



Yale SCHOOL OF MANAGEMENT  
*Program on Financial Stability*

EliScholar – A Digital Platform for  
Scholarly Publishing at Yale

---

YPFS Resource Library

---

5-17-2011

## Memorandum of Understanding on Specific Economic Policy Conditionality

European Union: European Commission

<https://elischolar.library.yale.edu/ypfs-documents/764>

---

This resource is brought to you for free and open access by the Yale Program on Financial Stability and [EliScholar](#), a digital platform for scholarly publishing provided by Yale University Library. For more information, please contact [ypfs@yale.edu](mailto:ypfs@yale.edu).

**PORTUGAL**

**MEMORANDUM OF UNDERSTANDING ON  
SPECIFIC ECONOMIC POLICY CONDITIONALITY**

17 May 2011

With regard to Council Regulation (EU) n° 407/2010 of 11 May 2010 establishing a European Financial Stabilisation Mechanism (EFSM), and in particular Article 3(5) thereof, this Memorandum of Understanding details the general economic policy conditions as embedded in Council Implementing Decision [...] of [...] on granting Union financial assistance to Portugal.<sup>1</sup>

The Council Implementing Decision specifies that the first disbursement of financial assistance from the EFSM shall be released subject to the entry into force of this Memorandum of Understanding on specific economic policy conditionality (MoU) and of the Loan Agreement. Before the signature of this MoU, Portugal has completed the prior actions set out in the Memorandum of Economic and Financial Policies (MEFP) and which are also included in this MoU.

The Decision also makes the release of further instalments conditional on a positive conclusion of the reviews of conditionality that will take place throughout the three-year duration of the programme. These reviews will assess progress made with respect to the policy criteria in the Council Implementing Decision and specified in the MEFP and in this MoU, as well as Council Recommendations in the context of the Excessive Deficit Procedure. The first quarterly review will be carried out in the third quarter of 2011 and will assess compliance with the conditions to be met by end-July. The following reviews taking place in any given quarter will assess compliance with the conditions to be met by the end of the previous quarter.

If targets are missed or expected to be missed, additional action will be taken. The authorities commit to consult with the European Commission, the ECB and the IMF on the adoption of policies that are not consistent with this Memorandum. They will also provide the European Commission, the ECB and the IMF with all information requested that is available to monitor progress during programme implementation and to track the economic and financial situation. Prior to the release of the instalments, the authorities shall provide a compliance report on the fulfilment of the conditionality.

---

<sup>1</sup> On 8 April 2011, Eurogroup and ECOFIN Ministers issued a statement clarifying that EU (European Financial Stabilisation Mechanism) and euro-area (European Financial Stability Facility) financial support would be provided on the basis of a policy programme supported by strict conditionality and negotiated with the Portuguese authorities, duly involving the main political parties, by the Commission in liaison with the ECB, and the IMF. Further to the EU support from the EFSM, loans from the European Financial Stability Facility (EFSF) will contribute to the financial assistance. The Loan Facility Agreement on the EFSF financing contribution will specify that the disbursements there under are subject to the compliance with the conditions of this Memorandum.

# **1. Fiscal policy**

## **Objectives**

Reduce the Government deficit to below EUR 10,068 million (equivalent to 5.9% of GDP based on current projections) in 2011, EUR 7,645 million (4.5% of GDP) in 2012 and EUR 5,224 million (3.0% of GDP) in 2013 by means of high-quality permanent measures and minimising the impact of consolidation on vulnerable groups; bring the government debt-to-GDP ratio on a downward path as of 2013; maintain fiscal consolidation over the medium term up to a balanced budgetary position, notably by containing expenditure growth; support competitiveness by means of a budget-neutral adjustment of the tax structure.

## **Fiscal policy in 2011**

1.1. The Government achieves a general government deficit of no more than EUR 10,068 millions in 2011. **[Q4-2011]**

1.2. Over the remainder of the year, the government will rigorously implement the Budget Law for 2011 and the additional fiscal consolidation measures introduced before May 2011. Progress will be assessed against the (cumulative) quarterly deficit ceilings in the Memorandum of Economic and Financial Policies (MEFP), including the Technical Memorandum of Understanding (TMU). **[Q3 and Q4-2011]**

## **Fiscal policy in 2012**

1.3. On the basis of a proposal developed by the time of the first review **[end-July 2011]**,<sup>2</sup> the 2012 Budget will include a budget neutral recalibration of the tax system with a view to lower labour costs and boost competitiveness **[October 2011]**.

1.4. The government will achieve a general government deficit of no more than EUR 7,645 millions in 2012. **[Q4-2012]**

1.5. Throughout the year, the government will rigorously implement the Budget Law for 2012. Progress will be assessed against the (cumulative) quarterly deficit ceilings in the Memorandum of Economic and Financial Policies (MEFP), including the Technical Memorandum of Understanding (TMU). **[Q1, Q2, Q3 and Q4-2012]**

1.6. The following measures will be carried out with the 2012 Budget Law **[Q4-2011]**, unless otherwise specified:

## *Expenditure*

1.7. Improve the working of the central administration by eliminating redundancies, increasing efficiency, reducing and eliminating services that do not represent a cost-effective use of public money. This should yield annual savings worth at least EUR 500 million. Detailed plans will be presented by the Portuguese authorities and will be assessed **by Q1-2012**; the budgetary impacts will spread to 2014. To this end, the government will:

---

<sup>2</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

- i. reduce the number of services while maintaining quality of provision;
- ii. create a single tax office and promoting services' sharing between different parts of the general government;
- iii. reorganise local governments and the provision of central administration services at local level;
- iv. regularly assess the value for money of the various public services that are part of the government sector as defined for national accounts purposes;
- v. promote mobility of staff in central, regional and local administrations;
- vi. reduce transfers from the State to public bodies and other entities;
- vii. revise compensation schemes and fringe benefits in public bodies and entities that independently set their own remuneration schemes;
- viii. reduce subsidies to private producers of goods and services.

1.8. Reduce costs in the area of education, with the aim of saving EUR 195 million by rationalising the school network by creating school clusters; lowering staff needs; centralising procurement; and reducing and rationalising transfers to private schools in association agreements.

1.9. Ensure that the aggregate public sector wage bill as a share of GDP decreases in 2012 and 2013 [**Q2-2012** for assessment; **Q2-2013** to complete process]:

- i. Limit staff admissions in public administration to achieve annual decreases in 2012-2014 of 1% per year in the staff of central administration and 2% in local and regional administration. [**Q3-2011**]
- ii. Freeze wages in the government sector in nominal terms in 2012 and 2013 and constrain promotions.
- iii. Reduce the overall budgetary cost of health benefits schemes for government employees schemes (ADSE, ADM and SAD) lowering the employer's contribution and adjusting the scope of health benefits, with savings of EUR 100 million in 2012.

1.10. Control costs in health sector on the basis of detailed measures listed below under 'Health-care system', achieving savings worth EUR 550 million.

1.11. Reduce pensions above EUR 1,500 according to the progressive rates applied to the wages of the public sector as of January 2011, with the aim of yielding savings of at least EUR 445 million.

1.12. Suspend application of pension indexation rules and freeze pensions, except for the lowest pensions, in 2012.

1.13. Reform unemployment insurance on the basis of detailed measures listed below under 'Labour market and education', yielding medium-term savings of around EUR 150 million.

1.14. Reduce transfers to local and regional authorities by at least EUR 175 million with a view to having this subsector contributing to fiscal consolidation.

1.15. Reduce costs in other public bodies and entities by at least EUR 110 million.

1.16. Reduce costs in State-owned enterprises (SOEs) with the aim of saving at least EUR 515 million by means of:

- i. sustaining an average permanent reduction in operating costs by at least 15%;
- ii. tightening compensation schemes and fringe benefits;
- iii. rationalisation of investment plans for the medium term;
- iv. increase their revenues from market activities.

1.17. Permanently reduce capital expenditure by EUR 500 millions by prioritising investment projects. Make more intensive use of funding opportunities provided by EU structural funds, while preserving the basic competitiveness approach agreed with the European Commission in the context of the current National Strategic Reference Framework (NSRF).

### *Revenue*

1.18. Introduction of a standstill rule to all tax expenditure, blocking the creation of new items of tax expenditure and the enlargement of existing items. The rule will apply to all kinds of tax expenditure, of a temporary or permanent nature, at the central, regional or local level.

1.19. Reduction of *corporate* tax deductions and special regimes, with a yield of at least EUR 150 million in 2012. Measures include:

- i. abolishing all reduced corporate income tax rates;
- ii. limiting the deductions of losses in previous years according to taxable matter and reducing the carry-forward period to three years;
- iii. reducing tax allowances and revoking subjective tax exemptions;
- iv. curbing tax benefits, namely those subject to the sunset clause of the Tax Benefit Code, and strengthening company car taxation rules;
- v. proposing amendments to the regional finance law to limit the reduction of corporate income tax in autonomous regions to a maximum of 20% vis-à-vis the rates applicable in the mainland.

1.20. Reduction of *personal income tax* benefits and deductions, with a yield of at least EUR 150 million in 2012. Measures include:

- i. capping the maximum deductible tax allowances according to tax bracket with lower caps applied to higher incomes and a zero cap for the highest income brackets;
- ii. applying separate caps on individual categories by (a) introducing a cap on health expenses; (b) eliminating the deductibility of mortgage principal and phasing out the deductibility of rents and of mortgage interest payments for owner-occupied housing; eliminate interest income deductibility for new mortgages (c) reducing the items eligible for tax deductions and revising the taxation of income in kind;
- iii. proposing amendments to the regional finance law to limit the reduction of personal income tax in autonomous regions to a maximum of 20% vis-à-vis the rates applicable in the mainland.

1.21. Apply personal income taxes to all types of cash social transfers and ensure convergence of personal income tax deductions applied to pensions and labour income with the aim of raising at least EUR 150 million in 2012.

1.22. Changes in property taxation to raise revenue by at least EUR 250 million by reducing substantially the temporary exemptions for owner-occupied dwellings. Transfers from the central to local governments will be reviewed to ensure that the additional revenues are fully used for fiscal consolidation.

