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 Monaco

Recommendation for a
COUNCIL DECISION

on the position to be taken by the Community regarding an agreement concerning the monetary relations with the Republic of San Marino

Recommendation for a
COUNCIL DECISION

on the position to be taken by the Community regarding an agreement concerning the monetary relations with the Vatican City

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(presented by 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 Monaco

EXPLANATORY MEMORANDUM

As from 1 January 1999, the Community will have the exclusive competence for monetary and exchange rate matters in the Member States adopting the euro. Any agreement with third countries concerning monetary or foreign exchange rate matters needs to reflect this allocation of competence. Therefore, the Community must decide on the future of such agreements which exist between Member States adopting the euro and third countries.

For this purpose, the Commission is presenting a draft Council Decision which is addressed to France and which defines the position to be taken in the negotiation of a new agreement between the Community and the Principality of Monaco.

I. General considerations

France has particular monetary links with the Principality of Monaco, which are based on different legal instruments[1] and which ensure that banknotes and coins issued by France have legal tender status in the Principality of Monaco. Coins issued by the Principality of Monaco have legal tender status in the Principality of Monaco only. The Principality of Monaco has neither an own currency nor a central bank.

Financial institutions located in the Principality of Monaco have access to the refinancing facilities of the Banque de France, which they have not used in the past and to some French payment systems under the same conditions as French banks. On the other hand they are subject to the same minimum reserve and statistical reporting requirements as French banks. Moreover, they are subject to the same conditions with regard to the granting of a banking license and are supervised by the competent French authorities.

As from 1 January 1999, France will adopt the euro as its currency. In accordance with the Treaty, the European System of Central Banks will define and implement the

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[1] Ordonnance monégasque fixant le cours légal et le cours forcé des monnaies et billets du 2 janvier 1925; Convention franco-monégasque relative au contrôle des changes, 14 avril 1945 ; Echange de lettres entre la France et Monaco du 18 mai 1963 relatif à la réglementation bancaire dans la Principauté, as amended by the Echange de lettres du 27 novembre 1987

monetary policy of the Community. Therefore a new agreement needs to be concluded between the Community and the Principality of Monaco.

The draft Council decision determines the principles on which the negotiations with the Principality of Monaco should be based. The Commission recommends that the Community allows the Principality of Monaco 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. Moreover, financial institutions located in the Principality of Monaco may be granted access to the payment systems offered by the ESCB under conditions to be determined by the ECB.

On the other hand, the Principality of Monaco is expected to undertake not to issue any banknotes, coins or monetary surrogates of any kind unless the conditions for such issuance are agreed with the Community. Moreover, the Principality of Monaco is expected to make Community rules on euro banknotes and coins applicable in the Principality of Monaco and to cooperate closely with the Community with regard to measures against counterfeiting of euro banknotes and coins.

The draft Council decision is based on Article 109 (3) of the Treaty, which stipulates that "By way of derogation from Article 228, where agreements concerning monetary or foreign exchange regime matters need to be negotiated by the Community with one or more States or international organizations, the Council, acting by a qualified majority, on a recommendation from the Commission and after consulting the ECB, shall decide the arrangements for the negotiations and for the conclusion of such agreements."

Given the close historical links between France and the Principality of Monaco, the Commission recommends that France negotiates and concludes the new agreement on behalf of the Community. In accordance with Article 109 (3) of the Treaty, the Commission will be fully associated with the negotiations. The Commission recommends that the European Central Bank is fully associated with the negotiations in its fields of competence. The draft agreement will have to be submitted to the Economic and Financial Committee for opinion. The draft agreement will have to be submitted to the Council in the case that the Commission or the European Central Bank or the Economic and Financial Committee are of the opinion that this is necessary.

II. Comments on the articles

Article 1

This article reflects the fact that the agreements between France and the Principality of Monaco in their present form are not compatible with the allocation of competence for monetary and exchange rate matters as laid down in the Treaty. The arrangements therefore need to be amended or replaced at the earliest possible date. France is requested to give notice to the Principality of Monaco with a view to amend the agreements at the earliest date which is possible under the existing agreements.

Article 2

Article 2 stipulates that the principles laid down in Articles 3 to 6 should form the basis for the position to be taken by France on behalf of the Community in the negotiations with the Principality of Monaco on an agreement concerning monetary matters.

Article 3

Article 3 stipulates that the Community may allow the Principality of Monaco 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 the Principality of Monaco and France could continue to have the same currency, i.e. the euro, and that banknotes and coins which have legal tender status in France, would have the same status in the Principality of Monaco.

