

February 1, 2007
Approval: 2/8/07

INTERNATIONAL MONETARY FUND

Minutes of Executive Board Meeting 06/99-1

10:00 a.m., November 17, 2006

1. Republic of Montenegro—Report of the Committee on Membership

Documents: EBD/06/130 and Supplement 1

Staff: Justice, EUR; Metzgen, FIN; Elizalde, LEG

Length: 46 minutes

Executive Board Attendance

J. Lipsky, Acting Chair

Executive Directors	Alternate Executive Directors
	A. Alazzaz (SA)
K. Stein (GR)	
P. Duquesne (FF)	A. Lahreche-Revil (FF), Temporary P. Pollard (UA), Temporary
S. Kashiwagi (JA)	
	J. Prader (BE)
J. Kremers (NE)	
	P. Charleton (CO) M. Daïri (MD) A. Herat (IN) R. Bannerji (IN), Temporary I. Zakharchenkov (RU), Temporary J. Sulemane (AE), Temporary A. Blazey (AU), Temporary T. Kudiwu (AF), Temporary C. Gola (IT), Temporary
E. Loyo (BR)	
	P. Williams (UK), Temporary R. Guzman (CE) H. Caracalla (MI), Temporary
T. Saarenheimo (NO)	J. Sigurgeirsson (NO)
J. Silva-Ruete (AG)	
H. Ge (CC)	
T. Moser (SZ)	
H. Phang (ST)	C. Sucharitakul (ST)

S.J. Anjaria, Secretary

S. Negrete Cardenas, Assistant

Also Present

European Department: M. Alvesson. Legal Department: H. Elizalde. Office of the Managing Director: O. Brekk. Secretary's Department: M. Da Costa, B. Esdar, L. Hubloue, M. Miller, O. Vongthieres. Senior Advisors to Executive Directors: K. Acharya (ST), S. Antic (SZ), E. Eurlings (NE), A. Guerra (CE), J. Kravalis (NO), D. Mohanty (IN), H. Mori (BR), L. Salgueiro-Baez (AG), C. Senivongs (ST). Advisors to Executive Directors: A. Al Nassar (SA), Y. Alvarez (CO), C. Brinkmann (GR), P. Gasiorowski (SZ), A. Gerdes (GR), J. Haegeli (SZ), M. Lanz (SZ), H. Lee (AU), A. Maciá (BR), S. Rottier (BE), E. Valle (CE), N. Yamasaki (JA), L. Zhong (CC).

1. REPUBLIC OF MONTENEGRO—REPORT OF THE COMMITTEE ON MEMBERSHIP

The Acting Chair (Mr. Lipsky) opened the meeting, calling on Mr. Kashiwagi, in his capacity as Chairman of the Committee on Membership for the Republic of Montenegro.

Mr. Kashiwagi, speaking in his capacity as Chairman of the Committee on Membership for the Republic of Montenegro, made the following statement:

I am honored to be part of these rare proceedings whereby the Fund admits a new member. There are not that many countries left in the world that are not yet part of this large community of nations sharing common goals of promoting economic growth and international financial stability. The last country that joined the Fund was Timor Leste right after its independence in 2002, and, before that, the Republic of Palau, in 1997. So it is a rare privilege, indeed.

I would like to take this opportunity to express my sincere appreciation to the members of the Committee and to all other Directors who contributed to the lively meeting, which took place two weeks ago, and at short notice. I would also thank the staff for all the preparatory work for the Committee and their careful attention to the detailed steps in this process, while being mindful of the authorities' wish to become a member of the Fund as soon as possible.

The staff has done a great job in putting together a reasonable set of recommendations, which made the Committee's deliberations relatively straightforward. I am pleased to report that all the Committee members and other Board members were constructive, cooperative, and helpful in reaching a consensus on an initial quota for Montenegro.

