



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 09.08.2004
COM(2004) 548 final

2004/0184 (CNB)

Recommendation for a

COUNCIL DECISION

**on the opening of the negotiations on an agreement concerning monetary relations with
the Principality of Andorra**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. GENERAL

On 11 May 2004, the Council adopted Decision No 548/04 on the position to be taken by the Community regarding an agreement concerning the monetary relations with the Principality of Andorra. Article 8 of this Decision provides that the negotiations with Andorra on the monetary agreement shall be opened as soon as the Council has agreed, on a recommendation from the Commission, that the necessary conditions have been fulfilled. These conditions are linked, in particular, to 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.

2. FULFILMENT OF THE NECESSARY CONDITIONS

The Commission considers that the conditions have now been met. Firstly, the agreement providing for measures equivalent to those laid down in Council Directive 2003/48/EC on the taxation of savings income in the form of interest payments has been initialled in Brussels on 1 July 2004. Secondly, the Principality of Andorra has notified the Commission in writing (verbal note of 1 July 2004 from the Ambassador of the Principality of Andorra to the Community, Mrs Meritxell Mateu) that it intends to ratify this agreement before 30 April 2005. The Commission therefore recommends the adoption by the Council of a Decision authorising the opening of negotiations on monetary matters with Andorra.

3. THE COMMISSION'S RECOMMENDATION FOR THE OPENING OF NEGOTIATIONS

The Commission's Recommendation is based on Article 8 of Council Decision No 548/04 on the position to be taken by the Community regarding an agreement concerning the monetary relations with the Principality of Andorra. The procedure for the adoption of this Recommendation by the Council is laid down in Article 111(3) of the Treaty, which constitutes the legal basis for monetary agreements between the Community and third countries. This article provides for adoption by qualified majority and after consultation of the ECB. By virtue of Article 122(5) of the Treaty, only the Member States belonging to the euro area are allowed to vote, while qualified majority is defined as two-thirds of the votes weighed in accordance with Art. 205(2) of the Treaty.

The draft Council Decision establishes that the necessary conditions for the opening of the negotiations with Andorra on an agreement on monetary matters have been fulfilled. The adoption of this Decision by the Council opens the way for the opening of the negotiations.

If the agreement on the taxation of income from savings has not been ratified by Andorra before the agreed date, the negotiations on the monetary agreement shall be suspended until such conclusion has taken place as laid down in Art 8 of Council Decision No 548/04 of 11 May 2004.

Recommendation for a

COUNCIL DECISION

on the opening of the negotiations on an agreement concerning monetary relations with the Principality of Andorra

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision (EC) No 548/04 of 11 May 2004 on the position to be taken by the Community regarding an agreement concerning the monetary relations with the Principality of Andorra¹, and in particular Article 8 thereof;

Having regard to the Recommendation of the Commission,²

Having regard to the Opinion of the European Central Bank,³

Whereas:

- (1) The opening of the negotiations on an agreement with the Principality of Andorra (hereinafter, "Andorra") on monetary matters should be conditional upon the fulfilment of the necessary conditions. The prior initialling by both parties of the agreement on the taxation of income from savings, as well as the undertaking by Andorra to ratify such agreement before a date agreed with the Community, should form part of those conditions.
- (2) Andorra and the Commission have proceeded on 1 July 2004 with the initialing of the agreement providing for measures equivalent to those laid down in Council Directive 2003/48/EC on the taxation of savings income in the form of interest payments;
- (3) By virtue of the verbal note from the Ambassador of Andorra to the Community of 1 July 2004, Andorra has undertaken to ratify such agreement before 30 April 2005. This date is acceptable to the Community.
- (4) The absence of ratification by Andorra, before the agreed date, of the agreement on the taxation of income from savings should result in the suspension of the negotiations on the monetary agreement until such ratification has taken place.

¹ OJ L244 of 16.7.2004 (p.47-49)

² OJ C [...] [...], p. [...]

³ OJ C [...] [...], p. [...]

HAS DECIDED AS FOLLOWS:

Sole Article

The necessary conditions for the opening of the negotiations with the Principality of Andorra on an agreement on monetary matters, as laid down in Article 8 of Council Decision (EC) N° 548/04 on the position to be taken by the Community regarding an agreement concerning the monetary relations with the Principality of Andorra, have been fulfilled.

The Commission shall inform the Principality of Andorra of the Community's readiness to conclude an agreement on monetary matters and it shall propose negotiations for such an agreement.

Done at Brussels,

*For the Council
The President*