Article 4

Article 4 stipulates that the Principality of Monaco 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.

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 and the reproduction of banknotes and coins, are respected in the Principality of Monaco.

The second paragraph stipulates that the Principality of Monaco is expected to undertake to co-operate closely with the Community in the protection euro banknotes and coins against counterfeiting. This concerns, inter alia, the exchange of technical and statistical data concerning counterfeited banknotes and coins and the exchange of operational and strategic information between the competent authorities. The Principality of Monaco is expected to ensure adequate sanctions against counterfeiting and falsification of euro banknotes and coins.

Article 6

Article 6 stipulates that the Community may allow financial institutions located in the Principality of Monaco to have access to some or all French national payment systems under conditions to be determined with the agreement of the European Central Bank. This provisions 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 if the ECB agrees.

Article 7 and 8

Article 7 and 8 stipulate that France shall conduct the negotiations with the Principality of Monaco and conclude the agreement on behalf of the Community. The Council makes thereby use of it competence to define the arrangements for the negotiations and for the conclusion of agreements concerning monetary or foreign exchange regime matters. In accordance with Article 109 (3) of the Treaty, it is recalled that the Commission shall be fully associated with the negotiations.

Given the relevance of most of the aspects of this agreement for the European Central Bank, the European Central Bank shall be fully associated with the negotiations in its fields of competence.

Before the conclusion of the agreement, France shall submit the draft agreement to the Economic and Financial Committee for opinion. If the Commission or the European Central Bank, which have been fully associated to the negotiations or the Economic and Financial Committee are of the opinion that the agreement should be submitted to the Council, the conclusion of the agreement has to wait for the Council to take a decision in accordance with Article 109 (3) of the Treaty.

Article 9

Article 9 reflects the requirement that any persisting bilateral agreements between France and the Principality of Monaco have to be compatible not only with the allocation of competence for monetary and exchange rate matters as laid down in the Treaty, but also with the new agreement between the Community and the Principality of Monaco concerning their monetary relations.

Article 10

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

Recommendation for a Council Decision [ ] of ...
on the position to be taken by the Community regarding an agreement concerning the monetary relations with the Principality of Monaco

98/ 0365(CNB)

The Council of the European Union,

Having regard to the Treaty establishing the European Community, and in particular Article 109 (3) thereof,

Having regard to the recommendation from the Commission,

Having regard to the opinion of the European Central Bank,

(1) Whereas according to Council regulation (EC) No 974/98 of 3 May 1998[1] the euro will be substituted as from 1 January 1999 for the currency of each participating Member State at the conversion rate;

(2) Whereas the Community will have the competence for monetary and exchange rate matters in the Member States adopting the euro as from the same date;

(3) Whereas the Council is to determine the arrangements for the negotiation and conclusion of agreements concerning monetary or foreign exchange regime matters;

(4) Whereas France has particular monetary links with the Principality of Monaco which are based on different legal instruments[2]; whereas financial institutions located in the Principality of Monaco have the potential right to access the refinancing facilities of

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1 OJ L 139, 11.5.1993, p.1

2 Ordonnance monégasque fixant le cours légal et le cours forcé des monnaies et billets du 2 janvier 1925; Convention franco-monégasque relative au contrôle des changes, 14 avril 1945 ; Echange de lettres entre la France et Monaco du 18 mai 1963 relatif à la réglementation bancaire dans la Principauté, as amended by the Echange de lettres du 27 novembre 1987

the Banque de France and whereas they participate in some French payment systems under the same conditions as French banks;

(5) Whereas the euro will be substituted for the French Franc on 1 January 1999;

(6) Whereas according to declaration No 6 annexed to the final act of the Treaty on European Union, the Community undertakes to facilitate the renegotiations of existing arrangements with the Principality of Monaco as might become necessary as a result of the introduction of the single currency;

(7) Whereas the arrangements between France and the Principality of Monaco in their present form need to be amended or, as the case may be, replaced at the earliest possible date, taking into account the allocation of competence to the Community for monetary and exchange rate matters as laid down in the Treaty;

(8) Whereas given the close economic relations between the Principality of Monaco and the Community, it is appropriate that an agreement concerning banknotes and coins, the access to payment systems and the legal status of the euro in the Principality of Monaco is concluded between the Community and the Principality of Monaco; whereas given the historical links between France and the Principality of Monaco, it is appropriate that France negotiates and may conclude the new agreement on behalf of the Community;