1.23. Raise VAT revenues to achieve a yield of at least EUR 410 million for a full year by:

- i. reducing VAT exemptions;
- ii. moving categories of goods and services from the reduced and intermediate VAT tax rates to higher ones;
- iii. proposing amendments to the regional finance law to limit the reduction of VAT in the autonomous regions to a maximum of 20% vis-à-vis the rates applicable in the mainland.

1.24. Increase excise taxes to raise at least EUR 250 million in 2012. In particular by:

- i. raising car sales tax and cutting car tax exemptions;
- ii. raising taxes on tobacco products;
- iii. indexing excise taxes to core inflation;
- iv. introducing electricity excise taxes in compliance with EU Directive 2003/96.

1.25. Increase efforts to fight tax evasion, fraud and informality to raise revenue by at least EUR 175 million in 2012.

### **Fiscal policy in 2013**

1.26. The government achieves a general government deficit of no more than EUR 5,224 million in 2013. **[Q4-2013]**

1.27. Throughout the year, the government will rigorously implement the Budget Law for 2013. Progress will be assessed against the (cumulative) quarterly deficit ceilings in the Memorandum of Economic and Financial Policies (MEFP), including the Technical Memorandum of Understanding (TMU). **[Q1, Q2, Q3 and Q4-2013]**

1.28. The following measures will be carried out with the 2013 Budget Law **[Q4-2012]**, unless otherwise specified:

#### *Expenditure*

1.29. Further deepening of the measures introduced in the 2012 Budget Law with a view of reducing expenditure in the area of:

- i. central administration functioning: EUR 500 million. Detailed plans will be presented and assessed before Q3-2012;
- ii. education and school network rationalization: EUR 175 million;

- iii. wage bill: annual decreases of 1% per year in headcounts of central administration and 2% in local and regional administrations;
- iv. health benefits schemes for government employees: EUR 100 million.
- v. health sector: EUR 375 million;
- vi. transfers to local and regional authorities: EUR 175 million;
- vii. costs in other public bodies and entities, and in SOEs: EUR 175 million;
- viii. capital expenditure: EUR 350 million;
- ix. maintain the suspension of pension indexation rules except for the lowest pensions in 2013.

1.30. In addition, the government will extend the use of means testing and better target social support achieving a reduction in social benefits expenditure of at least EUR 350 million.

### *Revenue*

1.31. Further deepening of the measures introduced in 2012 Budget Law, leading to extra revenue in the following areas:

- i. corporate tax bases and reduce tax benefits and tax deductions: EUR 150 million;
- ii. personal income tax benefits and tax deductions: EUR 175 million;
- iii. taxation of all types of cash social transfers and convergence of personal income tax deductions for pensions and labour income: EUR 150 million;
- iv. excise taxes: EUR 150 million.

1.32. Update the notional property value of real estate assets for tax purposes to raise revenue by at least EUR 150 million in 2013. Transfers from the central to local governments will be reviewed to ensure that the additional revenues are fully used for fiscal consolidation.

### **Fiscal policy in 2014**

1.33. The government will aim at achieving a general government deficit of no more than EUR 4,521 millions in 2014. The necessary measures will be defined in the 2014 Budget Law. **[Q4-2013]**

1.34. Throughout the year, the Government will rigorously implement the Budget Law for 2014. Progress will be assessed against the (cumulative) quarterly deficit ceilings in the Memorandum of Economic and Financial Policies (MEFP), including the Technical Memorandum of Understanding (TMU). **[Q1 and Q2-2014]**

1.35. With the 2014 Budget Law, the Government will further deepen the measures introduced in the 2012 and 2013 with a view in particular to broadening tax bases and moderating primary expenditure to achieve a declining ratio of government expenditure over GDP.

## **2. Financial sector regulation and supervision**

### **Objectives**

Preserve financial sector stability; maintain liquidity and support a balanced and orderly deleveraging in the banking sector; strengthen banking regulation and supervision; bring closure to the Banco Português de Negócios case and streamline state-owned Caixa Geral de Depósitos; strengthen the bank resolution framework and reinforce the Deposit Guarantee Fund and the Guarantee Fund for Mutual Agricultural Credit Institutions; reinforce the corporate and household insolvency frameworks.

### *Maintaining liquidity in the banking sector*

2.1. Subject to approval under EU competition rules, the authorities are committed to facilitate the issuance of government guaranteed bank bonds for an amount of up to EUR 35 billion, including the existing package of support measures.

### *Deleveraging in the banking sector*

2.2. Banco de Portugal (BdP) and the ECB, in consultation with the European Commission (EC) and the IMF, will include clear periodic target leverage ratios and will ask banks to devise by **end-June 2011** institution-specific medium-term funding plans to achieve a stable market-based funding position. To smooth the deleveraging process, the authorities will encourage private investors to maintain their exposure. Quarterly reviews will be conducted in consultation with the EC and the IMF, and will examine the feasibility of individual banks' plans and their implications for leverage ratios, as well as the impact on credit aggregates and the economy as a whole, and the BdP will then request adjustments in the plans as needed.

### *Capital buffers*

2.3. BdP will direct all banking groups supervised by BdP to reach a core Tier 1 capital ratio of 9 percent by **end-2011** and 10 percent at the latest by **end-2012** and maintain it thereafter.<sup>3</sup> If needed, using its Pillar 2 powers, the BdP will also require some banks, based on their specific risk profile, to reach these higher capital levels on an accelerated schedule, taking into account the indications of the solvency assessment framework described below. Banks will be required to present plans to BdP by **end-June 2011** on how they intend to reach the new capital requirements through market solutions.

2.4. In the event that banks cannot reach the new capital requirements on time, ensuring higher capital standards might temporarily require public provision of equity for the private banks. To that effect, the authorities will augment the bank solvency support facility, in line with EU state aid rules, with resources of up to EUR 12 billion provided under the programme. The facility will be designed in a way that preserves the control of the management of the banks by their non-state owners during an initial phase and allows them the option of buying back the government's stake. The banks benefitting from equity injections will be subjected to specific management rules and restrictions, and to a restructuring process in line with EU competition and state aid requirements, that will provide the incentive to give priority to market-based solutions.

---

<sup>3</sup> Prior action in the Memorandum of Economic and Financial Policies.



### *Caixa Geral de Depósitos (CGD)*

2.5. The state-owned CGD group will be streamlined to increase the capital base of its core banking arm as needed. The CGD bank is expected to raise its capital to the new required level from internal group resources, and improve the group's governance. This will include a more ambitious schedule toward the already announced sale of the insurance arm of the group, a program for the gradual disposal of all non-core subsidiaries, and, if needed a reduction of activities abroad.

### *Monitoring of bank solvency and liquidity*

2.6. The BdP is stepping up its solvency and deleveraging assessment framework for the system as a whole and for each of the eight largest banks, and will seek an evaluation of the enhanced assessment framework by **end-September 2011** by a joint team of experts from the EC, the ECB and the IMF.<sup>4</sup>

2.7. By **end-June 2011**, the BdP will also design a program of special on-site inspections to validate the data on assets that banks provide as inputs to the solvency assessment. This program will be part of a capacity building technical cooperation project put in place with the support of the EC, the ECB, and the IMF that will bring together Portuguese supervisors, cooperating central banks and/or supervisory agencies, external auditors and other experts as needed.<sup>5</sup>

2.8. The BdP will provide quarterly updates of banks' potential capital needs going forward and check that their deleveraging process remains on track and properly balanced. Whenever the assessment framework will indicate that a bank's core Tier 1 ratio might fall under 6 percent under a stress scenario over the course of the program, the BdP, using its Pillar 2 powers, will ask it to take measures to strengthen its capital base.

### *Banking regulation and supervision*

2.9. BdP will ensure by **end-September 2011** that the disclosure of non-performing loans will be improved by adding a new ratio aligned with international practices to the current ratio that covers only overdue loan payments.<sup>6</sup> BdP will intensify on-site inspections and verification of data accuracy with technical assistance from the IMF, in the context of the data verification exercise for the new solvency assessment framework. BdP will allocate new resources to the recruitment of additional specialist banking supervisors. Close coordination will be maintained between home and host country supervisors within the EU framework for cross-border banking supervision and with relevant non-EU host supervisors of branches and subsidiaries of Portuguese banks.

### *Banco Português de Negócios*

2.10. The authorities are launching a process to sell Banco Português de Negócios (BPN) on an accelerated schedule and without a minimum price. To this end, a new plan is submitted to the EC for approval under competition rules. The target is to find a buyer **by end-July 2011** at the latest.

---

<sup>4</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

<sup>5</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

<sup>6</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

2.11. To facilitate the sale, the three existing special purpose vehicles holding its non-performing and non-core assets have been separated from BPN, and more assets could be transferred into these vehicles as part of the negotiations with prospective buyers. BPN is also launching another program of more ambitious cost cutting measures with a view to increase its attractiveness to investors

2.12. Once a solution has been found, CGD's state guaranteed claims on BPN and all related special purpose vehicles will be taken over by the state according to a timetable to be defined at that time.

### *Bank resolution framework*

2.13. The authorities will amend legislation concerning credit institutions in consultation with the EC, the ECB and the IMF by **end-November 2011** to, inter alia, impose early reporting obligations based on clear triggers and penalties. BdP will be authorised to take remedial measures to promote implementation of a recovery plan. Credit institutions with systemic risks will be required to prepare contingency resolution plans) subject to regular review.<sup>7</sup>

2.14. The amendments will introduce a regime for the resolution of distressed credit institutions as a going concern under official control to promote financial stability and protect depositors. The regime will set out clear triggers for its initiation, and restructuring tools for the resolution authorities shall include recapitalization without shareholder pre-emptive rights in accordance with the relevant EU framework, transfer of assets and liabilities to other credit institutions and a bridge bank.

