EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 13 August 2012

on the increase of Austria's quota with the International Monetary Fund

(CON/2012/65)

Introduction and legal basis

On 18 July 2012, the European Central Bank (ECB) received a request from the Austrian Ministry of Finance for an opinion on a draft law on the increase of Austria's quota with the International Monetary Fund (IMF) (hereinafter 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 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

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'. This Resolution covers, *inter alia*, increases in the quotas of members. IMF member countries have committed in the same Resolution to use their best efforts to complete the necessary implementation steps no later than the Annual Meetings 2012.

1.2 The draft law incorporates the IMF quota increase into Austrian law. Austria's quota will increase from 2 113.9 million Special Drawing Rights (SDR) to SDR 3 932 million. The draft law entitles and obliges the OeNB to pay for the proposed increase. As noted in the explanatory memorandum to the draft law, the OeNB assumed the entire Austrian quota in 1971 and has paid all subsequent quota increases, meaning that it should also pay the latest proposed increase in the quota. The payment will result in an exchange of assets and liabilities on the OeNB's balance sheet, which would acquire the IMF quota in return for SDR 1 818.1 million.

1.3 The explanatory memorandum also notes that the OeNB exercises the rights arising from the quota increase in accordance with the Law of 23 June 1971 on the increase of Austria's IMF quota and

1 OJ L 189, 3.7.1998, p. 42.

the transfer of the entire quota by the OeNB[2] . According to Article 2(1) of this Law, the OeNB is authorised to fulfil all financial commitments resulting from the Austria's membership with the IMF.

2. Monetary financing prohibition

Several ECB opinions[3] 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[4]. 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. The fourteenth recital of Regulation 3603/93 sets out the rationale of the exemption and confirms that it is appropriate to authorise the financing by the national central banks of obligations falling upon the public sector vis-à-vis the IMF, as this financing results in claims which have all the characteristics of reserve assets. Therefore, the ECB finds that 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.

3. Central bank independence

The OeNB is responsible for paying any increases in Austria's IMF quota, exercises all rights connected with the IMF system of SDRs and is in charge of fulfilling all Austrian financial obligations vis-à-vis the IMF. The ECB understands that in this context and in line with the principle of central bank independence enshrined in Article 130 of the Treaty and Article 7 of the Statute of the European Central Bank and of the European System of Central Banks, the OeNB takes decisions regarding the management of the SDRs in a fully independent manner[5].

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

Done at Frankfurt am Main, 13 August 2012.

[signed]

The President of the ECB

Mario DRAGHI

2 BGBl 309/1971.

3 The most recent opinions are CON/2011/89, CON/2011/97, CON/2011/102 and CON 2012/45. All ECB Opinions are available on the ECB's website at www.ecb.europa.eu.

4 OJ L 332, 31.12.1993, p. 1.

5 Similarly, see CON/2012/45 and CON/2011/102.