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EUROPEAN COMMISSION

Brussels, 2.3.2011
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Recommendation for a
COUNCIL DECISION
of 2.3.2011

on the arrangements for the negotiation of a Monetary Agreement with the French Republic, acting for the benefit of the French overseas collectivity of Saint-Barthélemy

EXPLANATORY MEMORANDUM

- The Island of Saint-Barthélemy – currently listed among the EU outermost regions - has expressed the wish to change of legal status, with a view to becoming an overseas territory, covered by Part Four of the Treaty on the Functioning of the European Union. The French President has asked in a letter dated 30 June 2010 the European Council to decide such a change, which it approved during its meeting of 29 October 2010, with effect from 1st January 2012.
- The French authorities have expressed the wish to maintain the euro in Saint-Barthélemy, despite the fact that the island will no longer be part of the territory of the European Union. The use of the euro as an official currency outside of the EU with the consent of the latter is not unprecedented: the EU has concluded monetary agreements on the basis of Article 219 (3) of the Treaty with the Principality of Monaco, the Republic of San Marino, the Vatican City State and is about to conclude a fourth agreement with the Principality of Andorra. The euro is the official currency of Saint-Pierre et Miquelon et Mayotte, two French Overseas countries and territories.
- Those agreements acknowledge the official use of the euro and ensure that the legislation which is needed for the good functioning of the economic and monetary union is made applicable to the country concerned. The fields covered include usually mainly the monetary, banking and financial legislations and the various texts related to the prevention of fraud, counterfeiting and money laundering.
- None of the above mentioned fields falls under the competence of the overseas collectivity of Saint-Barthélemy. Though the EU texts requiring transposition measures by France will thus remain applicable to Saint-Barthélemy, an ad hoc solution is nevertheless needed to guarantee the continuous applicability to this overseas collectivity of the relevant present and future legal acts or legal instruments producing direct effects, notably Regulations and ECB decisions.
- The Commission should therefore be mandated to conclude a monetary agreement to this effect between the European Union and the French Republic, acting for the benefit of the overseas collectivity of Saint-Barthélemy. The ECB should be associated to this negotiation.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 219(3) thereof,

Having regard to the recommendation from the Commission¹,

Having regard to the opinion of the European Central Bank²,

Whereas:

- (1) The Union has the competence for monetary and exchange rate matters as of the date of the introduction of the euro.
- (2) The Council is to determine the arrangements for the negotiation and conclusion of agreements concerning monetary or foreign exchange regime matter.
- (3) The European Council Decision of 29 October 2010³ amending the status with regard to the European Union of the island of Saint-Barthélemy foresees that the island of Saint-Barthélemy shall cease to be an outermost region of the Union with effect from 1 January 2012 and shall have the status of overseas country or territory referred to in Part Four of the Treaty on the Functioning of the European Union (TFUE).
- (4) The French Republic has undertaken to conclude the agreements necessary to ensure that the interests of the Union are preserved when this change takes place.
- (5) France has informed the EU institutions of its intention to retain the euro as the sole currency on Saint-Barthélemy.
- (6) A monetary agreement should therefore be negotiated between the European Union and the French Republic, acting for the benefit of the French overseas collectivity of Saint-Barthélemy, with a view to ensuring the continuous application to Saint-Barthélemy of the relevant EU legislations.

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ L 325, 9.12.2010, p. 4.

HAS ADOPTED THIS DECISION:

Article 1

The European Union shall seek the following elements in the negotiation of a Monetary Agreement with the French Republic, acting for the benefit of the French overseas collectivity of Saint-Barthélemy:

(a) The French Republic shall be authorised to retain the euro as the sole currency on Saint-Barthélemy and to grant legal tender status to euro banknotes and coins on the territory of the latter.

(b) The EU legal acts in the following fields shall remain applicable on the territory of the island of Saint-Barthélemy: monetary, banking and financial legislation (including supervision of the institutions concerned), rules laying down the measures necessary for the use of the euro, prevention of money laundering and of fraud and counterfeiting of cash and non-cash means of payment, rules on medals and tokens and on statistical reporting requirements.

(c) This continuous applicability of the relevant EU legal acts shall be ensured either:

- via the French transposition measures (for the EU directives) and via direct enforcement (for the EU legal acts producing direct effects);

- or via a change in the relevant French law, with a view to ensuring the full and immediate applicability of EU law to Saint-Barthélemy in the fields mentioned in paragraph (b).

Article 2

The Commission shall conduct the negotiation with the French Republic, acting for the benefit of the French overseas collectivity of Saint-Barthélemy. The ECB shall be fully associated with the negotiations and agree on issues falling within its field of competence.

Article 3

The Council, on a proposal by the Commission, shall adopt the decision authorising the signing and concluding of the agreement.

This Decision is addressed to the Commission and the ECB.

Done at Brussels, 2.3.2011

For the Council

The President