I

(Resolutions, recommendations and opinions)

OPINIONS

EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

of 5 November 2009

on recommendations for Council decisions on the position to be taken by the European Community regarding the renegotiation of the monetary agreement with the Vatican City State and on the position to be taken by the European Community regarding the renegotiation of the monetary agreement with the Republic of San Marino

(CON/2009/91)

(2009/C 284/01)

Introduction and legal basis

On 27 October 2009 the European Central Bank (ECB) received requests from the Council of the European Union for an opinion on a recommendation for a Council decision on the position to be taken by the European Community regarding the renegotiation of the monetary agreement with the Vatican City State [1] (hereinafter the 'draft Vatican decision') and for an opinion on a recommendation for a Council decision on the position to be taken by the European Community regarding the renegotiation of the monetary agreement with the Republic of San Marino [2] (hereinafter the 'draft San Marino decision').

The ECB's competence to deliver an opinion is based on Article 111(3) of the Treaty establishing the European Community. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

General observations

The ECB welcomes the draft decisions, which 10 years after the introduction of the euro, aim at amending the monetary agreements with the Vatican City State and San Marino, with a view, in particular, to ensuring a level playing field for the obligations of the countries having signed the monetary agreements with the Community, creating follow-up mechanisms, introducing a common method for calculating the ceilings of euro coins issuance and allowing the recourse to mints other than the Italian mint for the production of coins of the Vatican City State and the Republic of San Marino.

The ECB notes that the draft decisions [3] provide for the Community agreements to be concluded by the Council. Should this rule be changed so that the Council would no longer conclude these agreements, the ECB considers that the Economic and Financial Committee and the ECB should be allowed to request submission of the agreements to the Council, as was decided by the Council at the occasion of the initial

[1] COM(2009) 570 final.
[2] COM(2009) 572 final.
[3] Article 4.

opening of negotiations for the conclusion of Community agreements with the Vatican City State and the Republic of San Marino [1].

Where the ECB recommends that the draft decisions are amended, specific drafting proposals are set out in the Annex accompanied by explanatory text to this effect.

Done at Frankfurt am Main, 5 November 2009.

The President of the ECB

Jean-Claude TRICHET

[1] Article 8 of Council Decision 1999/97/EC of 31 December 1998 on the position to be taken by the Community regarding an agreement concerning the monetary relations with the Republic of San Marino (OJ L 30, 4.2.1999, p. 33); Article 8 of Council Decision 1999/98/EC of 31 December 1998 on the position to be taken by the Community regarding an agreement concerning the monetary relations with Vatican City (OJ L 30, 4.2.1999, p. 35).

ANNEX

Drafting proposals

Text proposed by the Commission	Amendments proposed by the ECB [1]
Amendment 1	
Article 2(b) of the draft Vatican decision	
'(b) The Vatican City State shall undertake to adopt all appropriate measures, through direct transpositions or possibly equivalent actions, for the application of all relevant Community legislation on the prevention of money laundering, on the prevention of fraud and counterfeiting of cash and non-cash means of payment.'	'(b) The Vatican City State shall undertake to adopt all appropriate measures, through direct transpositions or possibly equivalent actions, for the application of all relevant Community legislation on the prevention of money laundering, on the prevention of fraud and counterfeiting of cash and non-cash means of payment. **It shall also undertake to adopt all relevant Community banking and financial legislation if and when a banking sector is created in the Vatican City State**.'
Explanation:	
In order to ensure a level playing field, it would be advisable that the Vatican agreement is amended to cater for the applicable legal situation should a banking sector be developed in the Vatican City State in the future.	
Amendment 2	
Article 2(d) of the draft Vatican decision	
'(d) A Joint Committee shall be established in order to monitor the progress in the implementation of the Agreement. It shall be composed of representatives of the Vatican City State, the Republic of Italy, the Commission and the ECB. It shall have the possibility to revise each year the fixed part with a view to taking into account inflation and the evolution of the collector market. It shall adopt decisions unanimously. The Joint Committee shall adopt its own rules of procedure.'	'(d) A Joint Committee shall be established in order to monitor the progress in the implementation of the Agreement. It shall be composed of representatives of the Vatican City State, the Republic of Italy, the Commission and the ECB. It shall have the possibility to revise each year the fixed part with a view to taking into account inflation and the evolution of the collector market. **It shall examine every five years the adequacy of the minimum proportion of coins to be introduced at face value and may decide to increase it**. It shall adopt decisions unanimously. The Joint Committee shall adopt its own rules of procedure.'
Explanation:	
The ECB notes that Article 2(c) of the draft Vatican decision refers to a minimum proportion of coins to be introduced at face value at 51 %. The ECB considers that the adequacy of this minimum proportion should be reviewed at regular intervals, and suggests a simplified procedure to change it.	
Amendment 3	
Article 2(e) of the draft Vatican decision	
'(e) The euro coins of the Vatican City State shall be minted by the Instituto Poligrafico e Zecca dello Stato. The Vatican City State shall however have the possibility to take another contractor among the EU Mints striking euro coins, with the agreement of the Joint Committee. The volume of coins issued by the Vatican City State shall be added to the volume of coins issued by the home country of the producing mint for the purpose of the ECB approval of the total volume of the issuance.'	'(e) The euro coins of the Vatican City State shall be minted by the Instituto Poligrafico e Zecca dello Stato. The Vatican City State shall however have the possibility to take another contractor among the EU Mints striking euro coins, with the agreement of the Joint Committee. The volume of coins issued by the Vatican City State shall be added to the volume of coins issued by ~~the home country of the producing mint~~ **Italy** for the purpose of the ECB**'s** approval of the total volume of the issuance.'