(9) Whereas in order to allow the Principality of Monaco to have the same currency as France, it is appropriate to agree that the Principality of Monaco uses the euro as its official currency and grants legal tender status to euro banknotes and coins issued by the European System of Central Banks and the Member States which have adopted the euro;

(10) Whereas it is important that the Principality of Monaco ensures that Community rules on banknotes and coins denominated in euro are applicable in the Principality of Monaco; whereas euro banknotes and coins need appropriate protection against counterfeiting; whereas it is important that the Principality of Monaco takes all the necessary measures to combat counterfeiting and to cooperate with the Community in this area;

(11) Whereas 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; whereas the European Central Bank and the national central banks may under appropriate conditions allow financial institutions in third countries access to their payment systems; whereas the agreement between the Community and the

Principality of Monaco shall not impose any obligations on the European Central Bank or on any national central bank;

(12) Whereas the Commission and the European Central Bank in its fields of competence will have to be fully associated with these negotiations; whereas it is appropriate that France submits the draft agreement to the Economic and Financial Committee for its opinion; whereas the draft agreement will have to be submitted to the Council in the case that the Commission or the European Central Bank or the Economic and Financial Committee are of the opinion that this is necessary;

(13) Whereas existing agreements between France and the Principality of Monaco should be amended or, as the case may be, replaced so as to avoid any inconsistencies between such agreements and the agreement between the Community and the Principality of Monaco concerning their monetary relations;

HAS ADOPTED THIS DECISION:

Article 1

France shall notify the Principality of Monaco of the need to amend the existing arrangements between France and the Principality of Monaco at the earliest possible date as far as monetary matters are concerned and offer negotiations for a new agreement.

Article 2

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

Article 3

(1) The Principality of Monaco shall be entitled to use the euro as its official currency.

(2) The Principality of Monaco shall be entitled to grant legal tender status to euro banknotes and coins.

Article 4

The Principality of Monaco 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 European Community.

Article 5

(1) The Principality of Monaco shall undertake to make Community rules on euro banknotes and coins applicable in the Principality of Monaco.

(2) The Principality of Monaco shall undertake to cooperate closely with the Community with regard to measures against counterfeiting of euro banknotes and coins.

Article 6

Financial institutions located in the Principality of Monaco may have access to some or all French payment systems under appropriate conditions to be determined with the agreement of the European Central Bank.

Article 7

France shall conduct the negotiations with the Principality of Monaco on the above-mentioned matters on behalf of the Community. The Commission shall be fully associated with the negotiations. The European Central Bank shall be fully associated with the negotiations in its fields of competence. France shall submit the draft agreement to the Economic and Financial Committee for opinion.

Article 8

France shall be entitled to conclude the agreement on behalf of the Community unless the Commission 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 9

France and the Principality of Monaco shall review their existing arrangements in order to make them compatible with the agreement between the Community and the Principality of Monaco concerning their monetary relations.

Article 10

This decision is addressed to France.

Done at Brussels,

For the Council

The President

Recommendation for a Council Decision on the position to be taken by the Community regarding an agreement concerning the monetary relations with the Republic of San Marino

EXPLANATORY MEMORANDUM

As from 1 January 1999, the Community will have the exclusive competence for monetary and exchange rate matters in the Member States adopting the euro. Any agreement with third countries concerning monetary or foreign exchange rate matters needs to reflect this allocation of competence. Therefore, the Community must decide on the future of such agreements which exist between Member States adopting the euro and third countries.

For this purpose, the Commission is presenting a draft Council Decision which is addressed to Italy and which defines the position to be taken in the negotiation of a new agreement between the Community and the Republic of San Marino.

I. General considerations

Italy has concluded several agreements with the Republic of San Marino which include provisions on monetary matters[1] and which ensure that banknotes and coins issued by Italy have legal tender status in the Republic of San Marino. Coins issued by the Republic of San Marino, in a material other than gold, are identical in shape, dimension and composition to those circulating in Italy. The issuing volume of these coins, which have legal tender status in the Republic of San Marino and in Italy is limited by the agreements. The Republic of San Marino has undertaken not to issue any other coins, banknotes or monetary surrogates. The Republic of San Marino has neither an own currency nor a central bank, even though the Istituto di Credito Sammarinese performs some functions similar to those of a central bank.