### *The Deposit Guarantee Fund*

2.15. The authorities will strengthen the legislation on the Deposit Guarantee Fund (FGD) and on the Guarantee Fund for Mutual Agricultural Credit Institutions (FGCAM), in consultation with EC, the ECB and the IMF, **by end-2011**.<sup>8</sup> These funds' functions will be re-examined to strengthen protection of guaranteed depositors. These funds should however retain the ability to fund the resolution of distressed credit institutions and in particular the transfer of guaranteed deposits to another credit institution but not to recapitalise them. Such financial assistance shall be capped at the amount of guaranteed deposits that would have to be paid out in liquidation. This should be permissible only if it does not prejudice their ability to perform their primary function.

2.16. The Insolvency Law will be amended **by end-November 2011** to provide that guaranteed depositors and/or the funds (either directly or through subrogation) will be granted a higher priority ranking over unsecured creditors in the insolvent state of a credit institution.

### *Corporate and household debt restructuring framework*

2.17. To better facilitate effective rescue of viable firms, the Insolvency Law will be amended by **end-November 2011** with technical assistance from the IMF, to, inter alia, introduce fast track court approval procedures for restructuring plans.<sup>9</sup>

---

<sup>7</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

<sup>8</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

<sup>9</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

2.18. General principles on voluntary out of court restructuring in line with international best practices will be issued by **end-September 2011**.

2.19. The authorities will also take the necessary actions to authorise the tax and social security administrations to use a wider range of restructuring tools based on clearly defined criteria in cases where other creditors also agree to restructure their claims, and review the tax law with a view to removing impediments to voluntary debt restructuring.

2.20. The personal insolvency procedures will be amended to better support rehabilitation of financially responsible individuals, which will balance the interests of creditors and debtors.

2.21. The authorities will launch a campaign to raise public and stakeholder awareness of the restructuring tools available for early rescue of viable firms through, e.g., training and new information means.

### *Monitoring of corporate and household indebtedness*

2.22. The authorities will prepare quarterly reports on corporate and household sectors including an assessment of their funding pressures and debt refinancing activities. The authorities will assess guarantee programmes currently in place and evaluate market-based financing alternatives. A task force will be constituted to prepare contingency plans to efficiently deal with the challenges posed by high corporate and household sectors indebtedness. These enhanced monitoring actions will put be in place by **end-September 2011** in consultation with the EC, the IMF and the ECB.

## **3. Fiscal-structural measures**

### **Objectives**

Improve the efficiency of the public administration by eliminating redundancies, simplifying procedures and reorganising services; regulate the creation and functioning of all public entities (e.g. enterprises, foundations, associations); streamline the budgetary process through the newly approved legal framework, including by adapting accordingly the local and regional financial legal frameworks; strengthen risk management, accountability, reporting and monitoring.

### **Public Financial Management framework**

To strengthen the public financial management framework the Government will take the following measures:

#### *Reporting*

3.1. Approve a standard definition of arrears and commitments.<sup>10</sup> [Q2-2011]

3.2. Conduct and publish a comprehensive survey of arrears by **end-August 2011** covering all categories of expenditure payables as at the end of June 2011. All general government entities and SOEs classified outside the general government will be covered by this survey.<sup>11</sup>

---

<sup>10</sup> Prior action in the Memorandum of Economic and Financial Policies.

<sup>11</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

3.3. Enhance the existing monthly reporting on budgetary execution on a cash basis for the general government, including on a consolidated basis. The monthly reporting perimeter currently includes the State, Other public bodies and entities, Social Security, regional and local governments and it will be progressively expanded to include all SOEs and PPPs reclassified within the general government and local governments. **[Q3-2011]**

3.4. The existing annual report on tax expenditures will be improved, starting with the 2012 budget, in line with international best practices. The report will cover central, regional and local administrations. Technical assistance may be provided if necessary. **[Q3-2011]** A comprehensive inventory of the existing tax expenditures, by type of tax, along with their policy costs estimates will be prepared by **Q2-2011**.<sup>12</sup>

3.5. Develop intra-annual targets, and corrective measures in case of deviation from targets, for **[Q3-2011]**:

- i. internal monthly cash balance, expenditure, revenue targets for the general government as defined in national accounts;
- ii. public quarterly balance targets for the general government as defined in national accounts.

3.6. Implement any changes to the budget execution rules and procedures necessary to align with the standard definition of arrears and commitments. Meanwhile, existing commitment control procedures will be enforced for all types of expenditure across the general government. Technical assistance may be provided if necessary. **[Q4-2011]**

3.7. Following the survey, prepare a consolidated monthly report on arrears for the general government sector. The general government perimeter will be defined as in national accounts. **[Q3-2011]**

3.8. Publish quarterly accounts for State-Owned Enterprises (SOEs) at the latest 45 days after the end of the quarter. It should start with the 30 largest SOEs that are consolidated in the general government but as a general rule all SOEs should follow the same reporting standards. **[Q4-2011]**

3.9. Publish information on: number of general government staff on a quarterly basis (no later than 30 days after the end of the quarter); Stock and flows over the relevant period per Ministry or employment entity (i.e. new hiring, retirement flows, and exit to other government service, private sector or unemployment); average wage, allowances and bonuses. **[Q1-2012]**

### *Monitoring*

3.10. Approve a standard definition of contingent liabilities. **[Q2-2011]**

3.11. Publish a comprehensive report on fiscal risks each year as part of the budget, starting with the 2012 budget. The report will outline general fiscal risks and specific contingent liabilities to which the Government may be exposed, including those arising from Public-Private Partnerships (PPPs), SOEs and explicit guarantees to the banks. **[Q3-2011]**

---

<sup>12</sup> Prior action in the Memorandum of Economic and Financial Policies.

## **Budgetary framework**

3.12. Publish a fiscal strategy document for the general government by **end-August 2011** and annually thereafter in April for the Stability Programme. The document will specify 4-year medium-term economic and fiscal forecasts and 4-year costs of new policy decisions. Budgets will include a reconciliation of revisions to the 4 year fiscal forecasts attributable to policy decisions and parameter revisions e.g. policy decisions, changes in the macroeconomic environment.<sup>13</sup>

3.13. Ensure full implementation of the Budgetary Framework Law adopting the necessary legal changes, including to the regional and local finance laws: **[Q3-2011]**

- i. The general government perimeter will cover the State, Other public bodies and entities, Social Security, SOEs and PPPs reclassified within the general government and local and regional administrations.
- ii. Define in detail the proposed characteristics of the medium-term budgetary framework, including medium-term fiscal strategy, decision-making and prioritisation process, carry over rules, commitment controls; and appropriate contingency reserves and related access rules. **[Q3-2011]**

3.14. A proposal to revise the local and regional finance laws will be submitted to Parliament in order to fully adapt the local and regional financing framework to the principles and rules adopted by the recently revised Budgetary Framework Law, namely in what concerns (i) the inclusion of all relevant public entities in the perimeter of local and regional government; (ii) the multi-annual framework with expenditure, budget balance and indebtedness rules, and programme budgeting; and (iii) the interaction with the function of the Fiscal Council. **[Q4-2011]**

3.15. The forecast underpinning the preparation of the budget and of the fiscal strategy document will be published, including supporting analysis and underlying assumptions. **[Q3-2011]**

3.16. Adopt the Statutes of the Fiscal Council, based on the working group report of 6 April 2011. The Council will be operational in time for the 2012 budget. **[Q3-2011]**

## **Public Private Partnerships**

The Government will:

3.17. Avoid engaging in any new PPP agreement before the completion of the reviews on existing PPPs and the legal and institutional reforms proposed (see below). **[Ongoing]**

3.18. Perform with the technical assistance from EC and the IMF, an initial assessment of at least the 20 most significant PPP contracts, including the major *Estradas de Portugal* PPPs, covering a wide range of sectors. **[end-August 2011]**

3.19. The Government will recruit a top tier international accounting firm to undertake a more detailed study of PPPs in consultation with INE and the Ministry of Finance.<sup>14</sup> The

---

<sup>13</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

<sup>14</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

review will identify and, where practicable, quantify major contingent liabilities and any related amounts that may be payable by the Government. It will assess the probability of any payments by Government in relation to the contingent liabilities and quantify such amounts. The study, to be completed by **end-March 2012**, will assess the feasibility to renegotiate any PPP or concession contract to reduce the Government financial obligations. All PPPs and concession contracts will be available for these reviews. **[Q4-2011]**

3.20. Put in place a strengthened legal and institutional framework, within the Ministry of Finance, for assessing fiscal risks *ex-ante* of engaging into PPP, concessions and other public investments, as well as for monitoring their execution. The Court of Auditors must be informed of this *ex-ante* risk assessment. Technical assistance may be provided if necessary. **[Q1-2012]**

3.21. Enhance the annual PPP and concessions report prepared by the Ministry of Finance in July with a comprehensive assessment of the fiscal risks stemming from PPPs and concessions. The report will provide information and analysis at sectoral level. The annual review of PPPs and concessions will be accompanied by an analysis of credit flows channelled to PPPs through banks (loans and securities other than shares) by industry and an impact assessment on credit allocation and crowding out effects. This particular element will be done in liaison with the Bank of Portugal. **[Q2-2012]**

### **State-owned enterprises**<sup>15</sup>

3.22. Report on concrete plans to reduce the overall operating costs of central government 10 State-owned enterprises (SOEs) posing the largest potential fiscal risks to the State by at least 15% over the 2009 levels and on a planned review of the tariff structure.<sup>16</sup>

3.23. Prepare a comprehensive assessment of the tariff structure of State-owned enterprises (SOEs) to reduce the degree of subsidisation. For the central government SOEs, the assessment will be done by **end-July 2011**, for local and regional government SOEs by **end-September 2011**. Review the level of service provisions of all SOEs. **[Q3-2011]**

3.24. Review ongoing plans to reduce operational costs by the end of 2011 by at least 15% on average compared with 2009, proposing company specific cuts that are consistent with a realistic economic and financial assessment. For the central government SOEs, the review will be carried out by **end-July 2011**, for local and regional government SOEs by **end-September 2011**.

3.25. Apply tighter debt ceilings to SOEs from 2012 onwards. For the central government SOEs, the plans will be announced by **end-July 2011**, for local and regional government SOEs by **end-September 2011**.