Text proposed by the Commission	Amendments proposed by the ECB [1]

Explanation:

Adding the volume to the home country of the producing mint would create a number of practical problems concerning the stability of reporting obligations vis-à-vis the ECB on coins issued in circumstances where the home country of the producing mint might change from time to time. Given that this reporting is not currently carried out by mints, greater predictability could be assured by the volume of coins issued by the Vatican City State being added to the volume of coins issued by Italy, with the result that the Italian and Vatican authorities would cooperate for purposes of reporting coin issuance volumes to the ECB.

Amendment 4

Article 3 of the draft Vatican decision

'The negotiations with the Vatican City State shall be conducted by the Italian Republic and the Commission on behalf of the Community. The European Central Bank shall be fully associated with the negotiations in its field of competence. The Italian Republic and the Commission shall submit the draft agreement to the Economic and Financial Committee for opinion.'	'The negotiations with the Vatican City State shall be conducted by the Italian Republic and the Commission on behalf of the Community. The European Central Bank shall be fully associated with the negotiations **and its agreement shall be required on issues falling within** its field of competence. The Italian Republic and the Commission shall submit the draft agreement to the Economic and Financial Committee for opinion.'

Explanation:

Given the monetary nature of the Agreement with the Vatican City State, the ECB considers that, beyond its consultation on the basis of Article 111(3) of the Treaty, it is appropriate and desirable for the ECB to be involved in the negotiations themselves and in the process leading to the conclusion of the agreements. For issues in the agreement falling within the ECB's fields of competence, the ECB's agreement should be sought.

Amendment 5

Final provision of the draft Vatican decision

'This Decision is addressed to the Italian Republic and the Commission.'	'This Decision is addressed to the Italian Republic, ~~and~~ the Commission **and the ECB**.'

Explanation:

Since the draft decision envisages a role for the ECB in the negotiations and the process leading to the conclusion of the agreement, the ECB should also appear in the list of addressees of the decision.

Amendment 6

Article 2(e) of the draft San Marino decision

'(e) The euro coins of the Republic of San Marino shall be minted by the Instituto Poligrafico e Zecca dello Stato. The Republic of San Marino shall however have the possibility to take another contractor among the EU Mints striking euro coins, with the agreement of the Joint Committee. The volume of coins issued by the Republic of San Marino shall be added to the volume of coins issued by the home country of the producing mint for the purpose of the ECB approval of the total volume of the issuance.'	'(e) The euro coins of the Republic of San Marino shall be minted by the Instituto Poligrafico e Zecca dello Stato. The Republic of San Marino shall however have the possibility to take another contractor among the EU Mints striking euro coins, with the agreement of the Joint Committee. The volume of coins issued by the Republic of San Marino shall be added to the volume of coins issued by ~~the home country of the producing mint~~ **Italy** for the purpose of the ECB**'s** approval of the total volume of the issuance.'

Explanation:

Adding the volume to the home country of the producing mint would create a number of practical problems concerning the stability of reporting obligations vis-à-vis the ECB on coins issued in circumstances where the home country of the producing mint might change from time to time. Given that this reporting is not currently carried out by mints, greater predictability could be assured by the volume of coins issued by the Republic of San Marino being added to the volume of coins issued by Italy, with the result that the Italian authorities and the authorities of San Marino would cooperate for purposes of reporting coin issuance volumes to the ECB.

Text proposed by the Commission	Amendments proposed by the ECB [1]

Amendment 7

Article 3 of the draft San Marino decision

'The negotiations with the Republic of San Marino shall be conducted by the Italian Republic and the Commission on behalf of the Community. The European Central Bank shall be fully associated with the negotiations in its field of competence. The Italian Republic and the Commission shall submit the draft agreement to the Economic and Financial Committee for opinion.'	'The negotiations with the Republic of San Marino shall be conducted by the Italian Republic and the Commission on behalf of the Community. The European Central Bank shall be fully associated with the negotiations **and its agreement shall be required on issues falling within** its field of competence. The Italian Republic and the Commission shall submit the draft agreement to the Economic and Financial Committee for opinion.'

Explanation:

Given the monetary nature of the Agreement with the Republic of San Marino, the ECB considers that, beyond its consultation on the basis of Article 111(3) of the Treaty, it is appropriate and desirable for the ECB to be involved in the negotiations themselves and in the process leading to the conclusion of the agreements. For issues in the agreement falling within the ECB's fields of competence, the ECB's agreement should be sought.

Amendment 8

Final provision of the draft San Marino decision

'This Decision is addressed to the Italian Republic and the Commission.'	'This Decision is addressed to the Italian Republic, ~~and~~ the Commission **and the ECB**.'

Explanation:

Since the draft decision envisages a role for the ECB in the negotiations and the process leading to the conclusion of the agreement, the ECB should also appear in the list of addressees of the decision.

[1] Bold in the body of the text indicates where the ECB proposes inserting new text. Strikethrough in the body of the text indicates where the ECB proposes deleting text.