

EUROPEAN MONETARY INSTITUTE

THE PRESIDENT

12th April 1994

Monsieur J. Santer
Prime Minister
and Treasury Minister
of the Grand-Duchy of Luxembourg
L-2910 Luxembourg

Dear Prime Minister,

Re: Consultation under Article 109f(6) of the Treaty on European Union and Article 5(3) of the Statute of the EMI regarding draft legislation relating to the Institut Monétaire Luxembourgeois and the monetary statute of the Grand-Duchy of Luxembourg (con/94/1)

By letter of 18th February 1994, the Institut Monétaire Luxembourgeois (IML) forwarded to us draft legislation amending the laws on the IML and the monetary statute of the Grand-Duchy of Luxembourg. Further to our letter of 1st March 1994 to the IML on the EMI's competence to deal with the consultation above, please find below the EMI's opinion on the substance of the subject matter, which has been adopted by the Council of the EMI during its meeting of 12th April 1994.

The EMI took note of the fact that the draft intends to bring existing laws into accordance with the Treaty on European Union, not only for Stage Two of EMU, but also in anticipation of Stage Three. It does not give rise to any major issues to which the attention of legislative authorities should be drawn. The legislation is considered to fulfil all requirements stated in the Treaty and the Statute of the ESCB with respect to the institutional independence of the IML, the independence of the members of its decision-making bodies as well as its functional and operational independence. The objectives and tasks of the IML are defined consistently with Articles 2 and 3 of the Statute of the ESCB.

It can thus be concluded that the legislation complies fully with the Member States' obligation arising from Article 108 of the Treaty for Stage Two and already to a large extent with a view to Stage Three. In addition, Article 2(4) of the law establishing the IML explicitly states that the Institute will perform its duties in the framework, and with due regard to, the international agreements concluded by Luxembourg in the monetary field. It is understood that this includes the parts of the Treaty on European Union which deal with EMU. Nevertheless, as stated in the introduction of the explanatory note to the draft legislation, further adjustments of the Law establishing the IML might be needed at the start of Stage Three. In this connection, we would like to point out three issues.

Firstly, it might be necessary that, before the start of Stage Three, Article 5 of the said law might have to be supplemented so as to ensure that it would be consistent with Article 14 of the Statute of the ESCB according to which "the national central banks are an integral part of the ESCB and shall act in accordance with the guidelines and instructions of the ECB".

Secondly, it is noted that Article 18 of the law provides for the direct transfer of net revenues arising from the issue and circulation of banknotes and coins to the government. It should be recalled that in Stage Three, monetary income accruing to the national central banks would be subject to a redistribution within the ESCB in accordance with the provisions set out in Article 32 of the Statute of the ESCB. In Stage Three, the wording of Article 18 would require adjustment.

Thirdly, Article 20 sets out provisions on remuneration for damaged banknotes. It cannot be precluded that these provisions might have to be harmonised for those central banks which will participate in Stage Three of EMU. However, for the time being, it is too early to give more precise indications on the direction of such harmonisation.

A final remark concerns the amendment to the Law of 15th March 1979 on the monetary statute of the Grand-Duchy of Luxembourg. The amended Article 3 thereof assigns legal tender status to banknotes denominated in francs or in ECU issued by the ECB and "the national central banks which are members of the ESCB". Since membership of the ESCB is not confined to the central banks of those Member States which participate in Stage Three of EMU, the draft text may go beyond the intentions of the legislator. Hence, with a view to avoiding ambiguities, it might be useful to review the wording so as to ensure that this provision only applies to the ECB and the central banks of those Member States which participate in Stage Three of EMU.

Please note that the EMI does not have any objections towards this letter being made public, in particular to other parties involved in the legislative process.

Yours sincerely,

[signed]

A. Lamfalussy.