Financial institutions located in the Republic of San Marino do not have access to the refinancing facilities of the Banca d'Italia. On the other hand, one financial institution located in the Republic of San Marino has access to the Italian RTGS system. There is no formal relationship between the Banca d'Italia and the Istituto di Credito Sammarinese.

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1 Convenzione di amicizia e di buon vicinato fra San Marino e L'Italia del 31 marzo 1939, as amended, Convenzione monetaria tra la Repubblica Italiana e la Repubblica di San Marino, 21-XII-1991; Convenzione in materia di rapporti finanziari e valutari tra la Repubblica Italiana e la Repubblica di San Marino con atto aggiuntivo corredato da Processo Verbale firmato a Roma il 4 marzo 1994.

As from 1 January 1999, Italy will adopt the euro as its currency. In accordance with the Treaty, the European System of Central Banks will define and implement the monetary policy of the Community. Therefore a new agreement needs to be concluded between the Community and the Republic of San Marino.

The draft Council decision determines the principles on which the negotiations with the Republic of San Marino should be based. The Commission recommends that the Community allows the Republic of San Marino 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. Moreover, financial institutions located in the Republic of San Marino may be granted access to the payment systems offered by the ESCB under conditions to be determined by the ECB.

On the other hand, the Republic of San Marino is expected to undertake not to issue any banknotes, coins or monetary surrogates of any kind unless the conditions for such issuance are agreed with the Community. Moreover, the Republic of San Marino is expected to make Community rules on euro banknotes and coins applicable in the Republic of San Marino and to cooperate closely with the Community with regard to measures against counterfeiting of euro banknotes and coins. It is confirmed that Italy may choose to issue coins with a specific symbol relating to the Republic of San Marino.

The draft Council decision is based on Article 109 (3) of the Treaty, which stipulates that "By way of derogation from Article 228, where agreements concerning monetary or foreign exchange regime matters need to be negotiated by the Community with one or more States or international organizations, the Council, acting by a qualified majority, on a recommendation from the Commission and after consulting the ECB, shall decide the arrangements for the negotiations and for the conclusion of such agreements."

Given the close historical links between Italy and the Republic of San Marino, the Commission recommends that Italy negotiates and concludes the new agreement on behalf of the Community. In accordance with Article 109 (3) of the Treaty, the Commission will be fully associated with the negotiations. The Commission recommends that the European Central Bank is fully associated with the negotiations in its fields of competence. The draft agreement will have to be submitted to the Economic and Financial Committee for opinion. The draft agreement will have to be submitted to the Economic and Financial Committee for opinion. The draft agreement will have to be submitted to the Council in the case that the Commission or the European Central Bank or the Economic and Financial Committee are of the opinion that this is necessary.

II. Comments on the articles

Article 1

This article reflects the fact that the agreements between Italy and the Republic of San Marino in their present form are not compatible with the allocation of competence for monetary and exchange rate matters as laid down in the Treaty. The arrangements therefore need to be amended or replaced at the earliest possible date. Italy is requested to give notice to the Republic of San Marino with a view to amend the agreements at the earliest date which is possible under the existing agreements.

Article 2

Article 2 stipulates that the principles laid down in Articles 3 to 6 should form the basis for the position to be taken by Italy on behalf of the Community in the negotiations with the Republic of San Marino on an agreement concerning monetary matters.

Article 3

Article 3 stipulates that the Community may allow the Republic of San Marino 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 the Republic of San Marino and Italy could continue to have the same currency, i.e. the euro, and that banknotes and coins which have legal tender status in Italy, would have the same status in the Republic of San Marino.

Article 4

Article 4 stipulates that the Republic of San Marino 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.

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 and the reproduction of banknotes and coins, are respected in the Republic of San Marino.

The second paragraph stipulates that the Republic of San Marino is expected to undertake to co-operate closely with the Community in the protection euro banknotes and coins against counterfeiting. This concerns, inter alia, the exchange of technical and statistical data concerning counterfeited banknotes and coins and the exchange of operational and strategic information between the competent authorities. The Republic of San Marino is expected to ensure adequate sanctions against counterfeiting and falsification of euro banknotes and coins.

Article 6

Article 6 stipulates that the Community may allow financial institutions located in the Republic of San Marino to have access to the Italian national RTGS system[2] under conditions to be determined by the European Central Bank. This provisions is not meant to allow the imposition of an obligation on the ESCB to grant access to the ESCB payment systems. Such access to the Italian national RTGS system can only be granted if the ECB agrees and under the conditions specified by the ECB.

