



COMMISSION OF THE EUROPEAN COMMUNITIES

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Recommendation for a

COUNCIL DECISION

**on the position to be taken by the Community regarding an agreement concerning the
monetary relations with the Principality of Andorra**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. ANDORRA'S REQUEST FOR A MONETARY AGREEMENT

On 15 July 2003, the Andorran authorities formally requested the conclusion of a monetary agreement with the Community. They expressed the wish that the Principality of Andorra be granted the right to officially adopt the euro as legal tender and to issue both euro circulation coins and euro collector coins.

The Principality of Andorra - an independent state, situated between France and Spain - is a sovereign country which has recently adopted its constitution (1993). The Bishop of the Diocese of Urgella (a Spanish city) and the President of the French Republic (both in a personal capacity) are the Heads of the Andorran State (co-princes). Andorra did not conclude any monetary agreement in the past with any Member State or third country. It never had either an official currency or any formal currency regime. French and Spanish banknotes and coins were traditionally used as quasi official currency (in parallel), but did not have any legal tender status, and were replaced by euro notes and coins in 2002.

A monetary agreement will offer benefits to both parties. Andorra will be able to adopt the euro as its official currency and could be allowed to mint certain quantities of euro circulation and/or collector coins. At the same time, the use of the euro in Andorra will be subject to a number of rules and a clear legal framework will thus be established. In addition, the monetary agreement will ensure co-operation with the Community in areas of particular importance (prevention of counterfeiting and money laundering) and ensure the application of certain relevant measures forming part of the Community's banking and financial regulation to the financial sector in Andorra. This will contribute to establishing broadly comparable conditions and hence a level playing field between financial institutions situated in the euro area and those located in Andorra.

2. OTHER AGREEMENTS BEING NEGOTIATED WITH ANDORRA

Since June 2002, the Commission is negotiating a broad co-operation agreement between the Community and Andorra covering a wide variety of issues. These negotiations have made significant progress and are expected to be completed soon. In addition, negotiations between the Community and Andorra are ongoing towards the conclusion of an agreement on the taxation of income from savings. This agreement will contribute to the entry into force on 1 January 2005 of Directive 2003/48/EC of 3 June 2003 on the taxation of income from savings within the Community. A future monetary agreement with Andorra will thus form part of a larger framework of relations and agreements between the Community and Andorra.

3. EXISTING MONETARY AGREEMENTS BETWEEN THE COMMUNITY AND THIRD COUNTRIES

The Community concluded a number of monetary agreements in the recent past, in particular with the Vatican City State and the Republic of San Marino (2001), as well as with the Principality of Monaco (2002). In each of these cases, a formal monetary agreement with a Member State (Italy and France respectively) existed prior to the introduction of the euro in 1999. Since the competence for monetary and exchange rate matters shifted from the euro area Member States to the Community as from this date, and since Declaration No 6 to the

Final Act of the Treaty of Maastricht indicated that the Community undertook to facilitate the renegotiations of existing arrangements, these monetary agreements have effectively ensured the legal continuity of the existing arrangements.

4. THE COMMISSION RECOMMENDATION FOR A MONETARY AGREEMENT WITH ANDORRA

Article 111.3 EC constitutes the legal basis for monetary agreements between the Community and third countries. The Council, acting by a qualified majority on a recommendation by the Commission and after consulting the ECB, decides the arrangements for the negotiations and for the conclusion of such agreements.

The present Commission Recommendation proposes a draft Council Decision defining the Community's position in the negotiation of an agreement between the Community and Andorra. The different articles are briefly commented on below:

Article 1

This Article reflects in particular the fact that French and Spanish banknotes and coins were traditionally used as quasi official currency in Andorra and that, since January 2002, the euro is the currency of Andorra "de facto", but not "de jure". It underlines therefore that the monetary relations between the Community and Andorra could be clarified and that the Community is prepared to respond favourably to the country's request of July 2003 for the conclusion of a monetary agreement.

Since the Commission will be in charge of the conduct of the negotiations (cf. Article 7), it would inform Andorra of the Community's willingness to open the negotiations, subject to the conditions laid down in Article 8 being fulfilled.

Article 2

The principles laid down in Articles 3 to 6 should form the basis for the position to be taken by the representative of the Community in the negotiations with Andorra on an agreement concerning monetary matters.

Article 3

Article 3 stipulates that the Community may allow Andorra to use the euro as its official currency and to grant legal tender status to euro banknotes issued by the European System of Central Banks and to euro coins issued by the Member States which have adopted the euro. This would ensure that Andorra can continue to use the euro, can adopt it as its official currency and that banknotes and coins which have legal tender status in the Community would also have the same status in Andorra.

Article 4

Article 4 stipulates that Andorra is expected to undertake not to issue any banknotes, coins or monetary surrogates unless the issuance is expressly foreseen in the agreement. This applies not only to banknotes, coins or other monetary surrogates denominated in euro but to all kind of banknotes, coins and monetary surrogates independent of their denomination. The possibility of Andorra continuing to issue gold and silver collector coins denominated in diner will be examined.

