



OPINION OF THE EUROPEAN CENTRAL BANK

of 12 March 2010

on Austria's contribution to the Poverty Reduction and Growth Trust of the IMF

(CON/2010/22)

Introduction and legal basis

On 9 February 2010, the European Central Bank (ECB) received a request from the Austrian Ministry of Finance for an opinion on a draft Federal law on Austria's participation in financing International Monetary Fund loans to the poorest developing countries (hereinafter the 'draft law').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union (TFEU) and the third indent 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 law relates to the Oesterreichische Nationalbank (OeNB). In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

1. Purpose of the draft law

- 1.1 On 23 July 2009, the Executive Board of the International Monetary Fund (IMF) approved wide-ranging modifications to upgrade its concessional financial facilities for low-income countries. The decision adopted by the IMF's Executive Board establishes a Poverty Reduction and Growth Trust (PRGT), replacing and expanding the former Poverty Reduction and Growth Facility-Exogenous Shocks Facility. The PRGT includes new financially improved credit lines that are considered to be more adapted to low-income countries' needs. According to the explanatory memorandum to the draft law, a total of SDR² 400 million as additional bilateral contributions is needed. Given the Austrian share of the total quota of donor countries, the Austrian contribution to the IMF's subsidy accounts is SDR 3.9 million (approximately EUR 4.4 million).
- 1.2 The draft law authorises the OeNB to contribute, on behalf of Austria, SDR 3.9 million, in the reform of IMF loans to the poorest developing countries (i.e. low-income countries). The OeNB will provide funds that will help replenish the IMF's subsidy accounts. From a legal and economic point of view, the OeNB's contribution is regarded as a donation. Thus, the OeNB has no repayment claims vis-à-vis the IMF or third parties. The explanatory memorandum to the draft law

¹ OJ L 189, 3.7.1998, p. 42.

² A special drawing right (SDR) is an international reserve asset, created by the IMF in 1969 to supplement its member countries' official reserves. Its value is based on a basket of four key international currencies, and SDRs can be exchanged for freely usable currencies.

states that the contribution to the IMF's subsidy accounts will reduce the OeNB's revenue and consequently, the OeNB's transfer of profit to the Ministry of Finance will be reduced correspondingly.

2. General observations

- 2.1 A national central bank's (NCB's) involvement in financing the IMF's initiative is in principle government expenditure on development aid. The NCB effects this by making a direct transfer of funds to the IMF in lieu of to the government. In the present case, the explanatory memorandum to the draft law states that the contribution provided for by the draft law in respect of the poorest developing countries would increase the level of Austria's development aid.
- 2.2 In view of the OeNB's involvement in this development assistance, it is necessary to assess whether the draft law complies with the prohibition of monetary financing under Articles 123 TFEU whereby overdraft facilities or any other type of credit facility with the NCBs in favour of central governments are prohibited. This prohibition is subject to certain exemptions contained in Article 123(2) TFEU and in Council Regulation (EC) No 3603/93 of 13 December 1993 specifying definitions for the application of the prohibitions referred to in Articles 104 and 104b(1) of the Treaty [now Articles 123 and 125(1) TFEU]³. In particular, Article 7 of Regulation (EC) No 3603/93 provides that the financing by NCBs of obligations falling upon the public sector vis-à-vis the IMF is not regarded as a credit facility within the meaning of Article 123 TFEU. The draft law is similar to that addressed in Opinion CON/2008/41⁴, where the ECB considered that the OeNB's financing of an Austrian contribution to the Heavily Indebted Poor Countries initiative fell within the exemption of Article 7 of Regulation (EC) No 3603/93. Similarly, the OeNB's PRGT financing under the draft law should also be considered as falling under the exemption of Article 7 of Regulation (EC) No 3603/93 and therefore should not be regarded as a form of monetary financing prohibited by the TFEU.

This opinion will be published on the ECB's website.

Done at Frankfurt am Main, 12 March 2010.

[signed]

The President of the ECB
Jean-Claude TRICHET

³ OJ L 332, 31.12.1993, p. 1.

⁴ All ECB opinions are published on the ECB's website at www.ecb.europa.eu.