



## 3. EXTERNAL ACTIVITIES

### 3.1 Activities with the International Monetary Fund (IMF) and other international organisations

The BCL handles Luxembourg's financial transactions with the IMF. For this purpose, it manages Luxembourg's assets and liabilities vis-à-vis the IMF in both the general account and the Special Drawing Rights (SDR) account. On 31 December 2003, Luxembourg's quota, entirely recorded in the BCL balance sheet, amounted to SDR 279.1 million, whereas the reserve position (the difference between Luxembourg's total quota at the IMF and the euro-denominated assets held by the IMF at the BCL) represented 43.1% of the Luxembourg quota.

The IMF's operational budget defines the currencies to be made available to its members on a quarterly basis and the distribution of reimbursements among its members. During 2003, the BCL was instrumental in making advances for 40.7 million euros related to IMF operations and was reimbursed 21.6 million euros.

At the end of 2003, Luxembourg held 48.9% of its SDR allocation (39.6% in 2002) following the accumulation of net interests received on the SDR account and on the reserve position. On 31 December 2003, the amount recorded on the SDR account was SDR 8.3 million.

The BCL also participated in several working groups of the Organisation for Economic Cooperation and Development (OECD) and the Bank for International Settlements (BIS), such as the OECD Financial Markets Committee (FMC) and the BIS Committee on the Global Financial System (CGFS). The latter Committee continued monitoring international capital markets and developments in the global financial system.

### 3.2 European activities

#### 3.2.1 Enlargement of the European Union

The Accession Treaty between the Member states of the European Union and the 10 acceding countries was signed on 16 April 2003 and will enter into effect on 1 May 2004.

In the acceding countries, ratification has been carried out on the basis of referenda, except in the case of Cyprus.

Following the signature of the Accession Treaty the Governors of the NCBs of these 10 countries have been able to participate in the meetings of the General Council of the ECB as observers. Moreover, representatives of the acceding countries' NCBs have been granted observer status at the ESBC Committees meeting in enlarged composition.

#### 3.2.2 Draft European Constitution

On 19 September 2003, the Governing Council of the ECB adopted its opinion on the draft Treaty establishing the European Constitution in the framework of the Intergovernmental Conference (IGC) convened by the Italian Presidency. The draft Constitution established by the Convention in July 2003 served as basis for the forthcoming IGC. In its opinion the ECB welcomed the draft Constitution as it considers that it simplifies, streamlines and clarifies the legal and institutional framework of the European Union and enhances the Union's ability to act at both the European and the international levels.

The Constitution will not entail any substantial institutional changes with regard to Monetary Union, which is treated in parts I and III of the Constitution. In its opinion, the ECB attaches great importance to the fact that the objective of price stability be mentioned among the fundamental objectives of the Union.

Moreover, to the extent that the ECB would acquire the status of "another institution" alongside the three political institutions (Parliament, Council and Commission), the ECB proposes the recognition of the financial independence of the NCBs, and not only of the ECB, and to give formal recognition to the widely used term "Eurosystème" in the Constitution. The acronym "ESCB", utilised in the Treaty, has indeed two distinct meanings, the first one referring to the ECB and the NCBs of all the members of the European Union, and the second, generally known as the Eurosystème, referring to the ECB and the NCBs of the countries having adopted the euro.

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In an additional opinion, the ECB also made suggestions for the adaptation of the statute of the ESBC / ECB which should, as is the case until now, be annexed to the Treaty and, therefore, to the future Constitution. The ICG failed to reach an agreement under the Italian presidency in 2003.

### 3.2.3 Amendment of the ESCB statutes and of the ECB

As mentioned in the 2002 Annual Report of the BCL, the EU Council, meeting in its composition of Heads of State or Government, in March 2003, unanimously adopted a recommendation of the ECB to amend Article 10.2 of the Statute of the ESCB and the ECB<sup>1</sup>. The purpose of this amendment is to maintain the Governing Council's capacity for efficient and timely decision-making in an enlarged euro area. As from the moment the number of countries having adopted the euro reaches 16, voting among the NCB governors who are members of the Governing Council will be subject to a rotation system. This system will respect five fundamental principles, namely (1) one member, one vote, (2) *ad personam* participation, (3) representativeness, (4) automaticity and solidity and finally (5) transparency. Governors will then be divided into two groups, until their number reaches 22, when they will be allocated between three groups. The allocation of Governors among the different groups will be based on an indicator made up of two components:

- the relative weight of the economy, measured by GDP at market prices, of their country within the euro area;
- the relative weight of the aggregate balance sheet of monetary financial institutions of their country within the euro area.

