



**EUROPEAN CENTRAL BANK**

**OPINION OF THE EUROPEAN CENTRAL BANK**

**of 7 February 2000**

**at the request of the Danish authorities on a draft Act amending  
the Act on Danmarks Statistik (Statistics Denmark)**

**(CON/00/03)**

1. On 14 January 2000 the European Central Bank (ECB) received a request from the Danish authorities for an ECB Opinion on a draft Act amending the Act on Danmarks Statistik (Statistics Denmark) (hereinafter referred to as the “Draft Law”).
2. The ECB’s competence to deliver an Opinion is based on Article 105 (4) of the Treaty establishing the European Community (hereinafter referred to as the “Treaty”) and Article 2 (1), third and fourth indents, of Council Decision No. 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions, as the Draft Law contains provisions on Danmarks Nationalbank and rules concerning the collection, compilation and distribution of monetary, financial, banking, payment systems and balance of payments statistics. The Draft Law also provides for other amendments, which do not relate to the above-mentioned consultative competence of the ECB. However, the present Opinion only focuses on those provisions which do so. In accordance with Article 17 (5), first sentence, of the Rules of Procedure of the ECB, this Opinion has been adopted by the Governing Council of the ECB. This Opinion is based on an unofficial English translation of the relevant provisions of the Draft Law.
3. The ECB understands that the Draft Law includes provisions which de facto provide a legal basis for the collection, compilation and publication of financial statistics by Danmarks Nationalbank, made possible by a transfer of this competence from the national statistical authority, Statistics Denmark, to Danmarks Nationalbank via an agreement being concluded between the two authorities. A liability agreement already exists, but the Draft Law facilitates the establishment of a more elaborate co-operation agreement. The transfer of competence implies that, inter alia, Danmarks Nationalbank will be able to sanction an institution in breach of the reporting requirements. Furthermore, by means of the envisaged division of labour

between Danmarks Nationalbank and Statistics Denmark, the Draft Law provides for the possibility of the two authorities exchanging confidential statistical information. Finally, the Draft Law extends the present scope of application of the statistical reporting obligation, in terms of both the categories of institutions obliged to report and the categories of data, which have to be reported.

4. The ECB welcomes the initiative, which will enhance the possibility of increasing the consistency of Danish financial statistics with international and European standards, including those set or, as the case may be, followed by the ECB. In this connection it is recalled that Council Regulation (EC) No. 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank (hereinafter referred to as the “Council Regulation”) states in recital 17 that, inter alia: “while it is recognised that the statistical information needed to fulfil the ECB’s statistical reporting requirement is not the same for the participating as for the non-participating Member States, Article 5 of the Statute [of the European System of Central Banks and of the European Central Bank] applies to both the participating and the non-participating Member States; whereas this fact, together with Article 5 of the Treaty, implies an obligation to design and implement at the national level all the measures that Member States consider appropriate in order to carry out the collection of statistical information needed to fulfil the ECB’s statistical reporting requirements”.
  
5. However, the ECB notes with some concern that the primary competence for establishing the financial statistics in question continues to be held by Statistics Denmark, with the possibility, according to Article 1 (1) of the Draft Law, for it to be transferred by agreement to Danmarks Nationalbank rather than entrusted to the central bank directly. In the ECB’s view, Danmarks Nationalbank should be able to avail itself independently of its own statistical data necessary to fulfil its tasks – particularly in the field of monetary policy – and, therefore, the preferable solution would be to entrust Danmarks Nationalbank with the relevant powers already at this stage. Furthermore, should Denmark adopt the euro at a later stage, there will be a need to comply with the requirements of the Treaty and the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the “Statute”) for Stage Three of Economic and Monetary Union (EMU) and in particular with the ECB’s statistical reporting requirements. These reporting requirements are derived from Article 5 of the Statute as further specified by Community legislation, both of which will entrust Danmarks Nationalbank with its own statistical competence. Transferral by an agreement rather than entrustment of competencies is incompatible with Danmarks Nationalbank having its own statistical competence and the Draft Law, once adopted, would, to this extent in any case, have to be adapted should Denmark adopt the euro at a later stage.

6. Notwithstanding the above, the ECB appreciates the fact that in the specific Danish context the best way to facilitate the work at this stage is considered to be transferral of the competence to Danmarks Nationalbank by means of an agreement. The Draft Law is in any event an improvement, which is expected to enable Danmarks Nationalbank to design and implement all the measures that Denmark considers to be appropriate in order to carry out the collection of statistical information needed to fulfil the ECB's statistical reporting requirements. For these reasons the ECB does not, at this juncture, object to the envisaged transitional arrangement.
7. Article 1 (2) of the Draft Law governs the exchange of documents containing data on financial statistics and balance of payments statistics between Danmarks Nationalbank and Statistics Denmark, including confidential statistical information. The provision states that the documents in question, which are exchanged between the two authorities, are exempt from the right of the public to have access to public documents according to the Act on open administration. It is noted that, should Denmark adopt the euro at a later stage, the confidentiality regime laid down in Article 8 of the Council Regulation would apply. This might also require, inter alia, practical adaptations to the proposed exchange of statistical information between Danmarks Nationalbank and Statistics Denmark.
8. The ECB welcomes the division of labour between Danmarks Nationalbank and Statistics Denmark, which is described in the motivation to the Draft Law as intending to mirror the existing relationship between the Commission of the European Communities (Eurostat) and the ECB. In other words, Danmarks Nationalbank would need to have full responsibility for money and banking statistics (comprising all the balance sheet data of institutions in the European System of Accounts 1995 (ESA 95) sub-sectors S.122 and S.123, off-balance-sheet data relevant to the tasks of the European System of Central Banks (ESCB), data on interest rates, yields and financial asset prices, capital market issues and redemptions and on financial derivatives), whereas the areas of balance of payments statistics (the ECB acting under its own responsibility in capital and financial account issues, the Commission (Eurostat) acting under its own responsibility in current account issues), international investment position and financial accounts statistics will need to be treated as a shared competence. Cost and other economic statistics are the responsibility of Eurostat viz. Statistics Denmark. Article 1 (3) of the Draft Law is seen to allow sufficient flexibility for Danmarks Nationalbank to prepare for the fulfilment of the current and possible new future obligations identified by the ECB for participating national central banks.

9. The ECB confirms that it has no objection to this Opinion being made public by the competent national authorities at their discretion.

Done at Frankfurt am Main on 7 February 2000.

The President of the ECB

[signed]

Willem F. Duisenberg