



EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

of 24 January 2002

**at the request of the Netherlands Ministry of Finance
on a draft act amending the 1977 Sanctions Act**

(CON/2002/5)

1. On 4 January 2002 the European Central Bank (ECB) received a request from the Netherlands Ministry of Finance for an opinion on a draft act amending the 1977 Sanctions Act (hereinafter referred to as “the draft act”).
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 the third and sixth 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 provisions¹, as the draft act contains provisions concerning a national central bank. Furthermore, the draft act may have an influence on the stability of financial institutions and markets. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, this opinion has been adopted by the Governing Council of the ECB.
3. The objectives of the draft act are to amend the 1977 Sanctions Act with a view to the implementation of treaties, international decisions, recommendations and agreements aiming to fight terrorism and to extending the powers of supervision of compliance with financial sanctions. The new regime creates a framework for the sanctioning of persons as well as countries and a specific supervisory regime to oversee the compliance by financial institutions with such financial sanctions. The draft act does not aim to implement specific international or EU legislation, but to provide a basis for more efficient implementation of sanctions in the future. In order to achieve this goal, the scope of application and the supervision instruments provided for in the Sanctions Act are to be updated. The existing supervisory structures will be broadened by ministerial decree to include the supervision of compliance with new financial sanctions.
4. The ECB would like to recall the commitment of the Eurosystem to contribute to the adoption, implementation and execution of measures against the use of the financial system for terrorist

¹ OJ L 189, 3.7.1998, p. 42.

activities, as expressed in the Governing Council's public statement of 1 October 2001. In order to ensure that public trust in the integrity of the financial system is fully preserved, it is of the utmost importance that financial systems do not work to the benefit of persons and organisations associated with terrorist activities. While recognising that the compliance with sanctions by financial institutions may in some situations involve practical difficulties, the ECB considers that good cooperation between financial institutions and national authorities will ensure the effectiveness of financial sanctions. Against this background, the ECB welcomes the objectives of the draft act of combatting the financing of terrorism more efficiently, whether individuals, organisations or governments are responsible for this, and of supervising appropriately the compliance by financial institutions with sanctions regimes.

5. The ECB notes that the measures proposed are not incompatible with the existing framework for supervision. Article 1(F) of the draft act proposes that a new Article 10 be added to the 1977 Sanctions Act that will refer to the person responsible for supervising compliance with its provisions, depending on the type of institution that must comply with sanctions regulations. This is done by direct reference to the 1992 Act on the Supervision of the Credit System, which forms the basis for the supervision of credit institutions in the Netherlands and places the responsibility for such supervision with De Nederlandsche Bank. It is also noted that supervision of investment institutions falls outside the scope of competence of De Nederlandsche Bank, falling as it does within the responsibilities of the Securities Board of the Netherlands. The Covenant that has recently been signed by these two supervisory bodies ensures that the supervision of the financial sector as a whole will be effective².
6. 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 24 January 2002.

The President of the ECB

[signed]

Willem F. DUISENBERG

² Covenant between the Securities Board of the Netherlands and De Nederlandsche Bank on the coordination of supervision, Amsterdam, 22 October 2001.