This second component, particularly important for Luxembourg, reflects the necessity to allow for the relative importance of Member States' financial sectors when taking monetary policy decisions. A weighting of 5/6 is given to GDP at market prices and of 1/6 to the aggregate balance sheet of monetary financial institutions. This decision will enter into force after its ratification by all Member States.

In Luxembourg, the decision of the European Council, meeting in its composition of Heads of State or Government, of 21 March 2003 relative to the modification of Article 10.2 of the statutes of the ESCB and the ECB was approved by the law of 16 March 2004 as published in the *Mémorial, Recueil de Législation*, A, no 33, p.450 of 16 March 2004.

<sup>1</sup> This decision was published in the Official Journal of the European Union on 1 April 2003.

<sup>2</sup> Article 53 of the draft law.

## 3.3 National activity

### 3.3.1 Legal activities

#### 3.3.1.1 Securitisation

On 2 September 2003, the Minister of the Treasury and the Budget submitted to the Parliament a draft law relating to securitisation and amending several laws.

The explanatory memorandum advises that this draft law aims to create in Luxembourg "a suitable legal framework for the development of securitisation of assets in Luxembourg".

The draft law adopts a very progressive approach; it widely defines all securitisable assets as "all risks linked to the holding of any property, movable or immovable, corporeal or incorporeal as well as those resulting from liabilities taken on by third parties or inherent to all or part of the activities carried out by third parties"<sup>2</sup>. It admits that securities undertakings be established in the form of a company (of which statutes are similar to those of funds) or funds without a separate legal personality. These companies or funds may in addition create segments and acquire additional claims or assets, so as to be in a position to issue continuously securities representing portfolios of assets or risks acquired successively. In addition, the draft law admits all methods used by international investors in order to amend the rating of the securities issued within one program, such as credit enhancement techniques. The draft law also authorises the securities undertakings to issue debt securities.

The draft law intends nonetheless to counter-balance this openness with an increased security. To this end, the draft law:

- sets out rules intended to ensure the remoteness of the securities undertaking to any insolvency measure which may impact the originator;
- requires that the securities be safe kept with a licensed credit institution;
- establishes the function of fiduciary representative; and it
- organises the possible liquidation of securities undertaking.

This project was the subject matter of an opinion of the ECB, to the drafting of which the BCL has taken part. While welcoming this draft law, the ECB stresses the importance in this draft law of the rules intended to ensure the protection of investors and the control of risks. In this prospect, the ECB recommends firstly better defining some concepts to which the draft law refers (such as concepts of securities, debt instruments, investors). The ECB also suggests clearly specifying the information to be disclosed to investors, more specifically in relation to securitisation transactions at stake. The ECB advises in addition to clarify the extent of the supervision performed by the CSSF over these transactions. In view of the possible use of asset-backed securities as collateral for central bank operations, the ECB recommends furthermore the communication of information by supervisory authorities to national central banks. The ECB recommends finally adding a provision to the draft law in order to allow the BCL to collect statistical information on securitisation transactions. The BCL is following-up this matter, especially the consequences of the opinion of the ECB.

### 3.3.1.2 Financial collateral

On 25 November 2003 the draft law, (hereinafter referred to as "the Draft Law") aiming at implementing in national legislation Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements, (hereinafter referred to as "the Directive"), was deposited with the Luxembourg Parliament.

The BCL's activities are directly affected by the Draft Law. Indeed the granting by the BCL of facilities within the framework of its monetary policy operations and intraday facilities in relation to the payment systems is based on the provision of adequate collateral.

Three specific objectives have been assigned to the Draft Law. These objectives are the following: (i) to group all financial collateral arrangements in a single text, (ii) to maintain the *acquis* of the national legislation to the extent that it goes beyond the minimum laid down by the Directive and (iii) to establish equivalent levels of legal certainty and soundness for the various types of financial collateral arrangements.

The Draft Law groups various texts currently in force. For instance, the law of 21 December 1994 on purchase and repurchase agreements and the law of 1<sup>st</sup> August 2001 on the transfer of title for security purposes are taken over in their entirety by the Draft Law. Moreover, the Draft Law incorporates specific provisions of the Commercial Code on pledges, Article 9 of the law of 1 August 2001 on the circulation of securities and other fungible instruments, and Article 61-1 of the law of 5 April 1993 on the financial sector.

The Draft Law introduces new concepts, which characterise the matter. First, there is the notion of "assets" which covers at the same time "financial instruments" and "claims" and the notion of "finance professionals" which covers at the same time the professionals encompassed within the scope of the Directive and those referred to in the scope of the texts currently in force, provided that they are not mentioned in the Directive.

As required by the Directive, the Draft Law abolishes the requirement to give prior notice of the intention to enforce the financial collateral, and introduces the possibility for the creditor to sell the financial instruments - public adjudications having, however, to be managed by the Stock Exchange.