The Committee's recommendations of SDR 27.5 million is within the range considered by the staff to be appropriate for the country following the normal procedures for calculating quotas for new members. The authorities have notified me of their agreement with the recommended initial quota and the other terms and conditions, and of their desire to move forward with the procedures for membership in the Fund. The Montenegrin Parliament has already adopted the registration required for Fund membership and the authorities are working on completing the other requirements.

On this basis, after the Executive Board has approved the submission of the resolution to the Board of Governors and the Board of Governors, in turn, has adopted the resolution, Montenegro should be in a position to proceed with the final steps as soon as possible; namely, the deposit of the

instrument of acceptance and the signing of the Articles of Agreement here in Washington. The Board should make every effort to meet the wishes of Montenegro to become a member of the Fund as soon as possible, and I regret that we had to postpone the Board meeting for two days.

On behalf of the committee members, I wish to congratulate the Montenegrin authorities on their success thus far in integrating the country into the international community. It is my hope to make a smooth decision at the Board today and welcome them as soon as possible as the 185th member of the Fund.

Mr. Moser said that the authorities of Montenegro accepted the proposed terms and conditions for membership in the Fund. Like Mr. Kashiwagi, he hoped that a decision would be reached at the current meeting, to advance with the membership as soon as possible.

Mr. Saarenheimo made the following statement:

Let me congratulate the authorities for these steps, which will in all likelihood lead to a speedy implementation of the membership of the Republic of Montenegro. I also want to thank Mr. Kashiwagi and the Committee for a work well done.

On behalf of my authorities, we are happy to endorse the draft resolution with a slight addition, which is of a technical nature, which I would like to read out for you, and the Secretary can then circulate.

The proposed change would be a third “whereas paragraph” after the first two. It would read as follows: “Whereas, pursuant to its national legislation, the Republic of Montenegro does not issue a currency of its own, but uses the euro as legal means of payment, which for the purposes of the Articles of Agreement of the Fund is deemed to be the currency of the Republic of Montenegro.”

This proposed addition is of a technical nature. It serves basically two purposes. First, since the Republic of Montenegro does not issue a currency of its own, it would seem useful to clarify in the resolution what is understood to be the currency of the Republic of Montenegro as was referred to in the resolution. Perhaps more importantly, it would clarify that the extent of this definition of the euro as the currency of the Republic of Montenegro is limited to the narrow context of the purposes of the Fund’s Articles of Agreement and does not have legal implications beyond that.

I am not a lawyer, and I have no way of assessing what likelihood there is of legal implications, if any. But clearly it is not our intention to create any legal implications beyond this decision at hand, so it would be useful to introduce this paragraph.

The Secretary (Mr. Anjaria) noted that the revision suggested by Mr. Saarenheimo was currently being circulated to the Board. The suggested revision would be for insertion following the first two preambular paragraphs of the draft resolution, which appeared on page 4 of EBD/06/130.

Mr. Daïri wondered whether there were any precedents to the recognition of the currency of a country, or its exchange rate regime, in a Board resolution. The exchange rate regime of a country was something that could change at any time. He did not understand the implications, nor the purpose, of the modification being proposed.

Mr. Kashiwagi made the following statement:

I thank Mr. Saarenheimo for giving me another rare opportunity. As I mentioned earlier, being a chairman of the Membership Committee itself is a rare opportunity, but being a Membership Committee chairman whose proposal is being challenged at the Board is another rare opportunity. I would ask Mr. Jim Boughton, the IMF historian, whether there has been a case where the Membership Committee's proposal was challenged and modified at the Board. I am happy to be appearing on the history books, so I can be flexible.

As I said, we need to make the decision today, but before stating my position regarding Mr. Saarenheimo's proposal, I would like to listen, like Mr. Daïri, to the Deputy General Counsel's view on the modified language.

As soon as I heard from Mr. Saarenheimo that his authorities were having problems with the proposed language in my proposal, I sought the views of the Legal Department. The Legal Department assured me that there was no need to change the language, which is the standard language used over the years and which comes straight out of the Articles of Agreement, and it has been used for countries that do not have their own currencies, like Montenegro.

