

OPINION OF THE EUROPEAN MONETARY INSTITUTE

on a consultation from the Belgian Ministry of Finance under Article 109f (6) of the Treaty establishing the European Community (the “Treaty”) and Article 5.3 of the Statute of the EMI as elaborated in the Council Decision of 22 November 1993 (93/717/EC) (the “Decision”) on a draft law amending the law of 11 January 1993 on the prevention of the use of the financial system for purposes of money laundering (the “draft law”)

CON/97/04

1. The present opinion was requested by the Belgian Ministry of Finance on 19 March 1997 which submitted the draft law together with a commentary on the Articles thereof to the EMI. The scope of the consultation was afterwards (in May 1997) clarified as to be confined to two Articles of the draft law, namely:
 - Article 13 which states that where a notarial deed records a transaction the amount of which is ECU 25,000 or more, the payment of this sum must be carried out in the form of a transfer or cheque; and
 - Article 30 which intends to confine the provision of “money remittance services” mainly to supervised financial institutions and to the persons registered by virtue of Article 139 of the law of 6 April 1995 on the secondary markets, the legal status and supervision of investment firms, intermediaries and investment advisers.
2. The EMI’s competence to deliver an opinion is based on Article 1.1, first, fourth and fifth indents, of the Decision, as the draft law concerns (i) means of payment, (ii) payment systems, in particular for cross-border transactions and (iii) rules applicable to financial institutions in so far as they influence the stability of financial institutions and markets.
3. The EMI notes that the restriction on the legal tender status of banknotes as laid down in Article 13 of the draft is not incompatible with principles which have been established at a Community level. Indeed, the draft Council Regulation under Article 109l (4) of the Treaty containing certain provisions relating to the introduction of the euro confirms explicitly in recital 19 that limitation on payments in notes and coins established by Member States for public reasons, are not incompatible with the status of legal tender of euro banknotes and coins, provided that other lawful means for the settlement of monetary debts are available. Such means are indeed available in Belgium in the form of book transfers or cheques.
4. In addition, the restriction, for money laundering purposes, with regard to those parties which are entitled to provide money remittance services as laid down in Article 30 of the draft law does not encounter any reservations from the EMI’s point of view.

5. The EMI has no objection to this opinion being made public.

10 July 1997