The "conflict of law" rule laid down by the Directive is exactly reproduced in the Draft Law which states that the patrimonial aspects of book entry securities collateral will be governed by the law of the country in which the relevant account is maintained.

The Draft Law does not take over any of the three options proposed in the Directive.

The Draft Law expressly recognises the retention right - resulting from the transfer of possession - of the creditor and introduces an exception to Article 67 (3) of the law of 10 August 1915 on commercial companies and to Article 195 of the same law, by allowing the contracting parties to provide that the possessor of the shares or units can attend the shareholders' meetings at which he can exercise the voting rights of the owner.

As in Belgian legislation, the Draft Law extends the privilege of the securities settlement systems by complementing Article 17 of the law on the circulation of securities and other fungible instruments. In addition to the existing privilege on the own assets of the participant, the system will thus have a new privilege that covers the assets of the customers of the participants in relation to transactions effected on their behalf.

Finally, the Draft Law provides a clear legal regime for pledges of an inferior ranking and establishes a legal regime not only for the pledging of units of private limited liability companies but also for the cash claims collateral arrangements.

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### 3.3.2 BCL committees

The BCL participates actively in a number of Committees which it established. These are:

[The Information Technology Committee](#)

[The Legal Committee](#)

[The Fiduciary Money Committee](#)

[The Market Operations Committee](#)

[The Statistics Committee](#)

[The Balance of Payments Consultative Commission](#)

[The Monetary and Financial Statistics Consultative Commission](#)

[The Settlement and Clearing Systems Committee](#)

### 3.3.3 Professional training actions of the BCL

The BCL is a shareholder of the Agency for the Transfer of Financial Technology (ATTF) and is a member of its board of directors. The ATTF offers training programs and consulting regarding banking and financial matters to transition and developing countries. Moreover the ATTF contributes to the promotion of the financial centre. BCL staff contributed to ATTF seminars for bankers and executives coming from Egypt, Laos, Mongolia, Uzbekistan and Vietnam.

### 3.3.4 External events

#### [Pierre Werner Lecture](#)

Within the context of its 5<sup>th</sup> anniversary celebrations, the Bank organised the first Pierre Werner Lecture. On 21 October 2003, Mr. Hans Tietmeyer, former President of the Bundesbank, held a speech entitled "From the Werner report to the euro".



### 3.4 BCL communication

In 2003, the BCL published a new brochure, intended for the general public, introducing its organisation and its missions. This brochure has been presented to the members of the national committees in charge of the Luxembourg secondary school syllabus. It has been distributed to the students of the two last school years in Luxembourg.

#### Periodical Bulletins

In 2003, the BCL published 3 bulletins (no. 2003/1, 2003/2 and 2003/3). Besides the news messages and the economic and financial reports regarding the European and national economy, the BCL bulletins provided in 2003 analyses on following subjects:

- "Introduction d'une enquête sur le crédit bancaire au Luxembourg";
- "L'inadéquation entre l'offre et la demande sur le marché de l'emploi luxembourgeois";
- "Politique monétaire et rigidités";
- "La règle de Taylor : présentation et application pour la zone euro et pour le Luxembourg";
- "Les taux d'intérêts de détail sur la place de Luxembourg tels que recensés par la mise en place d'une enquête mensuelle";
- "Les taux de change effectifs en tant qu'indicateurs de compétitivité";
- "La situation budgétaire de l'assurance maladie-maternité".

#### Working papers

The BCL working papers contribute to presenting the research of their respective authors. Five working papers have been published on the following subjects:

- "The sustainability of the private sector pension system from a long-term perspective: the case of Luxembourg" (Working paper no. 6);
- "The analysis of risk and risk mitigation techniques in payment and securities settlement systems and the impact on central bank's oversight" (Working paper no. 7);
- "What to expect of the euro? Analysing price differences of individual products in Luxembourg and its surrounding regions" (Working paper no. 8);

- "Règle de Taylor : estimation et interprétation pour la zone euro et pour le Luxembourg" (Working paper no. 9);
- "Nouveaux instruments de paiement : une analyse du point de vue de la Banque centrale" (Working paper no. 10).

#### Internet site

The Internet site [www.bcl.lu](http://www.bcl.lu) is an information and broadcasting channel, which is complementary to the other communication channels of the BCL. Currently, the site is mainly intended for professionals (bankers, economists, statisticians, researchers...), but also for university students. The site offers news and information on the Bank's organisation and services. A new version of the Internet site, which will be more accessible to the general public, is planned to go online in 2004.

All BCL publications can be viewed and downloaded on the Internet site [www.bcl.lu](http://www.bcl.lu). Hard copies can be obtained at the BCL within the limit of available stocks.

