 (1931), p. 372
2 OJ L 181, 4.7.2001, p. 6.
3 OJ L 189, 3.7.1998, p. 42.

(CNAC) for counterfeit euro coins, in accordance with Article 5 of the Council Regulation; and (3) a national central office, as provided for by Article 12 of the Geneva Convention, charged with the gathering of data relating to counterfeiting of the euro, and their submission for analysis.

4. The ECB notes that the draft regulation ensures compliance with the provisions of the Council Regulation, which applies from 1 January 2002, in that it provides that:

   (1) the national central office, the judicial police authorities and the BCL are designated as the competent national authorities for Luxembourg, with the two latter bodies being jointly responsible for the identification of counterfeit euro banknotes and coins;

   (2) the BCL will be the NAC and CNAC for Luxembourg. The BCL will be responsible for the gathering and analysis of technical and statistical data relating to counterfeit euro banknotes and coins;

   (3) the national central office will be the competent authority responsible for the gathering of data relating to counterfeiting of the euro and their subsequent submission for analysis. The national central office and the BCL will enter an agreement whereby the BCL will put at the disposal of the national central office its technical expertise concerning counterfeiting;

   The Minister for the Treasury and the Budget and the Minister of Justice will be responsible for the implementation of the Grand Ducal regulation.

5. The ECB would like to highlight that under Article 8 of the Council Regulation Member States are to ensure that centralisation of information on counterfeiting at national level in the national central office is effected with a view to its being forwarded to Europol through the Europol national unit. Furthermore Member States are to take all measures necessary to ensure the exchange of information between the national central office and the Europol national unit.

6. The ECB would finally like to highlight that pursuant to Article 4 of the Council Regulation Member States are to designate or establish their respective NACs in agreement with the ECB. Based on a formal communication on the envisaged designation of the BCL as the NAC for Luxembourg, which the Luxembourg Ministry for the Treasury and the Budget transmitted to the Secretariat of the Economic and Financial Committee on 12 December 2001, with the request that the communication be forwarded both to the ECB and the Commission, the ECB has already granted on 22 January 2002 its agreement to the envisaged designation by means of a letter signed by the President.

7. The ECB confirms that it has no objection to the competent national authorities making this opinion publicly available at their discretion.

Done at Frankfurt am Main on 7 June 2002.

The President of the ECB

[signed]

Willem F. DUISENBERG