



MINISTER OF FINANCE

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H.E. Christine Lagarde
Minister of Finance
President of the ECOFIN Council

7 November 2008

Dear Colleague

Reference is made to the ECOFIN EFTA informal ministerial meeting on 4th of November 2008, where the issue of Iceland's banking crisis was discussed.

I highly appreciate your genuine efforts during the meeting to find a way for Iceland and our partners in the EU to set up a process that could address in a meaningful way some of the legal issues that have been discussed between Iceland and the Member States concerned recently.

At the meeting it was agreed, under very unusual circumstances, that a particular legal issue would be examined by a group consisting of five members appointed by the Council Legal Service, The Commission Legal Service, EFTA, the EFTA Surveillance Authority and the President of the European Central Bank.

The context surrounding this decision is that there is considerable doubt as to the exact scope of a State's obligations under Directive 94/19 in a situation where there is a complete meltdown of the financial system of that State. As a matter of principle, Iceland considers that legal issues should be resolved in accordance with the procedures created to that effect and which provide the guarantees that the principle of rule of law imposes.

The decision was, to our understanding, a decision of principle. There has subsequently been considerable uncertainty as to a host of matters regarding the Group, including the question whether the Group should deliver a proper legal opinion, whether such an opinion should be binding, as well as on the exact scope of the mandate of the Group and the rules and principles that should inspire its work. It has been furthermore our concern that the expeditious manner in which the deliberations are to be conducted could be to the detriment of a proper legal consideration of the matter.

As you are aware, this is an issue of paramount importance to my Country. It can have serious economic consequences and political implications as the amount involved could be of up to 60% of Iceland's GDP.

Thus, it is highly important that the process envisaged is sound and fair and that the Group is afforded the proper conditions for the accomplishment of its difficult task.

Bearing this in mind it is of concern that consultations prior to the start of the Group's work did not take place and a clear mandate of the Group or the rules and principles to guide its work have not been defined beforehand in writing. Iceland did not receive communication of the mandate of the Group, so as the EU sees it, until after the Group had started its works.

Against this background, I trust that you will understand my unease about the current process that does not appear to offer the guarantees that a State governed by the rule of law must demand for the resolution of a difficult legal issue which, in addition, has huge repercussions for the citizens of that State.

In light of this and bearing in mind the enormous interests involved I regret to inform you that Iceland is not in a position to continue participation in this process. Iceland continuous to be committed to its international legal obligations, including the principle of non-discrimination, and will continue constructive contacts with all parties concerned and stands ready to solve outstanding legal issues through appropriate means. Guidance of the French presidency would be highly appreciated in such a context. I look forward to continue our collaboration on this issue.

Yours truly,

A handwritten signature in black ink, appearing to read 'Arni M. Mathiesen', written in a cursive style.

Árni M. Mathiesen