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EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 22 January 2009

at the request of the Austrian Ministry of Finance

on a draft Federal law on the increase of Austria's quota with the International Monetary Fund

(CON/2009/5)

Introduction and legal basis

On 22 December 2008, the European Central Bank (ECB) received a request from the Austrian Ministry of Finance for an opinion on a draft Federal law on the increase of Austria's quota with the International Monetary Fund (hereinafter the 'draft law').

The ECB's competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community and the third indent 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[1], as the draft law relates to the Oesterreichische Nationalbank (OeNB). In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

1. Purpose of the draft law

On 28 April 2008, the Board of Governors of the International Monetary Fund (IMF) adopted a resolution on 'Reform of Quota and Voice' proposing an amendment to the IMF's Articles of Agreement. When the proposed amendment becomes effective (i.e. only after it has been accepted by three fifths of the members of the IMF having 85 % of the total voting power), there could be an increase in the IMF quota for up to 54 countries, including Austria, provided that each of those countries, within 30 days of the entry into effect of the amendment, both consents to the increase and pays the amount of the increased quota to the IMF. The objective of the draft law is to authorise the OeNB to pay for the proposed increase in Austria's IMF quota , which would be an increase of 241.6 million special drawing rights (SDRs) thereby bringing Austria's quota to a total of 2 113.9 million SDRs. As stated in the explanatory memorandum to the draft law, the OeNB paid the initial Austrian quota in 1971 and has paid all subsequent quota increases, meaning that it should also pay the latest proposed increase in quota. The payment would result in an exchange of assets and liabilities on the balance sheet of the OeNB, which would acquire the IMF quota in return for the said 241.6 million SDRs.

1 OJ L 189, 3.7.1998, p. 42.

2. General observations

The ECB reminds the Ministry of Finance that the tasks performed by the OeNB must comply with the monetary financing prohibition under Article 101 of the Treaty and Council Regulation (EC) No 3603/93 of 13 December 1993 specifying the definitions for the application of the prohibitions referred to in Articles 104 and 104b(1) of the Treaty[2]. As stated in the explanatory memorandum to the draft law, pursuant to Article 7 of Council Regulation (EC) No 3603/93, the financing by national central banks of obligations falling upon the public sector vis-à-vis the IMF is not regarded as a credit facility within the meaning of Article 101 of the Treaty. Therefore, the ECB notes that any payment by the OeNB of the proposed increase in Austria's IMF quota complies with Article 7 of Regulation (EC) No 3603/93 and does not infringe the monetary financing prohibition.

This opinion will be published on the ECB's website.

Done at Frankfurt am Main, 22 January 2009.

[signed]

The President of the ECB

Jean-Claude TRICHET

2 OJ L 332, 31.12.1993, p. 1.