3.26. Prepare a plan to strengthen governance of SOEs in accordance with international best practices. The plan will review the existing shareholder approach, giving the Ministry of Finance a decisive role in financial matters of the enterprises. **[Q4-2011]**

3.27. Prepare a report reviewing the operations and finances of SOEs at central, regional and local government levels. The report will assess these companies' business financial prospects, the potential exposure of the government and scope for orderly privatisation. The

---

<sup>15</sup> State-owned enterprises comprise those pertaining to central, local and regional administration.

<sup>16</sup> Prior action in the Memorandum of Economic and Financial Policies.

Government will adopt the necessary legal changes to fulfil this requirement. Technical assistance will be provided.<sup>17</sup> [Q1-2012]

3.28. No additional SOEs at central government level will be created until this review is completed. Given the financial impact of these decisions, the Government will submit to Parliament a draft law so that this limitation will also be applicable to local authorities. The Government will promote the initiatives needed so that the same objective is achieved by the regions. [Q1-2012]

3.29. The Government will submit to Parliament a draft law to regulate the creation and the functioning of SOEs at the central and local levels. The law will enhance the monitoring powers of the central administration over all SOEs. In addition, the timing and content of financial and operational reporting will be defined. The decisions adopted at central level to improve the efficiency of the enterprises while reducing their financial burden will be implemented at all SOEs, taking into account their specificities. The Government will promote the initiatives needed so that the same objective is achieved by the regions. [Q1-2012]

3.30. The annual SOEs report prepared by the MoF **in July 2011** will include a comprehensive fiscal risk report detailing and analysing all liabilities (explicit and implicit) of SOEs.

## **Privatisation**

3.31. The Government will accelerate its privatisation programme. The existing plan, elaborated through 2013, covers transport (Aeroporos de Portugal, TAP, and freight branch of CP), energy (GALP, EDP, and REN), communications (Correios de Portugal), and insurance (Caixa Seguros), as well as a number of smaller firms. The plan targets front-loaded proceeds of about €5.5 billion through the end of the program, with only partial divestment envisaged for all large firms. The Government commits to go even further, by pursuing a rapid full divestment of public sector shares in EDP and REN, and is hopeful that market conditions will permit sale of these two companies, as well as of TAP, by the **end of 2011**. The Government will identify, by the time of the **second review**, two additional large enterprises for privatisation by end-2012. An updated privatisation plan will be prepared by **March 2012**.

3.32. Prepare an inventory of assets, including real estate, owned by municipalities and regional governments, examining the scope for privatisation. [Q2-2012]

## **Revenue administration**

3.33. The Government will merge the tax administration, customs administration and the information technology service DGITA in a single entity [**complete design of the new structure by Q4-2011 and implement it by Q4-2012**] and study the costs and benefits of including the revenue collection units of the social security administration in the merge. [Q3-2011] It will proceed with the broader merge if the assessment is favourable [Q1-2012];

---

<sup>17</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

3.34. Further comprehensive reform plans will be prepared by **October 2011**, including the following elements: **[Q4-2011]**

- i. Establishing special chambers within the tax tribunals, specialised to handle large cases and assisted by a specialised technical staff pool; **[Q1-2012]**
- ii. Reducing the number of municipal offices by at least 20% per year in 2012 and 2013; **[Q4-2012 and Q4-2013]**
- iii. Increase in the resources devoted to auditing in the tax administration to at least 30% of the total staff, mostly through reallocations of staff within the tax administration and other parts of the public administration. The threshold should be attained by **Q4-2012**.

3.35. The Government will address the bottlenecks in the tax appeal system by:

- i. Reviewing the assessment of audit performance based on both qualitative and quantitative indicators; **[Q3-2011]**
- ii. Applying interest charges on the outstanding debt over the whole appeal period using an interest rate above market levels. Impose a special statutory interest on non-compliance with a tax court decision; **[Q3-2011]**
- iii. Implement the new tax arbitration law by **Q3-2011**;
- iv. Establishing an integrated IT system between the revenue administration and the tax courts; **[Q4-2011]**
- v. Setting up a temporary task force of judges by **Q2-2011**<sup>18</sup> to clear cases worth above EUR 1 million by **Q4-2012**.

3.36. The Government will submit to Parliament a law to strengthen the auditing and enforcement powers of the central tax administration to exercise control over the whole territory of the Republic of Portugal including currently exempt tax regimes and to reserve to the central administration the power to issue interpretative rulings on taxes with national scope in order to ensure its uniform application. **[Q4-2011]**

3.37. Prepare a report assessing the current state of the information systems in the tax administration and proposing reforms. **[Q3-2011]**

3.38. The tax administration will prepare a comprehensive strategic plan for 2012-2014. The plan will include concrete actions to combat tax fraud and evasion, to strengthen audit and enforce collection based on risk management techniques. **[end-October 2011]**

## **Public administration**

The Government will take the following measures to increase the efficiency and cost-effectiveness of the public administration:

### *Central, regional and local administration*

3.39. Reduce management positions and administrative units by at least 15% in the central administration. **[Q4-2011]**

---

<sup>18</sup> Prior action in the Memorandum of Economic and Financial Policies.



3.40. In view of improving the efficiency of the central administration and rationalising the use of resources, implement a second phase of the public administration restructuring programme (PRACE 2007). [Q4-2011]

3.41. In view of improving the efficiency of local administration and rationalising the use of resources, the Government will submit to Parliament a draft law by Q4-2011 so that each municipality will have to present its plan to attain the target of reducing their management positions and administrative units by at least 15% by the end of 2012. [Q2-2012] In what concerns regions, the Government will promote the initiatives needed [Q4-2011] so that each region will present its plan to attain the same target.

3.42. In conjunction with the review of SOEs (see above), prepare a detailed cost/benefit analysis of all public and quasi-public entities, including foundations, associations and other bodies, across all levels of government. [Q4-2011] Based on the results of this analysis, the administration (central, regional or local) responsible for the public entity will decide to close or to maintain it in respect of the law (see below). [Q2-2012]

3.43. Regulate by law the creation and the functioning of foundations, associations, and similar bodies by the central and local administration. This law, which will also facilitate the closure of existing entities when warranted, will be prepared in coordination with a similar framework to be defined for SOEs. The law will define the monitoring and reporting mechanisms and evaluation performance. In addition, the Government will promote the initiatives needed [Q4-2011] so that the same objective is achieved by the regions.

3.44. Reorganise local government administration. There are currently 308 municipalities and 4,259 parishes. By July 2012, the government will develop a consolidation plan to reorganise and significantly reduce the number of such entities. The Government will implement these plans based on agreement with EC and IMF staff. These changes, which will come into effect by the beginning of the next local election cycle, will enhance service delivery, improve efficiency, and reduce costs.

3.45. Carry out a study to identify potential duplication of activities and other inefficiencies between the central administration, local administration and locally-based central administration services. [Q4-2011] Based on this analysis, reform the existing framework to eliminate the identified inefficiencies. [Q2-2012]

### *Shared services*

3.46. Develop the use of shared services in the central administration by fully implementing the ongoing projects and by regularly assessing the scope for further integration:

- i. Fully implement the strategy of shared services in the area of financial (GeRFIP) and human resources (GeRHup). [Q2-2012]
- ii. Rationalise the use of IT resources within the central administration by implementing shared services and reducing the number of IT entities in individual Ministries or other public entities. [Q4-2012]

3.47. Reduce the number of local branches of line ministries (e.g. tax, social security, justice). The services should be merged in citizens' shops covering a greater geographical area and developing further the e-administration over the duration of the programme. [Q4-2013]

## *Human resources*

3.48. Prepare a comprehensive plan to promote flexibility, adaptability and mobility of human resources across the administration, including by providing training where appropriate. **[Q4-2011]**

3.49. Limit staff admissions in public administration to achieve annual decreases in 2012-2014 of 1% per year in the staff of central administration and 2% in local and regional administrations. The Government will submit to Parliament a draft law to implement this measure at local administration level and will promote the initiatives needed so that each region will present its plan to achieve the same target. **[Q3-2011]**

## **Health care system**

### **Objectives**

Improve efficiency and effectiveness in the health care system, inducing a more rational use of services and control of expenditures; generate additional savings in the area of pharmaceuticals to reduce the public spending on pharmaceutical to 1.25 per cent of GDP by end 2012 and to about 1 per cent of GDP in 2013 (in line with EU average); generate additional savings in hospital operating costs.

The Government will take the following measures to reform the health system:

### *Financing*

3.50. Review and increase overall NHS moderating fees (*taxas moderadoras*) through:

- i. a substantial revision of existing exemption categories, including stricter means-testing in cooperation with Minister of labour and social affairs; **[by September-2011]**
- ii. increase of moderating fees in certain services while ensuring that primary care moderating fees are lower than those for outpatient specialist care visits and lower than emergency visits; **[by September-2011]**
- iii. legislate automatic indexation to inflation of NHS moderating fees. **[Q4-2011]**

3.51. Cut substantially (by two thirds overall) tax allowances for healthcare, including private insurance. **[Q3-2011]**

3.52. To achieve a self sustainable model for health-benefits schemes for civil servants, the overall budgetary cost of existing schemes – ADSE, ADM (Armed Forces) and SAD (Police Services) - will be reduced by 30% in 2012 and a further 20% in 2013, at all levels of general government. Further reductions at a similar pace will follow in the subsequent years towards having them self-financed by 2016. The budgetary costs of these schemes will be reduced by lowering the employer's contribution and adjusting the scope of health benefits. **[Q4-2011]**

3.53. Produce a health sector strategic plan, in the context of and consistent with the medium-term budget framework. **[Q4-2011]**

### *Pricing and reimbursement of pharmaceuticals*

3.54. Set the maximum price of the first generic introduced in the market to 60% of the branded product with similar active substance. **[Q3-2011]**

3.55. Revise the existing reference-pricing system based on international prices by changing the countries of reference to the three EU countries with the lowest price levels or countries with comparable GDP per capita levels. **[Q4-2011]**

### *Prescription and monitoring of prescription*

3.56. Make electronic prescription for medicines and diagnostic covered by public reimbursement fully compulsory for physicians in both the public and private sector. **[Q3-2011]**

