

EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

at the request of the Council of the European Union on a recommendation for a Council Decision concerning exchange rate matters relating to the CFA franc and the Comorian franc

(CON/98/37)

(1999/C 200/05)

1. On 24 July 1998 the European Central Bank (ECB) received a request from the Council of the European Union for an opinion on a proposal for a Council Decision on the abovementioned topic (hereinafter referred to as the draft Decision). Document COM(1998) 412 final, which contained the draft Decision and an explanatory memorandum presented by the European Commission, was transmitted to the ECB. The ECB's competence to deliver an opinion is based on the second subparagraph of Article 109(1) in conjunction with Article 109(3) of the Treaty establishing the European Community (hereinafter referred to as the Treaty). In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the ECB, this opinion has been adopted by the Governing Council of the ECB.

Article 4 should be deleted from the explanatory memorandum. In this respect, the ECB would like to clarify the fact that no commitment to maintain the convertibility of the CFA franc or Comorian franc, nor any obligation whatsoever on the part of the ECB or any part of the ESCB, may be implied from modifications to the agreements. The ECB considers that reference should be made to this point in the recitals to the draft Decision. In addition, the ECB has noted that, as mentioned in recital 7, these agreements are unlikely to have any material effect on the monetary and exchange rate policy of the euro area. The ECB considers it useful that reference should also be made in the recitals to the fact that any modification to these agreements shall be without prejudice to the primary objective of the Community's exchange rate policy to maintain price stability, in accordance with Article 3a(2) of the Treaty. This is such an important point that a similar reference in the corpus of the draft Decision, for example in Articles 4 and 5, would also be warranted. The ECB also considers that reference should be made in the recitals to the understanding that the draft Decision does not establish a precedent with regard to any arrangements that may be decided in the future in respect of the negotiation and conclusion of agreements concerning monetary or foreign exchange regime matters by the Community with other States or international organisations.
2. The draft Decision provides that France may continue its present agreements concerning exchange rate matters with the UEMOA (Union économique et monétaire ouest-africaine), the CEMAC (Communauté économique et monétaire de l'Afrique Centrale) and with the Comores upon the substitution of the euro for the French franc. The draft Decision provides that France and the African signatories to these agreements shall retain sole responsibility for the implementation of these agreements. The draft Decision also provides for various procedural requirements on the part of the French authorities with respect to the implementation of France's present agreements with the UEMOA, the CEMAC and the Comores, the negotiation and conclusion of modifications to these agreements and the submission of any plans to change the nature and scope of these agreements.
3. The ECB notes that under the present agreements concerning exchange rate matters with the UEMOA, the CEMAC and the Comores the guarantee of convertibility for the CFA franc and the Comorian franc is based on a budgetary commitment of the French Treasury and not on any commitment on the part of the Banque de France. It is the ECB's understanding that by authorising France to continue the CFA franc agreements the European Community will not become party to the agreements. Under public international law the agreements are and will continue to be agreements between France and the African countries concerned. The ECB therefore suggests that the second paragraph of the explanations relating to
4. The ECB does not consider that the procedural requirements imposed on France by the draft Decision give full recognition to the consultative role of the ECB under the Treaty with regard to the negotiation and conclusion of modifications to France's present agreements with the UEMOA, the CEMAC and the Comores. While Article 5 of the draft Decision acknowledges the fact that plans to change the nature or scope of these agreements require the approval of the Council after consultation of the ECB, the said article provides that such plans shall first be submitted by France only to the European Commission and the Economic and Financial Committee. The ECB considers that the failure to submit such plans to the ECB would not accord with the spirit of the consultative role envisaged for the ECB by Article 109(3) of the Treaty. While the ECB will be represented on the Economic and Financial Committee, the ECB considers it appropriate that these plans should be submitted directly to the ECB in view of the ECB's consultative role with regard to decisions on

the arrangements for the negotiation and conclusion of monetary or foreign exchange regime agreements with foreign States. In this regard, the ECB draws attention to the fact that under Article 109(3) of the Treaty these arrangements shall ensure that the Community expresses a single position.

5. Furthermore, while Article 3 of the draft Decision provides that the competent French authorities shall keep the European Commission, the ECB and the Economic and Financial Committee informed on a regular basis about the implementation of the agreements, the French authorities shall only inform the European Commission and the Economic and Financial Committee prior to changes of the parity between the euro and the CFA franc or Comorian franc. In addition, under Article 4 of the draft

Decision France shall only inform the European Commission and the Economic and Financial Committee in advance of modifications to the agreements to the extent that the nature or scope of the agreements remain unchanged. The ECB considers that the ECB should be directly included in all aspects of the process for the same reasons as set forth in paragraph 4 above.

6. This Opinion will be published in the *Official Journal of the European Communities*.

Done at Frankfurt am Main, 22 September 1998.

The Vice-President of the ECB

C. NOYER

OPINION OF THE EUROPEAN CENTRAL BANK

at the request of the Council of the European Union on a recommendation for a Council Decision concerning exchange rate matters relating to the Cape Verde escudo

(CON/98/57)

(1999/C 200/06)

1. On 11 December 1998 the European Central Bank (ECB) received a request from the Council of the European Union for an opinion on a proposal for a Council Decision on the abovementioned topic (hereinafter referred to as the draft Decision). Document COM(1998) 663 final dated 18 November 1998, containing the draft Decision and an explanatory memorandum, was transmitted to the ECB. The ECB's competence to deliver an opinion is based on the second subparagraph of Article 109(1) in conjunction with Article 109(3) of the Treaty establishing the European Community (hereinafter referred to as the Treaty). In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the ECB, this opinion has been adopted by the Governing Council of the ECB.

Portuguese escudo. The draft Decision provides that Portugal and Cape Verde shall retain sole responsibility for the implementation of this agreement. The draft Decision also provides for various procedural requirements on the part of the Portuguese authorities with respect to the implementation of Portugal's present agreement with Cape Verde, the negotiation and conclusion of modifications to this agreement and the submission of any plans to change the nature and scope of the agreement. In fact, the draft Decision is, to a large extent, similar to an earlier Decision concerning exchange rate matters relating to the CFA franc and the Comorian franc, on which the ECB was consulted on 24 July 1998 and on which it delivered an opinion on 22 September 1998 (CON/98/37; in this opinion also referred to as the 'French case').

2. The draft Decision provides that Portugal may continue its present agreement concerning exchange rate matters with Cape Verde upon the substitution of the euro for the

3. The ECB notes with satisfaction that its observations with regard to the above Decision in the French case have also been incorporated into the present draft Decision.