Article 5

The purpose of the first paragraph is to ensure that Community rules on euro banknotes and coins, such as those on the enforcement of copyright, the exchange of damaged banknotes, the reproduction of banknotes and coins, are applied in Andorra.

The second paragraph stipulates that Andorra is expected to undertake to co-operate closely with the Community and to adopt Community rules aimed at protecting euro banknotes and coins against fraud and counterfeiting. This concerns, *inter alia*, the exchange of technical and statistical data concerning counterfeit banknotes and coins and the exchange of operational and strategic information between the competent authorities. Andorra is expected to ensure adequate sanctions against fraud, counterfeiting and falsification of euro banknotes and coins.

Article 6

With a view to establishing broadly similar conditions between all financial institutions operating in euro, irrespective of whether they are located inside or outside the euro area, Article 6 stresses the need for an agreement encompassing the relevant elements of the Community banking and financial legislation, notably the activity and supervision of all institutions concerned. The agreement would also need to cover the relevant Community legislation on the prevention of money laundering, on the prevention of fraud and counterfeiting of non-cash means of payment and on statistical reporting.

Article 6 also stipulates that the Community may allow financial institutions located in Andorra to have access to the euro area's payment and settlement systems under conditions to be determined with the express agreement of the European Central Bank. This provision is not meant to allow the imposition of an obligation on the ESCB to grant access to the ESCB payment systems. Such access can only be granted subject to the agreement of the ECB/ESCB. However, the appropriate conditions for granting such an access will need to be laid down in the monetary agreement itself.

Article 7

Article 7 proposes that the Commission shall conduct the negotiations with Andorra and conclude the possible agreement on behalf of the Community. The Council thereby makes use of its competence under Article 111.3 EC for defining the arrangements for the negotiations and for the conclusion of agreements concerning monetary or foreign exchange regime matters. It is stipulated that France and Spain shall both be fully associated with the negotiations. Given the relevance of many aspects of this agreement for the European Central Bank, it shall be fully associated with the negotiations in its fields of competence.

Article 8

Article 8 stipulates that the opening and progress of the negotiations on monetary matters is subordinate to the prior fulfilment of certain conditions by Andorra, notably related to satisfactory progress in the initialling and the conclusion of the agreement on the taxation of savings between the Community and Andorra. In particular, the Council will decide, on the basis of a recommendation from the Commission, whether the necessary conditions for the opening of the negotiations on the monetary agreement have been fulfilled. These negotiations would be suspended in the absence of ratification by Andorra of the savings tax agreement.

Article 9

Before the conclusion of the agreement, the Commission shall submit the draft agreement to the Economic and Financial Committee for opinion.

Article 9 proposes that France or Spain, or the European Central Bank, or the Economic and Financial Committee, can request that the draft agreement be submitted to the Council. In the absence of such requests, the Commission would be able to proceed with the conclusion of the agreement.

Article 10

This article clarifies that the decision is addressed to the Commission. It will be effective as soon as it is notified to the Commission.

Recommendation for a

COUNCIL DECISION

on the position to be taken by the Community regarding an agreement concerning the monetary relations with the Principality of Andorra

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 111(3) thereof,

Having regard to the Recommendation from the Commission¹,

Having regard to the Opinion of the European Central Bank,

Whereas:

- (1) Pursuant to Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro,² the euro replaced the currency of each participating Member State as from 1 January 1999.
- (2) The Community has the competence, as from the same date, in monetary and foreign exchange regime matters in Member States adopting the euro.
- (3) The Council is responsible for determining the arrangements for the negotiation and conclusion of agreements concerning monetary or foreign exchange regime matters.
- (4) The Community has concluded monetary agreements with Monaco³, the Vatican City⁴ and San Marino⁵. These countries had concluded earlier monetary agreements with France or with Italy, prior to the introduction of the euro.
- (5) The Principality of Andorra (“Andorra”) does not have an official currency, nor has it concluded a monetary agreement with any Member State or third country. Spanish and French banknotes and coins were originally used *de facto* in Andorra, and were replaced by euro banknotes and coins as from 1 January 2002.
- (6) Andorra formally requested on 15 July 2003 the conclusion of a monetary agreement with the Community.

¹ OJ C

² OJ L 139, 11.5.1998, p. 1.

³ OJ L142 of 31.5.2002, p. 67-73.

⁴ OJ C299 of 25.10.2001, p. 1-4.

⁵ OJ C209 of 27.7.2001, p. 1-4.