Article 7 and 8

Article 7 and 8 stipulate that Italy shall conduct the negotiations with the Republic of San Marino and conclude the agreement on behalf of the Community. The Council makes thereby use of it competence to define the arrangements for the negotiations and for the conclusion of agreements concerning monetary or foreign exchange regime matters. In accordance with Article 109 (3) of the Treaty, it is recalled that the Commission shall be fully associated with the negotiations.

Given the relevance of most of the aspects of this agreement for the European Central Bank, the European Central Bank shall be fully associated with the negotiations in its fields of competence.

Before the conclusion of the agreement, Italy shall submit the draft agreement to the Economic and Financial Committee for opinion. If the Commission or the European Central Bank, which have been fully associated to the negotiations or the Economic and Financial Committee are of the opinion that the agreement should be submitted to the Council, the conclusion of the agreement has to wait for the Council to take a decision in accordance with Article 109 (3) of the Treaty.

Article 9

Article 9 reflects the requirement that any persisting bilateral agreements between Italy and the Republic of San Marino have to be compatible not only with the allocation of competence for monetary and exchange rate matters as laid down in the Treaty, but also with the new agreement between the Community and the Republic of San Marino concerning their monetary relations.

Article 10

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

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[2] Real-Time Gross Settlement System

Recommendation for a Council Decision [ ] of ...
on the position to be taken by the Community regarding an agreement concerning the monetary relations with the Republic of San Marino

98/ 0366(CNB)

The Council of the European Union,

Having regard to the Treaty establishing the European Community, and in particular Article 109 (3) thereof,

Having regard to the recommendation from the Commission,

Having regard to the opinion of the European Central Bank,

(1) Whereas according to Council regulation (EC) No 974/98 of 3 May 1998[1] the euro will be substituted as from 1 January 1999 for the currency of each participating Member State at the conversion rate;

(2) Whereas the Community will have the competence for monetary and exchange rate matters in the Member States adopting the euro as from the same date;

(3) Whereas the Council is to determine the arrangements for the negotiation and conclusion of agreements concerning monetary or foreign exchange regime matters;

(4) Whereas Italy has concluded several agreements with the Republic of San Marino which include provisions on monetary matters[2];

(5) Whereas the euro will be substituted for the Italian Lira on 1 January 1999;

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1 OJ L 139, 11.5.1998, p.1

2 Convenzione di amicizia e di buon vicinato fra San Marino e l'Italia del 31 marzo 1939, as amended, Convenzione monetaria tra la Repubblica Italiana e la Repubblica di San Marino, 21-XII-1991; Convenzione in materia di rapporti finanziari e valutari tra la Repubblica Italiana e la Repubblica di San Marino con atto aggiuntivo corredato da Processo Verbale firmato a Roma il 4 marzo 1994.

(6) Whereas according to declaration No 6 annexed to the final act of the Treaty on European Union, the Community undertakes to facilitate the renegotiations of existing arrangements with the Republic of San Marino as might become necessary as a result of the introduction of the single currency;

(7) Whereas the agreements between Italy and the Republic of San Marino in their present form need to be amended or, as the case may be, replaced at the earliest possible date, taking into account the allocation of competence to the Community for monetary and exchange rate matters as laid down in the Treaty;

(8) Whereas given the close economic relations between the Republic of San Marino and the Community, it is appropriate that an agreement concerning banknotes and coins, the access to payment systems and the legal status of the euro in the Republic of San Marino is concluded between the Community and the Republic of San Marino; whereas given the historical links between Italy and the Republic of San Marino, it is appropriate that Italy negotiates and may conclude the new agreement on behalf of the Community;

(9) Whereas in order to allow the Republic of San Marino to have the same currency as Italy, it is appropriate to agree that the Republic of San Marino uses the euro as its official currency and grants legal tender status to euro banknotes and coins issued by the European System of Central Banks and the Member States which have adopted the euro;

(10) Whereas it is important that the Republic of San Marino ensures that Community rules on banknotes and coins denominated in euro are applicable in the Republic of San Marino; whereas euro banknotes and coins need appropriate protection against counterfeiting; whereas it is important that the Republic of San Marino takes all the necessary measures to combat counterfeiting and to cooperate with the Community in this area;

(11) Whereas 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; whereas the European Central Bank and the national central banks may under appropriate conditions allow financial institutions in third countries access to their payment systems; whereas the agreement between the Community and the Republic of San Marino shall not impose any obligations on the European Central Bank or on any national central bank;

