

EUROPEAN MONETARY INSTITUTE

OPINION OF THE EUROPEAN MONETARY INSTITUTE

on a consultation from the Oesterreichische Nationalbank under Article 109f(6) of the Treaty establishing the European Community and Article 5.3 of the Statute of the EMI

on drafts of official minimum reserve announcements 1/95, 2/95 and 3/95.

CON/95/2

1. The present consultation was initiated on 2nd February 1995 by the Oesterreichische Nationalbank which, for this purpose, transmitted to the EMI drafts of the official minimum reserve announcements 1/95, 2/95 and 3/95, superseding the previous announcements 1-4/94.
2. The main purpose of the change is to remove the possibility provided for in the Nationalbankgesetz (National Bank Act) of holding minimum reserves in the form of Federal Treasury Certificates issued under National Bank Act Article 41. In addition, the presently existing minimum reserve ratios are to be lowered.
3. The EMI's competence to deliver an opinion in this consultation is based on Article 1, paragraph 1, second indent, of Council Decision 93/717/EC of 22 November 1993, as the drafts deal with instruments of monetary policy and in particular with their adaptation to secondary EC legislation in the field of Article 104 and 104a of the EC Treaty.
4. The envisaged abolition of the eligibility of Federal Treasury Certificates to count towards fulfilment of the minimum reserve obligation is a necessary step to ensure compliance of the Oesterreichische Nationalbank with the prohibitions referred to in Article 104a of the EC Treaty. In fact, the acceptance of these certificates as eligible assets can be seen as conferring a tax advantage to financial institutions which encourages the acquiring or the holding of such liabilities by those institutions. This has to be regarded as a means of establishing privileged access by the public sector according to Article 1 paragraph 1, second indent, of Council Regulation (EC) No. 3604/93 of 13 December 1993 which needs to be abolished. Moreover, although not the subject of this consultation, the same assessment would also apply to the underlying Articles of the

National Bank Act (Articles 41 (1) and 43 (6)), which should be in conformity with the legal situation laid down in Article 104a of the EC-Treaty as well.

5. On the other issues contained in the draft announcements, the EMI considers it premature to formulate a definitive view as to whether the envisaged rules will be compatible with the future system of the ESCB, as discussions concerning the desirable features of this system have not yet been completed.

6. Finally, the Council of the EMI agrees with the Oesterreichische Nationalbank's view outlined in its request for consultation that in cases of mere amendments of minimum reserves ratios, consultation of the EMI would not be required, since the amendment of those ratios can be classified as an act of implementation of existing legislative provisions rather than as the adoption of new legislation. Moreover, the fourth consideration in the preamble of Council Decision 93/717/EC does exempt from consultation decisions taken by national authorities in the context of the implementation of monetary policy.

10th March 1995