- (7) Given the close economic relations between Andorra and the Community, it is appropriate that an agreement between the Community and Andorra should include provisions regarding euro banknotes and coins, the legal status of the euro in Andorra, and also access to the euro area payment systems. Since the euro is already in use in Andorra, it should be agreed that Andorra is to use the euro as its official currency and that it will grant legal tender status to euro banknotes and coins issued by the European System of Central Banks and Member States which have adopted the euro.
- (8) The euro becoming Andorra's official currency does not create any right for it to issue banknotes or coins, whether denominated in euro or in another denomination, or to issue monetary surrogates, unless the monetary agreement contains explicit provisions to this effect. Andorra currently issues collector coins denominated in diner and the possibility to continue this practice will be examined.
- (9) It is important that Andorra ensures that Community rules on banknotes and coins denominated in euro are applicable in Andorra. Euro banknotes and coins need proper protection against fraud and counterfeiting. It is also important that Andorra should take all the necessary measures and should co-operate with the Community in this area.
- (10) Andorra should undertake to implement all relevant measures forming part of the Community framework for banking and financial regulations, including the prevention of money laundering, the prevention of fraud and counterfeiting of non-cash means of payment and statistical reporting requirements. The application of such measures will contribute *inter alia* to establishing comparable and equitable conditions between financial institutions situated in the euro area and those located in Andorra.
- (11) The European Central Bank and the national central banks may engage in all types of banking transactions in relation to financial institutions located in third countries. The European Central Bank and the national central banks may, on appropriate conditions, allow financial institutions in third countries access to their payment systems. Agreement between the Community and Andorra should not impose any obligations on the European Central Bank or on any national central bank.
- (12) The Commission should be empowered to conduct the negotiations with Andorra. Andorra's neighbouring countries, Spain and France, should be fully associated with the negotiations, and the European Central Bank should be fully associated within its field of competence.
- (13) This Decision covers solely the agreement to be established between Andorra and the Community on monetary matters, to the exclusion of other matters requiring to be taken up in separate agreements. Andorra has been invited to agree to equivalent measures in certain areas, in particular as regards the taxation of the income from savings. The Council will examine, in the light of progress made on the negotiation and the initialling of the savings-tax agreement, and on the basis of a recommendation from the Commission, whether the necessary conditions have been fulfilled for the opening of negotiations on the monetary agreement.
- (14) The Commission should submit the draft agreement to the Economic and Financial Committee for its opinion. The draft agreement should further be submitted to the Council if Spain and France, or the European Central Bank, or the Economic and Financial Committee, is of the opinion that this is necessary,

HAS ADOPTED THIS DECISION:

Article 1

The Commission shall inform the Principality of Andorra of the Community's preparedness to conclude an agreement on monetary matters with Andorra at the earliest possible date and shall propose negotiations for such an agreement.

Article 2

The position to be taken by the Community in the negotiations with Andorra for an agreement on the matters referred to below shall be based on the principles laid down in Articles 3 to 6.

Article 3

1. Andorra shall be entitled to use the euro as its official currency.
2. Andorra shall be entitled to grant legal tender status to euro banknotes and coins.

Article 4

1. Andorra shall undertake not to issue any banknotes, coins or monetary surrogates of any kind unless the conditions for such issuance have been agreed with the Community.
2. However, the possibility of Andorra continuing to issue gold and silver collector coins denominated in diner will be examined.

Article 5

1. Andorra shall undertake to conform to Community rules on euro banknotes and coins.
2. Andorra shall undertake to co-operate closely with the Community with regard to the protection of euro banknotes and coins against fraud and counterfeiting and to adopt rules implementing the Community acts in this domain.

Article 6

1. Andorra shall undertake to adopt all appropriate measures, through equivalent actions or direct transpositions, for the application of all relevant Community banking and financial legislation, in particular legislation relating to the activity and supervision of the institutions concerned, and also for the application of all relevant Community legislation on the prevention of money laundering, on the prevention of fraud and counterfeiting of non-cash means of payment and on statistical reporting requirements.

2. Financial institutions located in the territory of Andorra may have access to the payment and settlement systems within the euro area under appropriate conditions to be laid down in the agreement on monetary matters and to be determined in agreement with the European Central Bank.

Article 7

The Commission shall, on behalf of the Community, conduct the negotiations with Andorra on the matters referred to in Articles 3 to 6. Spain and France shall be fully associated with the negotiations. The European Central Bank shall be fully associated with those negotiations falling within its field of competence.

Article 8

The negotiations on an agreement on monetary matters shall be opened as soon as the Council has agreed, acting by a qualified majority on a recommendation from the Commission, that the necessary conditions for the opening of such negotiations have been fulfilled.

The prior initialling by both parties of the agreement on the taxation of income from savings, as well as the undertaking by Andorra to conclude such agreement before a date to be agreed with the Community, shall form part of those conditions.

If the agreement on the taxation of savings has not been concluded by Andorra before the agreed date, the negotiations on the monetary agreement shall be suspended until such conclusion has taken place.

Article 9

The Commission shall submit the draft agreement to the Economic and Financial Committee for opinion.

The Commission shall be entitled to conclude the agreement on behalf of the Community unless Spain or France, or the European Central Bank, or the Economic and Financial Committee, are of the opinion that the agreement should be submitted to the Council.

Article 10

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President