So I do not think there is a need to change, but I would like to have a confirmation from the staff whether it has changed its position or whether I was given the wrong advice on what is the legal merit of this modification. Mr. Saarenheimo says that this is useful to clarify, but is it necessary?

The Deputy General Counsel (Mr. Elizalde) made the following statement:

First, let me say that the proposed change is not objectionable from a legal point of view in that it does not alter the implicit finding in the resolution that the Republic of Montenegro has a currency or uses a currency that can be considered Montenegro's own for the purposes of the Fund.

Second, as to whether the change is legally necessary, our conclusion is that it is not legally necessary because to say that Montenegro has a currency of its own for the purposes of the Fund's Articles, is a finding that is limited to the Fund's own purposes. The Fund, in fact, lacks authority or jurisdiction to make a finding of this nature other than for its own purposes. As such, it cannot be considered binding vis-à-vis third parties or as having any effect or be a precedent for any other purpose.

Third, since the change is not legally objectionable and may facilitate approval of the report and draft resolution for submission to the Board of Governors, Executive Directors may consider supporting the change.

Mr. Kashiwagi remarked that his understanding was that the proposed revision was not legally necessary but, at the same time, it was not objectionable—a difficult terminology to understand for a non-native English speaker. In other words, it seemed that it was a matter of judgment. On that basis, he was interested to know management's view and whether management had any recommendation for the Board.

Mr. Moser considered that, as the proposed addition was not legally objectionable, did not change the terms and conditions of membership, and was in the interest of Montenegro to become a member as soon as possible, he would accept the proposed addition.

Mr. Daïri stated that he found it objectionable to alter the report made by the Committee on Membership, especially if the change was not necessary. Therefore, he suggested that Executive Directors be asked to express their views on whether to approve the original proposal or the suggested revision.

Mr. Loyo made the following statement:

I understand Mr. Daïri's concerns, and I particularly understand Mr. Kashiwagi's displeasure with the proposal for a change after his splendid chairmanship of this Committee.

However, from a purely pragmatic point of view, if this is not something, as the Deputy General Counsel has indicated, legally objectionable and, as Mr. Moser has said, it does not alter the substantive content of the terms that the Committee approved for the membership of the Republic of Montenegro, but deals instead with a more arcane concern of a legal nature that the Fund's Deputy General Counsel does not share, but apparently others do, I do not think that it is in any way a negative shadow on the work of the Committee. The Committee was assembled to decide on the terms in which the admission of Montenegro as a member would take place, not necessarily to concern itself with all the legal arcane details.

With regard to precedent, I understand that some colleagues find this strange, there having been no precedent, if I understand correctly, for such a clarification in the case of the admission of countries that also did not have their own currency. However, from a purely pragmatic point of view, I would submit that we are dealing with a situation that is also without precedent, which is that a country is unilaterally deciding to use a currency that other countries use on the basis of an accession process that contains formalities that Montenegro has not gone through. If this is the case, and if the concern of a legal nature that some chairs may have is not to confuse the two situations in which a country decides unilaterally to use the currency issued by other countries as opposed to taking part of a monetary union formally, then I do not think that there is any objection. I would not make too much of the fact that we would be including in the resolution something that has never been seen in a resolution before.

Mr. Stein associated himself with Mr. Loyo's remarks. The Deputy General Counsel considered that it was not necessary, but not harmful, to the Fund. However, there were member states who believed that it could be risky to them, because of the potential implications at a later stage, if and when Montenegro requested to join the euro area. He thought that it would be wise for the Board to go along with the proposed modification.

Mr. Kremers associated himself with Mr. Loyo's remarks. Mr. Saarenheimo's request should in no way be seen as a criticism of Mr. Kashiwagi's excellent work. He did not see the usefulness of the change, but Mr. Moser and the Deputy General Counsel did not seem to have a problem with it. He was certain that Mr. Saarenheimo had good reasons to request it, and he suggested that the Board accept the proposed addition.