(12) Whereas the Commission and the European Central Bank in its fields of competence will have to be fully associated with these negotiations; whereas it is appropriate that Italy submits the draft agreement to the Economic and Financial Committee for its

opinion; whereas the draft agreement will have to be submitted to the Council in the case that the Commission or the European Central Bank or the Economic and Financial Committee are of the opinion that this is necessary;

(13) Whereas existing agreements between Italy and the Republic of San Marino should be amended or, as the case may be, replaced so as to avoid any inconsistencies between such agreements and the agreement between the Community and the Republic of San Marino concerning their monetary relations;

HAS ADOPTED THIS DECISION:

Article 1

Italy shall notify the Republic of San Marino of the need to amend the existing agreements between Italy and the Republic of San Marino at the earliest possible date as far as monetary matters are concerned and offer negotiations for a new agreement.

Article 2

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

Article 3

(1) The Republic of San Marino shall be entitled to use the euro as its official currency.

(2) The Republic of San Marino shall be entitled to grant legal tender status to euro banknotes and coins.

Article 4

The Republic of San Marino 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 European Community.

Article 5

(1) The Republic of San Marino shall undertake to make Community rules on euro banknotes and coins applicable in the Republic of San Marino.

(2) The Republic of San Marino shall undertake to cooperate closely with the Community with regard to measures against counterfeiting of euro banknotes and coins.

Article 6

Financial institutions located in the Republic of San Marino may have access to the Italian national RTGS under appropriate conditions to be determined by the European Central Bank.

Article 7

Italy shall conduct the negotiations with the Republic of San Marino on the above-mentioned matters on behalf of the Community. The Commission shall be fully associated with the negotiations. The European Central Bank shall be fully associated with the negotiations in its fields of competence. Italy shall submit the draft agreement to the Economic and Financial Committee for opinion.

Article 8

Italy shall be entitled to conclude the agreement on behalf of the Community unless the Commission 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 9

Italy and the Republic of San Marino shall ensure that existing agreements are compatible with the agreement between the Community and the Republic of San Marino concerning their monetary relations.

Article 10

This decision is addressed to Italy.

Done at Brussels,

For the Council

The President

Recommendation for a Council Decision on the position to be taken by the Community regarding an agreement concerning the monetary relations with Vatican City

EXPLANATORY MEMORANDUM

As from 1 January 1999, the Community will have the exclusive competence for monetary and exchange rate matters in the Member States adopting the euro. Any agreement with third countries concerning monetary or foreign exchange rate matters needs to reflect this allocation of competence. Therefore, the Community must decide on the future of such agreements which exist between Member States adopting the euro and third countries.

For this purpose, the Commission is presenting a draft Council Decision which is addressed to Italy and which defines the position to be taken in the negotiation of a new agreement between the Community and Vatican City.

I. General considerations

Italy has particular monetary links with the Vatican City, which are based on a monetary convention[1] which ensures that coins issued by Italy have legal tender status in Vatican City. Banknotes issued by the Banca d'Italia do not have the status of legal tender but circulate de facto within the territory of Vatican City. Coins issued by Vatican City, in a material other than gold, are identical in shape, dimension and composition to those circulating in Italy. The issuing volume of these coins, which have legal tender status in Vatican City and in Italy, is limited by the monetary convention. Vatican City has neither an own currency nor a central bank,

Financial institutions located in Vatican City have neither access to the refinancing facilities of the Banca d'Italia nor to the Italian RTGS system. They are not subject to any prudential supervision by Italian authorities.

As from 1 January 1999, Italy will adopt the euro as its currency. In accordance with the Treaty, the European System of Central Banks will define and implement the monetary policy of the Community. Therefore a new agreement needs to be concluded between the Community and Vatican City.

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1 Convenzione monetaria tra la Repubblica Italiana e lo Stato della Città del Vaticano il 3 dicembre 1991

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The draft Council decision determines the principles on which the negotiations with Vatican City should be based. The Commission recommends that the Community allows Vatican City 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. Moreover, financial institutions located in Vatican City may be granted access to the payment systems offered by the ESCB under conditions to be determined by the ECB.

On the other hand, Vatican City is expected to undertake not to issue any banknotes, coins or monetary surrogates of any kind unless the conditions for such issuance are agreed with the Community. Moreover, Vatican City is expected to make Community rules on euro banknotes and coins applicable in Vatican City and to cooperate closely with the Community with regard to measures against counterfeiting of euro banknotes and coins. It is confirmed that Italy may choose to issue coins with a specific symbol relating to Vatican City.

