Legal framework

1 Total revision of the National Bank Law

Price stability embodied in the central bank mandate

The Federal Council's bill on the total revision of the National Bank Law (cf. 95th Annual Report, p. 48) met with a positive reception in the Federal Parliament. The Council of States dealt with the revision project in March, the National Council in September 2003. The main subject of debate was the question whether solely the goal of price stability was to be embodied in the statutory central bank mandate or whether monetary policy was to pursue further objectives such as the stabilisation of the business cycle or full employment. Both chambers of Parliament finally agreed on the following wording: “The National Bank shall pursue a monetary policy serving the interests of the country as a whole. It shall ensure price stability. In so doing, it shall take account of the development of the economy.” The wording corresponds to the French version of the bill of the Federal Council.

Accountability formalised more rigorously

Broad approval was given to the concept of the National Bank’s independence, which takes the form of an explicit authority to act independent of instructions, as well as to the three-fold accountability vis-à-vis the Federal Council, Parliament and the public. Parliament merely decided to formalise accountability somewhat more rigorously by obliging the National Bank to submit a written report on the fulfilment of its statutory tasks to Parliament on an annual basis. This is the sole substantive deviation by Parliament from the bill presented by the Federal Council. Both the suggested reform of monetary policy instruments and of the National Bank’s scope of business remained unchanged. Notably, in the conciliation procedure, the two chambers followed the bill presented by the Federal Council, according to which the banks’ postal account balances shall not be part of the minimum reserves. The proposed rules for calculating the profit and for the streamlining of the National Bank’s organisational structure also did not undergo any changes. On 3 October 2003 a final vote was taken, and the amended bill was adopted by a large majority of votes in both chambers of Parliament.

Positive overall result

After the referendum deadline expired unused on 22 January 2004, the new National Bank Law can be expected to enter into force on 1 May 2004. Within a short time, therefore, Switzerland will have a lean, modern central bank law compatible with international standards and oriented to the requirements of up-to-date corporate governance.

Consultation procedure on the National Bank Ordinance

The new National Bank Law (NBL) provides for an ordinance to be passed by the National Bank containing implementing regulations with respect to statistics, minimum reserves and oversight of payment and securities settlement systems. The National Bank submitted the draft of a respective ordinance for consultation to the interested parties at the end of October 2003. The comments received by the end of December led to slight adjustments to the draft. At the time of issue, the National Bank Ordinance (NBO) will be published in the Official Collection of Federal Laws.

2 Message concerning the Federal Law on international monetary aid

Message of the Federal Council

On 21 May 2003, the Federal Council passed its Message concerning a Federal Law on international monetary aid and a Federal Decree by the same name. With the new Federal Law, which will replace the Federal Decree on Switzerland's cooperation in international monetary measures, a clear and comprehensive basis for Switzerland's financing obligations within the framework of international monetary cooperation is to be established.

Three types of financial aid

These measures can be categorised as follows: participation in financial assistance to prevent or remedy serious disruptions in the international monetary system (so-called systemic aid), participation in special funds of the International Monetary Fund (IMF), especially to finance loans to low-income countries at concessional interest rates, and the granting of loans to countries Switzerland has especially close ties with (e.g. members of the Swiss constituency in the IMF). It is planned that the National Bank will finance credits for the so-called systemic aid, with the Confederation guaranteeing repayment. Short-term or medium-term credits granted to individual countries that cooperate closely with Switzerland will be financed by the Confederation. Participation in special funds of the IMF may be assumed by the National Bank at the request of the Confederation, with the loan repayment also being guaranteed by the Confederation.

Credit line with ceiling

The financing of guarantees or loans within the framework of bilateral and multilateral monetary cooperation is to be effected through a credit facility. For this purpose, a credit ceiling of CHF 2,500 million is stipulated in the draft of the Federal Decree on international monetary aid. Special credit lines for Switzerland's participation in special funds and in other IMF facilities (loans and non-repayable grants) will still have to be approved by Parliament.