Mr. Saarenheimo pointed out that the Fund's Deputy General Counsel considered his proposed addition not necessary but not objectionable. His authorities had been advised by legal counselors that it was necessary. As it was not harmful, and it was in the Board's

interest to send to the Board of Governors a draft resolution approved by unanimity, the Board should accept the request. He urged Mr. Daïri to support the proposed addition.

Mr. Daïri said that the Deputy General Counsel had stated that it was not objectionable, but not legally necessary. It would seem at odds with the streamlining trend to include something that was deemed not to be necessary.

Mr. Duquesne associated himself with Mr. Kremers's remarks. Welcoming Montenegro as a new Fund member was a crucial issue. There was no need to be too legalistic. If the proposed addition did not represent a problem, there was no reason to prolong the discussion. It would have been better for the ECB to note its point earlier, but now the issued had been resolved.

Mr. Alazzaz said that he shared fully Mr. Kashiwagi's views, and therefore supported the proposed resolution as currently drafted.

Ms. Phang asked the staff if there had been other countries in a similar circumstance and, if so, why there had been no need for an additional phrase such as that being proposed.

Mr. Charleton commented that his initial instinct was to support the Committee's proposal, as the Deputy General Counsel had seen no need to change it. However, being pragmatic and to move forward with Montenegro's membership, he supported Mr. Saarenheimo's proposal.

Mr. Prader considered that, given the reasons provided by Messrs. Moser, Loyo, Stein, Kremers, Duquesne, and others, he supported the proposed amendment.

Mr. Bannerji pointed out that the basic issue was for Montenegro to become a Fund member as soon as possible. He was worried that the Deputy General Counsel and the legal counsel of Mr. Saarenheimo's authorities had differing views. Mr. Saarenheimo was asked to provide details on his authorities' stance. While he had no position, his preference would have been to support the Committee's proposal.

Ms. Williams supported Mr. Saarenheimo's proposal.

Mr. Guzman said that he joined those chairs that advocated pragmatism and a speedy resolution to the issue. The proposal to amend the Committee's recommendation could have been brought up earlier, as Mr. Duquesne had also pointed out.

Mr. Gola supported Mr. Saarenheimo's proposal, stressing that the addition should not, and did not, have any other implications outside the Fund.

Ms. Pollard supported Mr. Kashiwagi's view that the challenge to the Committee's report was unnecessary. Her country, whose currency was used without permission by several countries, had never had any problem with those countries considering it as their currency in paying their membership quotas. Also, in the process of the creation of the U.S. monetary union, the U.S. central bank had made a clear distinction between those states that had gone through a formal membership process and those that did not. However, she did not intend to hold up the membership of Montenegro.

Mr. Saarenheimo said that what was exceptional was not that Montenegro was using the currency issued by another member state, but that it was a European country, with the possibility of joining the European Union in the future. Monetary relations within the EU were an issue that had to be resolved between the EU and the member states or the acceding applicant state. His authorities were concerned that, by endorsing a resolution that defined the euro as the currency of the Republic of Montenegro, those potential negotiations could be prejudged. The amendment was being proposed to avoid affecting the relations between the EU and Montenegro.

Mr. Bannerji stated that, on the basis of the explanation offered by Mr. Saarenheimo, he had no objection to the amendment.

The Acting Chair (Mr. Lipsky) thanked Mr. Kashiwagi and the Committee members for the excellent work accomplished under tight deadlines in order to accommodate the wish of the Montenegrin authorities to complete the membership process as soon as possible. In response to Mr. Kashiwagi's specific question, management had taken note of the opinion of the Acting General Counsel. The additional preambular paragraph suggested by Mr. Saarenheimo was aimed at introducing a further element of clarification that his authorities believed would strengthen the Board's recommendation to the Board of Governors to approve the resolution. Mr. Moser had indicated the Montenegrin authorities' acceptance of the proposed addition. Accordingly, to expedite Montenegro's membership in the Fund, as desired by the authorities, if the Board agreed, he suggested moving forward on the basis of a draft resolution that incorporated the additional paragraph.