The draft Council decision is based on Article 109 (3) of the Treaty, which stipulates that "By way of derogation from Article 228, where agreements concerning monetary or foreign exchange regime matters need to be negotiated by the Community with one or more States or international organizations, the Council, acting by a qualified majority, on a recommendation from the Commission and after consulting the ECB, shall decide the arrangements for the negotiations and for the conclusion of such agreements."

Given the close historical links between Italy and Vatican City, the Commission recommends that Italy negotiates and concludes the new agreement on behalf of the Community. In accordance with Article 109 (3) of the Treaty, the Commission will be fully associated with the negotiations. The Commission recommends that the European Central Bank is associated with the negotiations in its fields of competence. The draft agreement will have to be submitted to the Economic and Financial Committee for opinion. The draft agreement will have to be submitted to the Economic and Financial Committee for opinion. The draft agreement will have to be submitted to the Council in the case that the Commission or the European Central Bank or the Economic and Financial Committee are of the opinion that this is necessary.

II. Comments on the articles

Article 1

This article reflects the fact that the agreements between Italy and Vatican City in their present form are not compatible with the allocation of competence for monetary and exchange rate matters as laid down in the Treaty. The arrangements therefore need to be amended or replaced at the earliest possible date. Italy is requested to give notice to Vatican City with a view to amend the agreements at the earliest date which is possible under the existing agreements.

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Article 2

Article 2 stipulates that the principles laid down in Articles 3 to 6 should form the basis for the position to be taken by Italy on behalf of the Community in the negotiations with Vatican City on an agreement concerning monetary matters.

Article 3

Article 3 stipulates that the Community may allow Vatican City 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 Vatican City and Italy could continue to have the same currency, i.e. the euro, and that banknotes and coins which have legal tender status in Italy, would have the same status in Vatican City.

Article 4

Article 4 stipulates that Vatican City 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.

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 and the reproduction of banknotes and coins, are respected in Vatican City.

The second paragraph stipulates that Vatican City is expected to undertake to co-operate closely with the Community in the protection euro banknotes and coins against counterfeiting. This concerns, inter alia, the exchange of technical and statistical data concerning counterfeited banknotes and coins and the exchange of operational and strategic information between the competent authorities. Vatican City is expected to ensure adequate sanctions against counterfeiting and falsification of euro banknotes and coins.

Article 6

Article 6 stipulates that the Community may allow financial institutions located in Vatican City to have access to the Italian national RTGS system[2] under conditions to be determined by the European Central Bank. This provisions is not meant to allow the imposition of an obligation on the ESCB to grant access to the ESCB payment systems.

[2] Real-Time Gross Settlement System

Such access to the Italian national RTGS system can only be granted if the ECB agrees and under the conditions specified by the ECB.

Article 7 and 8

Article 7 and 8 stipulate that Italy shall conduct the negotiations with Vatican City and conclude the agreement on behalf of the Community. The Council makes thereby use of it competence to define the arrangements for the negotiations and for the conclusion of agreements concerning monetary or foreign exchange regime matters. In accordance with Article 109 (3) of the Treaty, it is recalled that the Commission shall be fully associated with the negotiations.

Given the relevance of most of the aspects of this agreement for the European Central Bank, the European Central Bank shall be fully associated with the negotiations in its fields of competence.

Before the conclusion of the agreement, Italy shall submit the draft agreement to the Economic and Financial Committee for opinion. If the Commission or the European Central Bank, which have been fully associated to the negotiations or the Economic and Financial Committee are of the opinion that the agreement should be submitted to the Council, the conclusion of the agreement has to wait for the Council to take a decision in accordance with Article 109 (3) of the Treaty.

Article 9

Article 9 reflects the requirement that any persisting bilateral agreements between Italy and Vatican City have to be compatible not only with the allocation of competence for monetary and exchange rate matters as laid down in the Treaty, but also with the new agreement between the Community and Vatican City concerning their monetary relations.