3.57. Improve the monitoring system of prescription of medicines and diagnostic and set in place a systematic assessment by individual doctor in terms of volume and value, vis-à-vis prescription guidelines and peers. Feedback is to be provided to each physician on a regular basis (e.g. quarterly), in particular on prescription of costliest and most used medicines, starting from **Q4-2011**. The assessment will be done through a dedicated unit under the Ministry of Health such as the Centro de Conferência de Facturas. Sanctions and penalties will be envisaged and enforced as a follow up to the assessment. **[Q3-2011]**

3.58. Induce physicians at all levels of the system, both public and private, to prescribe generic medicines and the less costly available branded product. **[Q3-2011]**

3.59. Establish clear rules for the prescription of drugs and the realisation of complementary diagnostic exams (prescription guidelines for physicians) on the basis of international prescription guidelines. **[Q4-2011]**

3.60. Remove all effective entry barriers for generic medicines, in particular by reducing administrative/legal hurdles in order to speed up the use reimbursement of generics. **[Q4-2011]**

### *Pharmacies sector*

3.61. Effectively implement the existing legislation regulating pharmacies. **[Q4-2011]**

3.62. Change the calculation of profit margin into a regressive mark-up and a flat fee for wholesale companies and pharmacies on the basis of the experience in other Member States. The new system should ensure a reduction in public spending on pharmaceuticals and encourage the sales of less expensive pharmaceuticals. The aim is that lower profits will contribute at least EUR 50 million to the reduction in public expense with drugs distribution. **[Q4-2011]**

3.63. If the new system of calculation of profit margin will not produce the expected savings in the distribution profits, introduce a contribution in the form of an average rebate (pay-back) which will be calculated on the mark-up. The rebate will reduce the mark-up by at least 3 percentage points. The rebate will be collected by the Government on a monthly basis through Centro de Conferência de Facturas, preserving the profitability of small pharmacies in remote areas with low turnover. **[Q1 -2012]**

### *Centralised purchasing and procurement*

3.64. Set up the legislative and administrative framework for a centralised procurement system for the purchase of medical goods in the NHS (equipments, appliances, pharmaceuticals), through the recently created Central Purchasing Authority (SPMS), in order to reduce costs through price-volume agreements and fight waste. **[Q3-2011]**

3.65. Finalise the uniform coding system and a common registry for medical supplies developed by the INFARMED and SPMS based on international experience. Regularly update the registry. **[Q4-2011]**

3.66. Take measures to increase competition among private providers and reduce by at least 10 per cent the overall spending (including fees) of the NHS with private providers delivering diagnostic and therapeutical services to the NHS by end 2011 and by an additional 10% by end 2012. **[Q4-2011]**

3.67. Implement the centralised purchasing of medical goods through the recently created Central Purchasing Authority (SPMS), using the uniform coding system for medical supplies and pharmaceuticals. **[Q1-2012]**

3.68. Introduce a regular revision (at least every two years) of the fees paid to private providers with the aim of reducing the cost of more mature diagnostic and therapeutical services. **[Q1-2012]**

3.69. Assess compliance with European competition rules of the provision of services in the private healthcare sector and guarantee increasing competition among private providers **[Q1-2012]**

### *Primary care services*

3.70. The Government proceeds with the reinforcement of primary care services so as to further reduce unnecessary visits to specialists and emergencies and to improve care coordination through:

- i. increasing the number of USF (*Unidades de Saúde Familiares*) units contracting with regional authorities (ARSs) using a mix of salary and performance-related payments as currently the case. Make sure that the new system leads to reduction in costs and more effective provision; **[Q3-2011]**
- ii. set-up a mechanism to guarantee the presence of family doctors in needed areas to induce a more even distribution of family doctors across the country. **[Q4-2011]**

### *Hospital services*

3.71. Set out a binding and ambitious timetable to clear all arrears (accounts payable to domestic suppliers past due date by 90 days) and introduce standardised commitment control procedures for all entities to prevent the re-emergence of arrears. **[Q3-2011]**

3.72. Provide detailed description of measures aimed at achieving a reduction of EUR 200 million in the operational costs of hospitals in 2012 (EUR 100 million in 2012 in addition to savings of over EUR 100 million already in 2011), including reduction in the number of management staff, as a result of concentration and rationalisation in state hospitals and health centres. **[Q3-2011]**

3.73. Continue the publication of clinical guidelines and set in place an auditing system of their implementation. [Q3-2011]

3.74. Improve selection criteria and adopt measures to ensure a more transparent selection of the chairs and members of hospital boards. Members will be required by law to be persons of recognised standing in health, management and health administration. [Q4-2011]

3.75. Set up a system for comparing hospital performance (benchmarking) on the basis of a comprehensive set of indicators and produce regular annual reports, the first one to be published by end 2012. [Q1-2012]

3.76. Ensure full interoperability of IT systems in hospital, in order for the ACSS to gather real time information on hospital activities and to produce monthly reports to the Ministry of Health and the Ministry of Finance. [Q1-2012]

3.77. Continue with the reorganisation and rationalisation of the hospital network through specialisation and concentration of hospital and emergency services and joint management (building on the Decree-Law 30/2011) joint operation of hospitals. These improvements will deliver additional cuts in operating costs by at least 5 per cent in 2013. A detailed action plan is published by 30 November 2012 and its implementation is finalised by the first quarter 2013. [Q2-2012]

3.78. Move some hospital outpatient services to primary care units (USF). [Q2-2012]

3.79. Annually update the inventory of all practising doctors by specialty, age, region, health centre and hospital, public and private sector so as to be able to identify practising, professional and licensed physicians and current and future staff needs by the above categories. [Q3-2011]

3.80. Prepare regular annual reports, the first to be published by the end of March 2012, presenting plans for the allocation of human resources in the period up to 2014. The Report specifies plans to reallocate qualified and support staff within the NHS. [Q3-2011]

3.81. Introduce rules to increase mobility of healthcare staff (including doctors) within and across health regions. Adopt for all staff (including doctors) flexible time arrangements, with a view of reducing by at least 10% spending on overtime compensation in 2012 and another 10% in 2013. Implement a stricter control of working hours and activities of staff in the hospital. [Q1-2012]

### *Cross services*

3.82. Finalise the set-up of a system of patient electronic medical records. [Q2-2012]

3.83. Reduce costs for patient transportation by one third. [Q3-2011]

## **4. Labour market and education**

### **Labour market**

#### **Objectives**

Revise the unemployment insurance system to reduce the risk of long-term unemployment while strengthening social safety nets; reform employment protection legislation to tackle labour market segmentation, foster job creation, and ease the transition of workers across occupations, firms, and sectors; ease working time arrangements to contain employment fluctuations over the cycle, better accommodate differences in work patterns across sectors and firms, and enhance firms' competitiveness; promote labour cost developments consistent with job creation and enhanced competitiveness; ensure good practices and appropriate resources to Active Labour Market Policies to improve the employability of the young and disadvantaged categories and ease labour market mismatches.

Address early school leaving and improve the quality of secondary education and vocational education and training, with a view to raise the quality of human capital and facilitate labour market matching.

Reforms in labour and social security legislation will be implemented after consultation of social partners, taking into account possible constitutional implications, and in respect of EU Directives and Core Labour Standards.

#### *Unemployment benefits*

4.1. The Government will prepare by **Q4-2011** an action plan to reform along the following lines the unemployment insurance system, with a view to reduce the risk of long-term unemployment and strengthen social safety nets:

- i. reducing the maximum duration of unemployment insurance benefits to no more than 18 months. The reform will not concern those currently unemployed and will not reduce accrued-to-date rights of employees;
- ii. capping unemployment benefits at 2.5 times the social support index (IAS) and introducing a declining profile of benefits over the unemployment spell after six months of unemployment (a reduction of at least 10% in the benefit amount). The reform will concern those becoming unemployed after the reform;
- iii. reducing the necessary contributory period to access unemployment insurance from 15 to 12 months;
- iv. presenting a proposal for extending eligibility to unemployment insurance to clearly-defined categories of self-employed workers providing their services to a single firm on a regular basis. The proposal will take into account the risks of possible abuses and will contain an assessment of the fiscal impact of extending benefits under several scenarios concerning eligibility criteria (namely the involuntary character of unemployment) and requirements for increased social security contributions for firms making use of these arrangements.

4.2. This plan will lead to draft legislation to be adopted by the Government by **Q1-2012**.

## *Employment protection legislation*

4.3. The Government will carry out reforms in the employment protection system aimed at tackling labour market segmentation, fostering job creation, and easing adjustment in the labour market:

### 4.4. Severance payments.

- i. The Government will submit **by end-July 2011** legislation to Parliament to implement a reform in the severance payments for new hires in line with the March 2011 Tripartite Agreement.<sup>19</sup> Severance payments of open-ended contracts will be aligned with those of fixed-term contracts. The reform will re-design the system for severance payment entitlements as follows:
  - o total severance payments for new open-ended contracts will be reduced from 30 to 10 days per year of tenure (with 10 additional days to be paid by an employers' financed fund) with a cap of 12 months and elimination of the 3 months of pay irrespective of tenure;
  - o total severance payments for fixed-term contracts will be reduced from 36 to 10 days per year of tenure for contracts shorter than 6 months and from 24 to 10 days for longer contracts (with 10 additional days to be paid by an employers' financed fund);
  - o implementation of the fund agreed in the March Tripartite Agreement to partly finance the cost of dismissals for new hires.
- ii. By **Q4-2011**, the Government will present a proposal to align severance payment entitlements for current employees in line with the reform for new hires, (taking into account the revised link between entitlement and seniority and the cap to total entitlements) without reducing accrued-to-date entitlements. This plan will lead to draft legislation to be submitted to Parliament by **[Q1-2012]**.
- iii. By **Q1-2012**, the Government will prepare a proposal aiming at:
  - o aligning the level of severance payments to that prevailing on average in the EU;
  - o allowing the severance pay entitlements financed from the fund agreed in the Tripartite agreement to be transferable to different employers by means of the creation of notional individual accounts.On the basis of this proposal, draft legislation will be submitted to Parliament no later than **Q3-2012**.

