EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 16 April 2009

at the request of the Spanish Ministry for Economic Affairs

on an agreement authorising the increase of Spain's quota in the International Monetary Fund

(CON/2009/35)

Introduction and legal basis

On 27 March 2009, the European Central Bank (ECB) received a request from the Spanish Ministry for Economic Affairs for an opinion on a Council of Ministers' agreement authorising the increase of Spain's quota in the International Monetary Fund (hereinafter the 'agreement').

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 agreement relates to the Banco de España. 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 agreement

On 28 April 2008 the Board of Governors of the International Monetary Fund (IMF) adopted Resolution No 63-2 on Quota and Voice Reform proposing an amendment to the IMF's Articles of Agreement (hereinafter the 'proposed amendment'). 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 could be an increase in the IMF quota for up to 54 countries, including Spain, 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. The objective of the Council of Ministers' agreement is to accept the proposed amendment and submit it to the Spanish Parliament as provided for in Article 94(1)(d) of the Spanish Constitution for treaties implying financial liabilities for the Treasury. Pursuant to Article 13(2) of Law 13/1994 on autonomy of the Banco de España (hereinafter the 'Banco de España's Statute'), the Banco de España would pay the proposed increase in Spain's IMF quota, namely 974.5 million special drawing rights (SDRs), which would bring Spain's quota to a total of SDR 4 023.4 million. As stated in the explanatory memorandum to the agreement, 25% of the proposed increase would be paid in SDRs, in currencies of other members specified by the IMF or in any combination of SDRs and such currencies. The remaining 75% of the proposed increase would be paid in national currency to be

1 OJ L 189, 3.7.1998, p. 42.

deposited on the IMF's accounts. The payment of the proposed increase would be included in the Banco de España's balance sheet, as provided for in Article 13(2) of the Banco de España's Statute.

2. General observations

The ECB reminds the Spanish Ministry for Economic Affairs that the tasks performed by the Banco de España 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[2]. Pursuant to Article 7 of Regulation (EC) No 3603/93, the financing by national central banks of obligations falling upon the public sector vis-à-vis the IMF is not regarded as a credit facility within the meaning of Article 101 of the Treaty. Furthermore, the ECB notes that any payment by the Banco de España of the proposed increase in Spain's quota complies with Article 7 of Regulation (EC) No 3603/93 and does not infringe the monetary financing prohibition.

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

Done at Frankfurt am Main, 16 April 2009.

[signed]

The Vice-President of the ECB

Lucas D. PAPADEMOS

2 OJ L 332, 31.12.1993, p. 1.