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EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 29 April 2009

on the payment by the Banco de Portugal of the increase in Portugal's quota in the International Monetary Fund

(CON/2009/41)

Introduction and legal basis

On 17 April 2009 the European Central Bank (ECB) received an urgent request from the Portuguese Ministry of Finance and Public Administration for an opinion on a decision by the Minister of State and for Finance authorising the increase of Portugal's quota in the International Monetary Fund (IMF) (hereinafter the 'proposed decision').

The ECB's competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community 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 provisions[1], as the proposed decision has implications for the Banco de Portugal. 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 proposed decision

On 28 April 2008 the Board of Governors of the IMF adopted Resolution No 63-2 on a Quota and Voice Reform proposing an amendment to the IMF's Articles of Agreement (hereinafter the 'proposed amendment'). The Portuguese Parliament adopted this amendment on 5 February 2009 and the President of the Republic ratified it on 23 March 2009. When the proposed amendment becomes effective (i.e. after it has been accepted by three fifths of the IMF membership having 85 % of the total voting power), there will be an increase in the IMF quota for up to 54 countries, including Portugal, provided that each of those countries, within 30 days of the entry into effect of the amendment, consents to the increase and pays the amount of the increased quota to the IMF. Pursuant to Article 2(3) of Decree-law No 245/89 of 25 August 1989 defining the intervention of the Banco de Portugal in the relationship with the IMF, the Minister for Finance, on behalf of the Portuguese Government, authorises any change to the amount of the national quota upon consultation of the Banco de Portugal.

The objective of the proposed decision is to authorise the Banco de Portugal to pay the increase Portugal's quota from special drawing rights (SDR) 867.4 million to SDR 1 029.7 million. As stated in

1 OJ L 189, 3.7.1998, p. 42.

Annex I to the consultation letter, 25% of the proposed quota increase must be paid in reserve assets and the remainder is payable in euro.

The ECB notes that, in accordance with Article 2(1) of Decree-law No 245/89, the Banco de Portugal is responsible for paying any increases in the Portugal's IMF quota. Thus, it is the Banco de Portugal's responsibility, after approval by the Minister of Finance, to make the 'necessary deliveries in SDR, other members' currency and euro' on its own account. Furthermore, Portugal's contribution to the IMF and the Banco de Portugal liabilities to the Fund are included in the Banco de Portugal's balance sheet.

2. General observations

In line with recent opinions on this matter[2], the ECB reminds the Portuguese Ministry of Finance and Public Administration that the tasks performed by the Banco de Portugal must comply with the monetary financing prohibition under Article 101 of the Treaty and Council Regulation (EC) No 3603/93 of 13 December 1993 specifying definitions for the application of the prohibitions referred to in Articles 104 [now 101] and 104b(1) [now 103(1)] of the Treaty[3]. Pursuant to Article 7 of Regulation (EC) No 3603/93, the financing by national central banks of obligations falling on the public sector vis-à-vis the IMF is not regarded as a credit facility within the meaning of Article 101 of the Treaty. The ECB notes that the foreseen payment by the Banco de Portugal of the increase in Portugal's IMF quota complies with Article 7 of Regulation (EC) No 3603/93.

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

Done at Frankfurt am Main, 29 April 2009.

[signed]

The Vice-President of the ECB

Lucas D. PAPDEMOS

2 See CON/2009/5, CON/2009/33 and CON/2009/35.

3 OJ L 332, 31.12.1993, p. 1.