Mr. Daïri stated that he would support the decision by Mr. Kashiwagi as the Chairman of the Committee. He did not wish to prevent or delay the membership of Montenegro. He asked Mr. Saarenheimo for a written statement that explained the purposes of his proposed change, which could clarify the matter to his authorities.

Ms. Phang said that she still wanted to know whether there were any precedents of countries that had joined the Fund without the additional clarification.

The Deputy General Counsel (Mr. Elizalde) answered that there had been other cases in which applicant countries had used the currency of another member as their own. In those cases, no clarification had been requested because the issuer of the currency had no objections. The proposed clarification in this case was in the preamble and not in the resolution itself. The only effect was to lay down the actual legal situation of Montenegro vis-à-vis the euro, which was sufficient for the purpose of the Fund to be able to admit Montenegro as a member. To admit a country as a member, the Fund had to determine, implicitly or explicitly, that Montenegro had a currency that could be considered its own. In the case of Montenegro, that determination is made more explicit than in previous cases.

Mr. Kashiwagi said that he had no difficulty on the substance of the issues, but was concerned about the procedure. The process of membership was an important governance issue. A process that was supposed to be smooth had been challenged by a nonmember. Some Board members had mentioned that the ECB had raised the matter at a late stage. Some had said that they had had only two days to review the document. However, the draft had been circulated to the Committee members seven days before the original Board meeting date. Whether the European chairs communicated it to the ECB or not was an internal European affair. The issue was coordination among the European chairs. It was regrettable that the Board had been asked to postpone the meeting because of lack of coordination among European members. In view of the need to be pragmatic, as other members had suggested, he fully accepted management's proposal. The most important issue was to welcome Montenegro as a Fund member as soon as possible. It was the Board's responsibility to accommodate the wish of the authorities to the extent possible. He encouraged other Board members to support management's proposal, and urged management and the staff to expedite the process as much as possible.

The Executive Board took the following decision:

Membership—Report of the Committee

1. The Board of Governors is requested to vote without meeting pursuant to Section 13 of the By-Laws of the Fund on the attached draft Resolution.
2. The Secretary is directed to send the attached report and draft Resolution on Membership for the Republic of Montenegro to each member of the Fund by rapid means of communication on or before November 20, 2006.
3. To be valid, votes must be cast by Governors or Alternate Governors and must be received at the seat of the Fund before 6:00 p.m. Washington time on December 15, 2006. Votes received after that time will not be counted.

4. The effective date of the Resolution of the Board of Governors shall be the last day allowed for voting.
5. All votes cast pursuant to this decision shall be held in the custody of the Secretary until counted, and all proceedings with respect thereto shall be confidential until the Executive Board determines the result of the vote.
6. The Secretary is authorized to take such further action as he shall deem appropriate to carry out the purpose of this decision. (EBD/06/130, 11/10/06; and Sup. 1, 11/17/06).

Decision No. 13818-(06/99), adopted
November 17, 2006

**REPORT BY THE EXECUTIVE BOARD
MEMBERSHIP FOR THE REPUBLIC OF MONTENEGRO**

The Republic of Montenegro applied on July 18, 2006 for admission to membership in the International Monetary Fund in accordance with Article II, Section 2 of the Articles of Agreement of the Fund. Pursuant to Section 21 of the By-Laws, the Executive Board has consulted with the representative of the Republic of Montenegro and has agreed upon the terms and conditions which, in the opinion of the Executive Board, the Board of Governors may wish to prescribe for admitting the Republic of Montenegro to membership in the Fund.

The Executive Board has therefore approved the attached Resolution for submission to the Board of Governors for a vote without meeting pursuant to Section 13 of the By-Laws.