4.5. Definition of dismissals. The Government will prepare by **Q4-2011** a reform proposal aimed at introducing adjustments to the cases for fair individual dismissals contemplated in the Labour Code with a view to fighting labour market segmentation and raise the use of open-ended contracts. This proposal will lead to draft legislation to be submitted to Parliament by **Q1-2012**.

- i. Individual dismissals linked to unsuitability of the worker should become possible even without the introduction of new technologies or other changes to the workplace (art. 373-380, 385 Labour Code). Inter alia, a new reason can

---

<sup>19</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

be added regarding situations where the worker has agreed with the employer specific delivery objectives and does not fulfil them, for reasons deriving exclusively from the workers' responsibility;

- ii. Individual dismissals linked to the extinction of work positions should not necessarily follow a pre-defined seniority order if more than one worker is assigned to identical functions (art. 368 Labour Code). The predefined seniority order is not necessary provided that the employer establishes a relevant and non-discriminatory alternative criteria (in line with what already happens in the case of collective dismissals);
- iii. Individual dismissals for the above reasons should not be subject to the obligation to attempt a transfer for a possible suitable position (art. 368, 375 Labour Code). As a rule, whenever there are work positions available that match the qualifications of the worker, dismissals should be avoided.

### *Working time arrangements*

4.6. The Government will carry out reforms in working time arrangements with a view to contain employment fluctuations over the cycle, better accommodate differences in work patterns across sectors and firms, and enhance firms' competitiveness.

- i. The Government will prepare an assessment regarding the use made of increased flexibility elements by the social partners associated with the 2009 Labour Code revision and prepare an action plan to promote the use of flexible working time arrangements, including on modalities for permitting the adoption of "bank of hours" working arrangement by mutual agreement of employers and employees negotiated at plant level. **[Q4-2011]**
- ii. Draft legislation will be submitted to Parliament **by Q1-2012** on the following aspects:
  - o implementation of the commitments agreed in the March Tripartite Agreement regarding working time arrangements and short-time working schemes in cases of industrial crisis, by easing the requirements employers have to fulfil to introduce and renew these measures;
  - o revision of the minimum additional pay for overtime established in the Labour Code: (i) reduction to maximum 50% (from current 50% for the first overtime hour worked, 75% for additional hours, 100% for overtime during holydays); (ii) elimination of the compensatory time off equal to 25% of overtime hours worked. These norms can be revised, upwards or downwards, by collective agreement.

### *Wage setting and competitiveness*

4.7. The Government will promote wage developments consistent with the objectives of fostering job creation and improving firms' competitiveness with a view to correct macroeconomic imbalances. To that purpose, the Government will:

- i. commit that, over the programme period, any increase in the minimum wage will take place only if justified by economic and labour market developments and agreed in the framework of the programme review;



- ii. define clear criteria to be followed for the extension of collective agreements and commit to them. The representativeness of the negotiating organisations and the implications of the extension for the competitive position of non-affiliated firms will have to be among these criteria. The representativeness of negotiating organisations will be assessed on the basis of both quantitative and qualitative indicators. To that purpose, the Government will charge the national statistical authority to do a survey to collect data on the representativeness of social partners on both sides of industry. Draft legislation defining criteria for extension and modalities for their implementation will be prepared by **Q2-2012**;
- iii. prepare an independent review by **Q2-2012** on:
  - o how the tripartite concertation on wages can be reinvigorated with the view to define norms for overall wage developments that take into account the evolution of the competitive position of the economy and a system for monitoring compliance with such norms;
  - o the desirability of shortening the survival (*sobrevigência*) of contracts that are expired but not renewed (art 501 of the Labour Code).

4.8. The Government will promote wage adjustments in line with productivity at the firm level. To that purpose, it will:

- i. implement the commitments in the Tripartite Agreement of March 2011 concerning the "organised decentralisation", notably concerning: (i) the possibility for works councils to negotiate functional and geographical mobility conditions and working time arrangements; (ii) the creation of a Labour Relations Centre supporting social dialogue with improved information and providing technical assistance to parties involved in negotiations; (iii) the lowering of the firm size threshold above which works councils can conclude firm-level agreements to 250 employees. Action for the implementation of these measures will have to be taken **by Q4-2011**;
- ii. promote the inclusion in sectoral collective agreements of conditions under which works councils can conclude firm-level agreements without the delegation of unions. An action plan will have to be produced **by Q4-2011**.
- iii. **By Q1-2012**, present a proposal to reduce the firm size threshold for works councils to conclude agreements below 250 employees, with a view to adoption **by Q2-2012**.

Draft legislation will be submitted to Parliament by **Q1-2012**.

### *Active labour market policies*

4.9. The Government will ensure good practices and an efficient amount of resources to activation policies to strengthen job search effort by the unemployed and to other Active Labour Market Policies (ALMPs) to improve the employability of the young and disadvantaged categories and ease labour market mismatches. The Government will present by **Q4-2011**:

- i. a report on the effectiveness of current activation policies and other ALMPs in tackling long-term unemployment, improving the employability of the young and disadvantaged categories, and easing labour market mismatch;

- ii. an action plan for possible improvements and further action on activation policies and other ALMPs, including the role of Public Employment Services.

## **Education and training**

4.10. The Government will continue action to tackle low education attainment and early school leaving and to improve the quality of secondary education and vocational education and training, with a view to increase efficiency in the education sector, raise the quality of human capital and facilitate labour market matching. To this purpose, the Government will:

- i. Set up an analysis, monitoring, assessment and reporting system in order to accurately evaluate the results and impacts of education and training policies, notably plans already implemented (notably concerning cost saving measures, vocational education and training and policies to improve school results and contain early school leaving). [Q4-2011]
- ii. Present an action plan to improve the quality of secondary education services including via: (i) the generalization of trust agreements between the Government and public schools, establishing wide autonomy, a simple formula-based funding framework comprising performance evolution criteria, and accountability; (ii) a simple result-oriented financing framework for professional and private schools in association agreements based on fixed per-class funding plus incentives linked to performance criteria; (iv) a reinforced supervisory role of the General Inspectorate. [Q1-2012]
- iii. Present an action plan aimed at (i) ensuring the quality, attractiveness and labour market relevance of vocational education and training through partnerships with companies or other stakeholders; (ii) enhancing career guidance mechanisms for prospective students in vocational educational training. [Q1-2012]

## **5. Goods and services markets**

### **Energy markets**

#### **Objectives**

Complete the liberalisation of the electricity and gas markets; ensure that the reduction of the energy dependence and the promotion of renewable energies is made in a way that limits the additional costs associated with the production of electricity under the ordinary and special (co-generation and renewables) regimes; ensure consistency of the overall energy policy, reviewing existing instruments. Continue promoting competition in energy markets and to further integrate the Iberian market for electricity and gas (MIBEL and MIBGAS).

#### *Liberalisation of electricity and gas markets*

5.1. Regulated electricity tariffs will be phased out **by January 1, 2013** at the latest. Present a roadmap for the phasing out following a stepwise approach by **end-July 2011**. The provisions will specify:

- i. The timeline and criteria to liberalise the remaining regulated segments, such as pre-determined conditions relating to the degree of effective competition in the relevant market;
- ii. The methods to ensure that during the phasing-out period market prices and regulated tariffs will not diverge significantly and to avoid cross-subsidisation between consumers segments;
- iii. The definition of vulnerable consumers and the mechanism to protect them.

5.2. Transpose the Third EU Energy Package by the **end of June 2011**. This will ensure the National Regulator Authority's independence and all powers foreseen in the package.

5.3. In the gas market, the Government will take measures to accelerate the establishment of a functioning Iberian market for natural gas (MIBGAS), in particular through regulatory convergence. Take up political initiatives with Spanish authorities with the aim of eliminating the double tariff. **[Q3-2011]**

5.4. Regulated gas tariffs are to be phased out by **January 1, 2013** at the latest.

5.5. Review in a report the reasons for lack of entry in the gas market, despite the availability of spare capacity, and the reasons for the lack of diversification of gas sources. The report will also propose possible measures to address the identified problems. **[Q4-2011]**

*Additional costs associated with electricity production under the ordinary regime*

5.6. Take measures in order to limit the additional cost associated with the production of electricity under the ordinary regime, in particular through renegotiation or downward revision of the guaranteed compensation mechanism (CMEC) paid to producers under the ordinary regime and the remaining long-term power-purchase agreements (PPAs). **[Q4-2011]**

*Support schemes for production of energy under the special regime (co-generation and renewables)*

5.7. Review the efficiency of support schemes for co-generation and propose possible options for adjusting downward the feed-in tariff used in co-generation (reduce the implicit subsidy).<sup>20</sup> **[Q4-2011]**

5.8. Review in a report the efficiency of support schemes for renewables, covering their rationale, their levels, and other relevant design elements.<sup>21</sup> **[Q4-2011]**

5.9. For existing contracts in renewables, assess in a report the possibility of agreeing a renegotiation of the contracts in view of a lower feed-in tariff.<sup>22</sup> **[Q4-2011]**

5.10. For new contracts in renewables, revise downward the feed-in tariffs and ensure that the tariffs do not over-compensate producers for their costs and they continue to provide an incentive to reduce costs further, through digressive tariffs. For more mature technologies develop alternative mechanisms (such as feed-in premiums). Reports on action taken will be provided annually in **Q3-2011, Q3-2012 and Q3-2013**.

---

<sup>20</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

<sup>21</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

<sup>22</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

5.11. Decisions on future investments in renewables, in particular in less mature technologies, will be based on a rigorous analysis in terms of its costs and consequences for energy prices. International benchmarks will be used for the analysis and an independent evaluation will be carried out. Reports on action taken will be provided annually in **Q3-2011**, **Q3-2012** and **Q3-2013**.

5.12. Reduce the delays and uncertainty surrounding planning, authorisation and certification procedures and improve the transparency of administrative requirements and charges for renewable energy producers (in line with Article 13 and 14 of EU Directive 2009/28/EC). Provide evidence of the measures taken to this end. **[Q4-2011]**

### *Energy policy instruments and taxation*

5.13. Review existing energy related instruments, including taxation and energy efficiency incentives. In particular, evaluate the risk of overlapping or inconsistent instruments **[Q3-2011]**.

