EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 7 September 2011

on Italy's ratification of an Amendment to the Articles of Agreement of the International Monetary Fund and increase in quota

(CON/2011/68)

Introduction and legal basis

On 10 August 2011, the European Central Bank (ECB) received a request from the Italian Ministry of Economic Affairs and Finance for an opinion on a draft law regarding the ratification of an Amendment to the Articles of Agreement (hereinafter the 'Amendment') of the International Monetary Fund (IMF) and the increase of Italy's quota with the IMF (the 'draft law').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union 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 Banca d'Italia. 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

1.1 On 15 December 2010, the IMF Board of Governors adopted Resolution No 66-2 on the 'Fourteenth General Review of Quotas and Reform of the Executive Board', proposing an amendment to the Articles of Agreement. The Amendment contains two sets of provisions. The first set provides that all the Executive Directors on the IMF Executive Board will be elected by IMF member countries. The second set of provisions concerns a general review of quotas, after which the increase in quotas will become effective on fulfilment of specific conditions[2]. As a consequence of the increase in quotas, a review of the 'New Arrangements to Borrow' (NAB) credit arrangements will take place, with the possibility for the NAB to roll back.

1.2 Under Italian law[3], the ratification of international agreements involving public expenditure and amendments to legislation must be authorised by a law approved by the Parliament. Articles 1 and

1 OJ L 189, 3.7.1998, p. 42.

2 The specific conditions to be fulfilled are as follows: (i) members with at least 70% of the total quotas giving written consent to their increase in quota; (ii) the Amendment concerning the new structure of the IMF Executive Board entering into force; (iii) the Amendment to the Articles of Agreement approved under IMF Board of Governors Resolution No 63-2 entering into force

3 Article 80 of the Italian Constitution.

2 of the draft law provide for the authorisation of the Amendment ratification and its incorporation into Italian law. Articles 3 and 4 of the draft law authorise the Government to pay up the increase in Italy's quota by requesting the Banca d'Italia to perform this transaction. In particular, following the increase of the total quotas decided by the IMF Board of Governors, the draft law authorises the Ministry to pay up, by having recourse to the Banca d'Italia, the proposed increase in Italy's IMF quota from SDR 7 882.3 million to SDR 15 070 million. Article 5 of the draft law refers to an agreement between the Ministry and the Banca d'Italia[4] on their relationship in connection with Italy's participation in the IMF. Article 6 provides for the necessary means to cover the expenses deriving from the payment.

2. General observations

2.1 Article 4 of the draft law authorises the Ministry to pay the increase in the quota, by requesting the Banca d'Italia to perform this transaction. The ECB notes that the wording of this Article changed during the course of the parliamentary procedure to include an obligation for the Ministry to provide guarantees to the Banca d'Italia covering any risk connected to the payments to the IMF that the Banca d'Italia carries out on behalf of the Italian Government regarding the quota increase. The ECB understands that the new wording is meant to protect the Banca d'Italia from any risk connected to such payments.

2.2 Several ECB Opinions[5] have noted that the tasks performed by a national central bank must comply with the monetary financing prohibition under Article 123 of the Treaty and Council Regulation (EC) No 3603/93 of 13 December 1993 specifying definitions for the application of the prohibitions referred to in Articles 104 and 104b(1) of the Treaty[6]. Pursuant to Article 7 of 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 123 of the Treaty. Therefore, the ECB notes that any possible payment by the Banca d'Italia of the proposed increase in Italy'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, 7 September 2011.

[signed]

The President of the ECB

Jean-Claude TRICHET

4 Agreement of 10 December 2007, approved and executed by Ministerial Decree No 127093 of 28 December 2008.

5 See ECB Opinions CON/1997/16, CON/2005/29, CON/2009/5, CON/2009/33, CON/2009/35, CON/2009/41, CON/2009/100, CON/2010/13, CON/2010/15, CON/2010/22, CON/2010/40, CON/2010/74, CON/2011/10. All Opinions are available on the ECB's website at www.ecb.europa.eu.

6 OJ L 332, 31.12.1993, p. 1.