INTERNATIONAL MONETARY FUND

DRAFT RESOLUTION

MEMBERSHIP FOR THE REPUBLIC OF MONTENEGRO

WHEREAS, the Republic of Montenegro, on July 18, 2006 applied for admission to membership in the International Monetary Fund in accordance with Article II, Section 2 of the Articles of Agreement of the Fund;

WHEREAS, pursuant to Section 21 of the By-Laws of the Fund, the Executive Board has consulted with the representative of the Republic of Montenegro and has agreed upon the terms and conditions, which, in the opinion of the Executive Board, the Board of Governors may wish to prescribe for admitting the Republic of Montenegro to membership in the Fund;

WHEREAS, pursuant to its national legislation, the Republic of Montenegro does not issue a currency of its own but uses the euro as legal means of payment, which for the purposes of the Articles of Agreement of the Fund is deemed to be the currency of the Republic of Montenegro;

NOW, THEREFORE, the Board of Governors, having considered the recommendations of the Executive Board, hereby resolves that the terms and conditions upon which the Republic of Montenegro shall be admitted to membership in the Fund shall be as follows:

1. *Definitions:* As used in this Resolution:
 - (a) The term “Fund” means the International Monetary Fund;
 - (b) The term “Articles” means the Articles of Agreement of the Fund, as amended; and
 - (c) The term “SDRs” means Special Drawing Rights of the Fund.
2. *Quota:* The quota of the Republic of Montenegro shall be SDR 27.5 million.
3. *Payment of Subscription:* The subscription of the Republic of Montenegro shall be equal to its quota. The Republic of Montenegro shall pay twenty four percent of its subscription in SDRs or in the currencies of other members selected by the Managing Director from those currencies that the Fund would receive in accordance with the Fund’s quarterly financial transactions plan in effect at the time of payment. The balance of the subscription shall be paid in the currency of the Republic of Montenegro.
4. *Timing of Payment of Subscription:* The Republic of Montenegro shall pay its subscription within six months after accepting membership in the Fund.
5. *Exchange Transactions with the Fund and Remuneration:* The Republic of Montenegro may not engage in transactions under Article V, Section 3, or receive remuneration under Article V, Section 9, until its subscription has been paid in full.
6. *Exchange Arrangements:* Within 30 days after accepting membership in the Fund, the Republic of Montenegro shall notify the Fund of the exchange arrangements it intends to apply in fulfillment of its obligations under Article IV, Section 1 of the Articles.
7. *Representation and Information:* Before accepting membership in the Fund, the Republic of Montenegro shall represent to the Fund that it has taken all actions necessary to sign and deposit the Instrument of Acceptance and to sign the Articles as contemplated by paragraph 8(a) and 8(b) of this Resolution,

and the Republic of Montenegro shall furnish to the Fund such information in respect of such action as the Fund may request.

8. *Effective Date of Membership:* After the Fund shall have informed the government of the United States of America that the Republic of Montenegro has complied with the conditions set forth in paragraph 7 of this Resolution, the Republic of Montenegro shall become a member of the Fund on the date when the Republic of Montenegro shall have complied with the following requirements:
 - (a) The Republic of Montenegro shall deposit with the government of the United States of America an instrument stating that it accepts in accordance with its law the Articles and all the terms and conditions prescribed in this Resolution, and that it has taken all steps necessary to enable it to carry out all its obligations under the Articles and this Resolution; and
 - (b) The Republic of Montenegro shall sign the original copy of the Articles held in the Archives of the government of the United States of America.
9. *Period of Acceptance of Membership:* The Republic of Montenegro may accept membership in the Fund pursuant to this Resolution not later than six months after the effective date of this Resolution, which date shall be the date of its adoption by the Board of Governors; provided, however, that if the circumstances of the Republic of Montenegro are deemed by the Executive Board to warrant an extension of the period during which the Republic of Montenegro may accept membership pursuant to this Resolution, the Executive Board may extend such period until such later date as it may determine.

APPROVAL: February 8, 2007

SHAILENDRA J. ANJARIA
Secretary