5.14. Based on the results of the review, modify energy policy instruments to ensure that they provide incentives for rational use, energy savings and emission reductions. **[Q4-2011]**

5.15. Increase VAT tax rate in electricity and gas (presently at 6%) as well as excises for electricity (presently below the minima required by EU legislation). **[Q4-2011]**

## **Telecommunications and postal services**

### **Objectives**

Increase competition in the market by lowering entry barriers; guarantee access to network/infrastructure; strengthen power of the National Regulator Authority.

### *Telecommunications:*

The Government will:

5.16. Ensure more effective competition in the sector by implementing the new Directive on EU electronic communications regulatory framework (“Better Regulation Directive”), which will (among others) enhance independence of the National Regulator Authority. **[Q2-2011]**

5.17. Facilitate market-entry by auctioning ‘new’ radio frequencies (i.e. auction of spectrum) for broadband wireless access **[Q3-2011]** and lowering mobile termination rates **[Q3-2011]**.

5.18. Ensure that the provision on universal service designation and the incumbent’s concession contract are non-discriminatory: re-negotiate the concession contract with the undertaking currently providing the universal service and launch a new tender for designation of universal service providers. **[Q3-2011]**

5.19. Adopt measures to increase competition in the fixed communications market by: i) alleviating restrictions on mobility of consumers by reducing costs faced when deciding on provider along the lines proposed by the Competition Authority (such as standardized contracts, explicit right to free cancellation and facilitating price comparison) **[Q3-2011]**; ii) reviewing barriers on entry and adopting measures to reduce them. **[Q1-2012]**

## *Postal services*

The Government will:

5.20. Further liberalise the postal sector by transposing the Third Postal Directive ensuring that powers and independence of the National Regulator Authority are appropriate in view of its increased role in monitoring prices and costs [Q3-2011].

5.21. Eliminate VAT exemption for products within the universal service [Q3-2011]

## **Transport**

### **Objectives**

Adopt a strategic plan to: rationalise networks and improve mobility and logistic conditions in Portugal; improve energy efficiency and reduce environmental impact; reduce transport costs and ensure financial sustainability of the companies; strengthen competition in the railways sector and attract more traffic; integrate ports into the overall logistic and transport system, and make them more competitive.

The Government will take the following measures in the transport sector:

### *Strategic Plan for Transport:*

5.22. Present a Strategic Plan for Transport, which will specifically include [Q3-2011]

- i. An in-depth analysis of the transport system including an assessment of existing capacity, forecast demand, and projected traffic flows;
- ii. Measures to integrate rail, port and air transport services into the overall logistic and transport system, notably by improving competition in these transport modes;
- iii. Measures to facilitate entry for low-cost airline companies, making use of the existing infrastructure;
- iv. A set of priorities for investment with an estimate of the financial needs and the foreseen sources of financing as well as of energy savings.

Measures will be concrete, including the exact instruments used to achieve them. Measures will be chosen based on criteria of cost-effectiveness (comparing savings/costs).

### *Railways sector*

5.23. Transpose the EU Railway Packages and in particular: [Q3-2011]

- i. Strengthen the rail regulator independence and competences including by strengthening its administrative capacity in terms of decision and execution powers and staffing;
- ii. Ensure full independence of the state-owned railway operator CP from the State;
- iii. Balance the infrastructure manager's revenues and expenditures on the basis of a multi-annual contract with the infrastructure manager of a duration of at least three years and concrete commitments on State finance and performance;

- iv. Carry-out a rationalisation of the network and effective incentives for the infrastructure manager to reduce its costs, whereby the regulatory body will be given a monitoring role;
- v. Revise the existing Public Service Obligations (PSOs) on rail passenger transport, including the legal basis and administrative capacity for stepwise introduction of competitive tendering for PSOs;
- vi. Revise the infrastructure charging scheme to introduce a performance scheme, permitting operators to introduce yield management of tickets, in particular to raise ticket prices;
- vii. Privatisise the freight branch of the state-owned rail operator and some suburban lines.

### *Ports [Q4-2011]*

5.24. Define a strategy to integrate ports into the overall logistic and transport system. Specify the objectives, scope and priorities of the strategy, and the link to the overall Strategic Plan for the Transport sector.

5.25. Develop a legal framework to facilitate the implementation of the strategy and to improve the governance model of the ports system. In particular, define the necessary measures to ensure the separation of regulatory activity, port management and commercial activities.

5.26. Specify in a report the objectives, the instruments and the estimated efficiency gains of initiatives such as the interconnection between CP Cargo and Ex-Port, the Port Single Window and Logistic Single Window.

5.27. Revise the legal framework governing port work to make it more flexible, including narrowing the definition of what constitutes port work, bringing the legal framework closer to the provisions of the Labour Code.

### **Other services sector**

#### **Objectives**

Eliminate entry barriers in order to increase competition in the services sector; soften existing authorisation requirements that hinder adjustment capacity and labour mobility; reduce administrative burden that imposes unnecessary costs on firms and hamper their ability to react to market conditions.

#### *Sector-specific legislation of Services*

5.28. Adopt the remaining necessary amendments to the sector specific legislation to fully implement the Services Directive, easing the requirements related to establishment and reducing the number of requirements to which cross-border providers are subject. Amendments will be presented to the Parliament [Q3-2011] and adopted by [Q4-2011].

5.29. In case unjustified restrictions remain following the notification to the Commission of the recently adopted sector-specific amendments in the areas of construction and real estate, review and modify them accordingly. This includes making less burdensome the requirements applying to cross-border providers, both for construction and real estate

activities, and reviewing obstacles to the establishment of service providers such as restrictions on subcontracting (for construction) and on excessive liquidity obligations and physical establishment (for real estate). [Q4-2011]

### *Professional qualifications*

5.30. Improve the recognition framework on professional qualifications by adopting the remaining legislation complementing the Portuguese Law 9/2009 on the recognition of professional qualifications in compliance with the qualifications directive. Adopt the law concerning professions not regulated by Parliament [Q3-2011] and present to Parliament the law for those regulated by Parliament [Q3-2011] to be approved by [Q1-2012].

### *Regulated professions*

5.31. Eliminate restrictions to the use of commercial communication (advertising) in regulated professions, as required by the Services Directive [Q3-2011].

5.32. Review and reduce the number of regulated professions and in particular eliminate reserves of activities on regulated professions that are no longer justified. Adopt the law for professions not regulated by Parliament [Q3-2011] and present to Parliament the law for those regulated by Parliament [Q3-2011] to be approved by [Q1-2012].

5.33. Adopt measures to liberalize the access and exercise of regulated professions by professionals qualified and established in the European Union. Adopt the law for professions not regulated by Parliament [Q3-2011] and present to Parliament the law for those regulated by Parliament [Q3-2011] to be approved by [Q1-2012].

5.34. Further improve the functioning of the regulated professions sector (such as accountants, lawyers, notaries) by carrying out a comprehensive review of requirements affecting the exercise of activity and eliminate those not justified or proportional. [Q4-2011]

### *Administrative burden*

5.35. Continue the simplification reform effort by:

- i. making the Points of Single Contact (PSC) more user-friendly and responsive to SMEs needs, extending on-line procedures to all sectors covered by the Services Directive [Q4-2011] and adapt the content and information available at the PSC to the new legislation to be adopted [Q1-2012];
- ii. making fully operational the “Zero authorisation” project that abolish authorisations/licensing and substitute them with a declaration to the PSC for the wholesale and retail sector and restaurants and bars [Q4-2011]. The project shall include all levels of administration, including all municipalities [Q2-2012];
- iii. extending PSC to services not covered by the Services Directive [Q1-2013];
- iv. extending the Zero authorisation project to other sectors of the economy [Q1-2013].

## **6. Housing market**

### **Objectives**

Improve households' access to housing; foster labour mobility; improve the quality of housing and make better use of the housing stock; reduce the incentives for households to build up debt.

### *Rental market*

6.1. The Government will present measures to amend the New Urban Lease Act Law 6/2006 to ensure balanced rights and obligations of landlords and tenants, considering the socially vulnerable. [Q3-2011] This plan will lead to draft legislation to be submitted to Parliament by [Q4-2011]. In particular, the reform plan will introduce measures to: i) broaden the conditions under which renegotiation of open-ended residential leases can take place, including to limit the possibility of transmitting the contract to first degree relatives; ii) introduce a framework to improve households' access to housing by phasing out rent control mechanisms, considering the socially vulnerable; iii) reduce the prior notice for termination of leases for landlords; iv) provide for an extrajudicial eviction procedure for breach of contract, aiming at shortening the eviction time to three months; and v) strengthen the use of the existing extrajudicial procedures for cases of division of inherited property.

### *Administrative procedures for renovation*

6.2. The Government will adopt legislation to simplify administrative procedures for renovation. [Q3-2011] In particular, the specific measures will: i) simplify administrative procedures for renovation works, safety requirements, authorisation to use and formalities for innovations that benefit and enhance the building's quality and value (such as energy savings measures). The majority of apartment owners will be defined as representing the majority of the total value of the building; ii) simplify rules for the temporary relocation of tenants of building subject to rehabilitation works with due regard of tenants needs and respect of their living conditions; iii) grant landlords the possibility to ask for termination of the lease contract for major renovation works (affecting the structure and stability of the building) with a maximum 6 months of prior notice; iv) standardise the rules determining the level of conservation status of property and the conditions for the demolition of buildings in ruin.

### *Property taxation*

6.3. The Government will review the framework for the valuation of the housing stock and land for tax purposes and present measures to (i) ensure that by end 2012 the taxable value of all property is close to the market value and (ii) property valuation is updated regularly (every year for commercial real estate and once every three years for residential real estate as foreseen in the law). These measures could include enabling municipal officers, in addition to tax officers, to evaluate the taxable value of property and the use of statistical methods to monitor and update valuations. [Q3-2011]

6.4. The Government will modify property taxation with a view to level incentives for renting versus acquiring housing. [Q4-2011] In particular, the Government will: i) limit income tax deductibility of rents and mortgage interest payments as of 01.01.2012, except for low income households. Principal payments will not be deductible as of 01.01.2012; ii)



rebalance gradually property taxation towards the recurrent real estate tax (IMI) and away from the transfer tax (IMT), while considering the socially vulnerable. Temporary exemptions of IMI for owner-occupied dwellings will be considerably reduced and the opportunity cost of vacant or non-rented property will be significantly increased.