Article 10

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

Recommendation for a Council Decision [ ] of ...
on the position to be taken by the Community regarding an agreement concerning the monetary relations with Vatican City

98/ 0367(CNB)

The Council of the European Union,

Having regard to the Treaty establishing the European Community, and in particular Article 109 (3) thereof,

Having regard to the recommendation from the Commission,

Having regard to the opinion of the European Central Bank,

(1) Whereas according to Council regulation (EC) No 974/98 of 3 May 1998[1] the euro will be substituted as from 1 January 1999 for the currency of each participating Member State at the conversion rate;

(2) Whereas the Community will have the competence for monetary and exchange rate matters in the Member States adopting the euro as from the same date;

(3) Whereas the Council is to determine the arrangements for the negotiation and conclusion of agreements concerning monetary or foreign exchange regime matters;

(4) Whereas Italy has concluded an agreement with Vatican City which includes provisions on monetary matters[2];

(5) Whereas the euro will be substituted for the Italian Lira on 1 January 1999;

(6) Whereas according to declaration No 6 annexed to the final act of the Treaty on European Union, the Community undertakes to facilitate the renegotiations of existing arrangements with Vatican City as might become necessary as a result of the introduction of the single currency;

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1 OJ L 139, 11.5.1998, p.1

2 Convenzione monetaria tra la Repubblica Italiana e lo Stato della Città del Vaticano il 3 dicembre 1991.

(7) Whereas the agreement between Italy and Vatican City in its present form need to be amended or, as the case may be, replaced at the earliest possible date, taking into account the allocation of competence to the Community for monetary matters as laid down in the Treaty;

(8) Whereas given the close economic relations between Vatican City and the Community, it is appropriate that an agreement concerning banknotes and coins, the access to payment systems and the legal status of the euro in Vatican City is concluded between the Community and Vatican City; whereas given the historical links between Italy and Vatican City, it is appropriate that Italy negotiates and may conclude the new agreement on behalf of the Community;

(9) Whereas in order to allow Vatican City to have the same currency as Italy, it is appropriate to agree that Vatican City uses the euro as its official currency and grants legal tender status to euro banknotes and coins issued by the European System of Central Banks and the Member States which have adopted the euro;

(10) Whereas it is important that Vatican City ensures that Community rules on banknotes and coins denominated in euro are applicable in Vatican City; whereas euro banknotes and coins need appropriate protection against counterfeiting; whereas it is important that Vatican City takes all the necessary measures to combat counterfeiting and to cooperate with the Community in this area;

(11) Whereas 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; whereas the European Central Bank and the national central banks may under appropriate conditions allow financial institutions in third countries access to their payment systems; whereas the agreement between the Community and Vatican City shall not impose any obligations on the European Central Bank or on any national central bank;

(12) Whereas the Commission and the European Central Bank in its fields of competence will have to be fully associated with these negotiations; whereas it is appropriate that Italy submits the draft agreement to the Economic and Financial Committee for its opinion; whereas the draft agreement will have to be submitted to the Council in the case that the Commission or the European Central Bank or the Economic and Financial Committee are of the opinion that this is necessary;

(13) Whereas the existing agreement between Italy and Vatican City should be amended or, as the case may be, replaced so as to avoid any inconsistencies between this agreement and the agreement between the Community and Vatican City concerning their monetary relations;

HAS ADOPTED THIS DECISION:

Article 1

Italy shall notify Vatican City of the need to amend the existing agreement between Italy and Vatican City at the earliest possible date as far as monetary matters are concerned and offer negotiations for a new agreement.

Article 2

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

Article 3

(1) Vatican City shall be entitled to use the euro as its official currency.

(2) Vatican City shall be entitled to grant legal tender status to euro banknotes and coins.

Article 4

Vatican City 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 European Community.

Article 5

(1) Vatican City shall undertake to make Community rules on euro banknotes and coins applicable in Vatican City.

(2) Vatican City shall undertake to cooperate closely with the Community with regard to measures against counterfeiting of euro banknotes and coins.

Article 6

Financial institutions located in Vatican City may have access to the Italian national RTGS under appropriate conditions to be determined by the European Central Bank.

Article 7

Italy shall conduct the negotiations with Vatican City on the above-mentioned matters on behalf of the Community. The Commission shall be fully associated with the negotiations. The European Central Bank shall be fully associated with the negotiations in its fields of competence. Italy shall submit the draft agreement to the Economic and Financial Committee for opinion.

Article 8

Italy shall be entitled to conclude the agreement on behalf of the Community unless the Commission 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 9

Italy and Vatican City shall ensure that any existing agreement is compatible with the agreement between the Community and Vatican City concerning their monetary relations.

Article 10

This decision is addressed to Italy.

Done at Brussels,

For the Council

The President

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