Parliamentary consultation

The Council of States dealt with the bill in the autumn session, the National Council in the winter session. Disagreement arose on the question whether the Federal Decree with the credit ceiling of CHF 2,500 million was to be provided with a deadline or not. Therefore, the Federal Law on international monetary assistance and the Federal Decree by the same name are expected to be passed by Parliament in spring 2004 at the earliest.

3 Appropriation of 1,300 tonnes of National Bank gold – new constitutional basis

Message of the Federal Council

Following the double rejection in the national referendum on the gold initiative and the counter-proposal of the Federal Assembly of 22 September 2002, the appropriation of National Bank assets no longer required for monetary policy purposes remains an unresolved issue (cf. 95th Annual Report, p. 47). Subsequently, numerous parliamentary advances were made concerning the use of these assets. On 20 August 2003, the Message on the use of 1,300 tonnes of National Bank gold and on the people's initiative "National Bank profits for the Old Age and Survivors' Insurance Fund (AHV)" was passed by the Federal Council and submitted to the Federal Assembly.

Maintaining the substance of the special assets

The Federal Council proposes that the National Bank's assets no longer required for monetary policy purposes be maintained in their substance and managed by a fund outside the National Bank. One-third of the real income is to be distributed to the Confederation and two-thirds to the cantons over a period of 30 years. If, upon expiry of this period, it is decided not to extend this regulation, the assets are to be distributed to the Confederation (one-third) and to the cantons (two-thirds). A transitional provision in the Federal Constitution (art. 197, section 2 new FC) would serve as the legal basis for this appropriation.

National Bank profits not to be allocated to the AHV

With the second bill, the Federal Council recommends that the people's initiative "National Bank profits for AHV" be rejected. The initiative proposes that the National Bank's profits, minus an annual amount of CHF 1 billion to be distributed to the cantons, should be allocated to the Federal Old Age and Survivors' Insurance Fund (AHV). The Federal Council believes that the long-term financial consolidation of AHV cannot be achieved by the initiative. Moreover, incorporating a financing target for AHV in the monetary article of the Federal Constitution (art. 99, section 4 FC) might compromise the SNB's credibility and subject the Bank to increased political pressure.

Separate decrees of the Federal Parliament

The two bills have been designed as separate federal decrees. They may be passed or rejected independent of each other. The Federal Parliament is expected to deliberate the submitted decrees, both of which concern the utilisation of National Bank assets in the widest sense, in 2004. It is already becoming apparent that the Message of the Federal Council will be judged controversially by the two houses of Parliament.

4 Supplementary agreement on the distribution of income from the SNB's free assets

Income from reinvested proceeds from gold sales

On 12 June 2003 the Federal Department of Finance and the Swiss National Bank concluded a supplementary agreement on the distribution of income from the free assets. According to this agreement, the National Bank will, from spring 2004 onwards, distribute one-third of the income from its free assets (cf. p. 108f.) to the Confederation and two-thirds to the cantons. As the gold sales proceed, the annual amount to be distributed will rise from CHF 300 million in spring 2004 to CHF 500 million from spring 2006 onwards since the proceeds from the gold sales are continuously being invested in fixed-interest securities by the National Bank. The supplementary agreement represents a provisional solution, which will apply until a new legal basis enters into force for the use of the 1,300 tonnes of gold no longer required for monetary policy purposes.

Relation to the main agreement and to the long-term earnings potential

The supplementary agreement is an addition to the profit distribution agreement of 5 April 2002 concluded between the Federal Department of Finance and the National Bank, which lays down that an amount of CHF 2.5 billion per annum be distributed to the Confederation and the cantons for each of the financial years 2003 until 2012 (cf. 95th Annual Report, p. 49). The main agreement does not yet take into account income on reinvested gold proceeds. While the main agreement of April 2002 covers the current profits of the National Bank and the reduction in surplus provisions, the supplementary agreement exclusively relates to income from the National Bank's free assets. The earnings forecasts, which form the basis of the supplementary agreement, will be reviewed in 2007 together with the forecasts for the main agreement. This review may result in an adjustment of the distributions. Overall, the National Bank effects distributions under these agreements that are clearly in excess of the Bank's long-term earnings potential. It must be expected that at some point in the future profit distributions will be much lower.