6.5. The Government will undertake a comprehensive review of the functioning of the housing market with the support of internationally-reputed experts. **[Q2-2013]**

## **7. Framework conditions**

### **Judicial system**

#### **Objectives**

Improve the functioning of the judicial system, which is essential for the proper and fair functioning of the economy, through: (i) ensuring effective and timely enforcement of contracts and competition rules; (ii) increasing efficiency by restructuring the court system, and adopting new court management models; (iii) reducing slowness of the system by eliminating backlog of courts cases and by facilitating out-of-court settlement mechanisms.

The Government will:

#### *Court backlog*

7.1. Intensify implementation of proposed measures under the Judicial Reform Map. Conduct an audit of the backlog cases in order to better target measures **[end-June 2011]**. Eliminate court backlogs by **Q2-2013**.

7.2. Based on the audit, better target existing measures and assess the need for additional measures to expedite the resolution of the backlog **[Q2-2011]**. Additional measures to be considered include, among others: (i) establishing separate Chambers or Teams (solely) directed towards resolving the backlog, (ii) restructuring court record-keeping so that cases can be taken off the books; (iii) merging similar small debt enforcement cases; (iv) strengthening and enforcing existing regulations allowing dormant cases to be removed from the court register; (v) imposing additional costs and penalties against non-cooperative debtors in enforcement cases; (vi) introducing a staggered court fee structure for extended litigation prompted by litigating parties without manifest cause; and (vii) assigning special court managers to manage the court agenda/hearings allowing judges to focus on the cases.

#### *Management of courts*

7.3. Expedite the implementation of the Judicial Reform Map creating 39 court units, with added management support for each unit, entirely financed through expenditure savings and gains of efficiency **[Q4-2012]**. This measure is part of the rationalisation effort, in order to improve efficiency in the management of infrastructures and public services. Prepare a roadmap on this reform identifying key quarterly milestones. **[Q3-2011]**

7.4. Adopt new court management methods for two county courts, including Lisbon. **[Q4-2011]**

7.5. Develop a personnel management plan that permits judicial specialisation and mobility of court officials. [Q4-2011]

#### *Alternative dispute resolution for out-of-court settlement*

7.6. The Government will present a Law on Arbitration by **end-September 2011** and make arbitration for debt enforcement cases fully operational by **end-February 2012** to facilitate resolution of backlog cases and out of court settlement.<sup>23</sup>

7.7. Optimize the regime for Justices for the Peace to increase its capacity to handle small claim cases. [Q1-2012]

7.8. Adopt measures to give priority to alternative dispute resolution enforcement cases in the courts. [Q4-2011]

#### *Civil cases in the courts*

7.9. Extend the new experimental civil procedure regime to 4 courts. [Q3-2011]

7.10. Assess in a report whether the experimental civil procedure regime will be applied to all courts. [Q4-2011]

7.11. Make specialised courts on Competition and on Intellectual Property Rights fully operational. [Q1-2012]

7.12. Assess the need for separate Chambers within the Commercial Courts with specialised judges for insolvency cases. [Q4-2011]

7.13. The Government will review the Code of Civil Procedure and prepare a proposal **by end-2011** addressing the key areas for refinement, including (i) consolidating legislation for all enforcement cases before the court, (ii) giving judges the power to expedite cases, (iii) reducing administrative burdens on judges, and (iv) enforcing statutory deadlines for court processes and in particular injunction procedures and debt enforcement and insolvency cases.<sup>24</sup>

7.14. Adopt specific measures for an orderly and efficient resolution of outstanding tax cases including (also covered under revenue administration):

- i. taking necessary steps to implement the Tax Arbitration Law (to enable an effective out of court resolution of tax claims); [Q3-2011]
- ii. assessing measures to expedite the resolution of tax cases such as: i) creating a special procedure for high value cases; ii) establishing criteria for prioritizing; iii) extending statutory interests for the entire the court proceeding; iv) imposing a special statutory interest payment on late compliance with a tax court decision. [Q4-2011]

#### *Budget and allocation of resources*

7.15. Standardize court fees and introduce special court fees for certain categories of cases and procedures with the aim of boosting revenue and disincentivizing spurious civil litigation. [Q3-2011]

---

<sup>23</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

<sup>24</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

7.16. Develop an annual workplan on the allocation of resources based on court by court performance data, which will be published annually on the internet.

7.17. Conduct a workload/staffing assessment for the six pilot courts under the Judicial Reform Map, as well as for the specialist courts.[ **Q1-2012**]

7.18. Publish quarterly reports on recovery rates, duration and costs of corporate insolvency and tax cases, publishing the first report by **Q3-2011**.

## **Competition, public procurement and business environment**

### **Objectives**

Ensure a level playing field and minimise rent-seeking behaviour by strengthening competition and sectoral regulators; eliminate special rights of the state in private companies (golden shares); reduce administrative burdens on companies; ensure fair public procurement processes; improve effectiveness of existing instruments dealing with export promotion and access to finance and support the reallocation of resources towards the tradable sector.

### *Competition and sectoral regulators*

7.19. The Government will eliminate "golden shares" and all other special rights established by law or in the statutes of publicly quoted companies that give special rights to the state (**end-July 2011**).<sup>25</sup>

7.20. Take measures to improve the speed and effectiveness of competition rules' enforcement. In particular:

- i. Establish a specialised court in the context of the reforms of the judicial system [**Q1-2012**].
- ii. Propose a revision of the competition law, making it as autonomous as possible from the Administrative Law and the Penal Procedural Law and more harmonized with the European Union competition legal framework, in particular:<sup>26</sup> [**Q4-2011**]
  - simplify the law, separating clearly the rules on competition enforcement procedures from the rules on penal procedures with a view to ensure effective enforcement of competition law;
  - rationalize the conditions that determine the opening of investigations, allowing the competition authority to make an assessment of the relevance of the claims;
  - establish the necessary procedures for a greater alignment between Portuguese law on merger control and the EU Merger Regulation, namely with regard to the criteria to make compulsory the ex ante notification of a concentration operation.;
  - ensure more clarity and legal certainty in the application of Procedural Administrative law in merger control.

---

<sup>25</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

<sup>26</sup> Structural benchmark in the Memorandum of Economic and Financial Policies.

- evaluate the appeal process and adjust it where necessary to increase fairness and efficiency in terms of due process and timeliness of proceedings.
- iii. Ensure that the Portuguese Competition Authority has sufficient and stable financial means to guarantee its effective and sustained operation. **[Q4-2011]**

7.21. Ensure that the national regulator authorities (NRA) have the necessary independence and resources to exercise their responsibilities. **[Q1-2012]** In order to achieve this:

- i. provide an independent report (by internationally recognised specialists) on the responsibilities, resources and characteristics determining the level of independence of the main NRAs. The report will benchmark nomination practices, responsibilities, independence and resources of each NRA with respect to best international practice. It will also cover scope of operation of sectoral regulators, their powers of intervention, as well as the mechanisms of coordination with the Competition Authority. **[Q4-2011]**
- ii. based on the report, present a proposal to implement the best international practices identified to reinforce the independence of regulators where necessary, and in full compliance with EU law. **[Q4-2011]**

### *Public procurement*

The Government will modify the national public procurement legal framework and improve award practices to ensure a more transparent and competitive business environment and improve efficiency of public spending. In particular, it will:

7.22. Eliminate, with regard to public foundations as set out in Law n.º 62/2007, all exemptions permitting the direct award of public contracts above the Public Procurement Directives thresholds to ensure full compliance with the Directives **[Q4-2011]**

7.23. Eliminate all special, permanent or temporary exemptions, permitting the direct award of public contracts below the Public Procurement Directives thresholds to ensure full compliance with the principles of the TFEU by the end of **Q3-2011** wherever this does not entail amending the Public Procurement Code, and by the end of **Q4-2011** otherwise.

7.24. Amend the Portuguese Public Procurement Code provisions on errors and omissions and additional works/services in accordance with the Public Procurement Directives. **[Q4-2011]**

7.25. Implement appropriate measures to address the currently existing problems with regard to direct awards for additional works/services and to ensure that such awards occur exclusively under strict conditions foreseen by the Directives. **[Q4-2011]**

7.26. Take measures to render contracting authorities' administrators financially responsible for lack of compliance with public procurement rules as recommended by the Portuguese Court of Auditors. **[Q4-2011]**

7.27. Ensure ex-ante auditing/checks on public procurement by the appropriate national bodies (most notably the Portuguese Court of Auditors) as a tool to prevent and counteract the practice of illegal award of additional works/services and increase transparency. **[Q3-2011]**

7.28. Upgrade the national Public Procurement Portal (Base) based on Resolution n° 17/2010 of the National Parliament in order to improve transparency of award procedures [Q4-2011]

7.29. Modify Art. 42 (7) (8) (9) of the Public Procurement Code, which sets out a requirement for investment in R&D projects on all public contracts worth more than EUR 25 million, to ensure full compliance with the Public Procurement directives, in particular by: i) eliminating the condition for the R&D project to be carried out in national territory; ii) requiring the R&D investments to be directly relevant for the performance of the contract; and iii) ensuring that all amounts to be spent on R&D projects are linked and justified by the subject-matter of the contract. [Q4-2011]

### *Business environment*

7.30. Adopt the “Simplex Exports” programme, including measures to accelerate the procedures for requesting VAT exemption for exporting firms and simplify procedures associated with indirect exports. [Q4-2011]

7.31. Reinforce measures to facilitate access to finance and export markets for companies, in particular for SMEs. This will include a review of the overall consistency and effectiveness of existing measures. [Q4-2011]

7.32. Promote liquidity conditions for business by timely implementing the New Late Payments Directive. [Q1-2013]

7.33. Reduce administrative burdens by including municipalities and all levels of public administration within the scope of the Simplex Programme. [Q1-2013]