EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

of 1 September 2003

at the request of the Council of the European Union on a recommendation for a Council Decision on the approval of certain amendments to be made to Articles 3 and 7 of the Monetary Agreement between the Italian Republic, on behalf of the European Community, and the Vatican City State and, on its behalf, the Holy See and authorising the Italian Republic to give effect to these amendments (COM(2003) 387 final)

(CON/2003/18)

(2003/C 212/06)

1. On 17 July 2003, the European Central Bank (ECB) received a request from the Council of the European Union for an opinion on a recommendation for a Council Decision on the approval of certain amendments to be made to Articles 3 and 7 of the Monetary Agreement between the Italian Republic, on behalf of the European Community, and the Vatican City State and, on its behalf, the Holy See and authorising the Italian Republic to give effect to these amendments (COM(2003) 387 final) (hereinafter the 'recommendation').

2. The ECB's competence to deliver an opinion is based on Article 111(3) of the Treaty establishing the European Community and the third paragraph of Article 12 of the Monetary Agreement between the Italian Republic, on behalf of the European Community, and the Vatican City State and, on its behalf, the Holy See ([1]) (hereinafter the 'Monetary Agreement'). In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the ECB, the Governing Council of the ECB has adopted this opinion.

3. Pursuant to the recommendation, the amendments to be made to Articles 3 and 7 of the Monetary Agreement provide for an increase in the total issue ceiling for euro coins which the Vatican City State may issue from EUR 670 000 to EUR 1 000 000 per year as of 1 January 2004. The additional amounts of euro coins, which the Vatican City State may issue under three special circumstances — in the year when the Holy See becomes vacant, in each Holy Jubilee Year and in the year of the opening of an Ecumenical Council — are also to be increased from EUR 201 000 to EUR 300 000 as of 1 January 2004. The justification given for these new ceilings, which were proposed by the Italian Republic, is that the maximum number of coins which can be minted by the Vatican City State under the Monetary Agreement is lower than the maximum number of coins which was explicitly authorised by the earlier Monetary Convention (hereinafter the 'Monetary Convention'), between the Italian Republic and the Vatican City State ([2]), both under normal and special circumstances.

4. The ECB notes that the second paragraph of the Sole Article of the recommendation authorises the Italian Republic, by way of derogation from the procedures set out in Articles 7 and 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 ([3]), to make the necessary amendments to the Monetary Agreement on behalf of the Community. The ECB would draw attention to the fact that the third paragraph of Article 12 of the Monetary Agreement provides for a specific procedure for amendments to the Monetary Agreement according to which 'current procedures and current Community law shall apply'. The ECB considers that the 'current procedures' referred to in the third paragraph of Article 12 of the Monetary Agreement are those laid down in Decision 1999/98/EC. These procedures provide not only for the consultation of the ECB but, *inter alia*, require its full association with the negotiations between the Vatican City State and the Italian Republic in the ECB's field of competence. In this regard, the ECB would also draw attention to the fact that the Monetary Agreement between the Government of the French Republic, on behalf of the European Community, and the Government of His Serene Highness the Prince of Monaco ([4]) (hereinafter the 'Monaco Agreement') specifically provides (in Article 15(2)) that where amendments are made to the Monaco Agreement, the procedures 'laid down by Council Decision 1999/96/EC ([5]) of 31 December 1998 shall be applied'. Article 7 of Decision 1999/96/EC provides for the full association of the ECB with the negotiations in its field of competence. The ECB considers that the explicit reference to Decision 1999/96/EC in the Monaco Agreement, which was concluded after the Monetary Agreement, is further confirmation that the 'current procedures' referred to in the third paragraph of Article 12 of the Monetary Agreement are those laid down in Decision 1999/98/EC.

([1]) OJ C 299, 25.10.2001, p. 1.

([2]) Monetary Convention between Italy and the Vatican City ratified by Italy under Law 119/1994. Published in the Official Journal of the Italian Republic No 43 of 22 February 1994.

([3]) OJ L 30, 4.2.1999, p. 35.

([4]) OJ L 142, 31.5.2002, p. 59.

([5]) Council Decision 1999/96/EC of 31 December 1998 on the position to be taken by the Community regarding an agreement concerning the monetary relations with the Principality of Monaco (OJ L 30, 4.2.1999, p. 31).

5. The ECB understands that, in issuing its recommendation for a Council Decision on the approval of certain amendments to be made to Articles 3 and 7 of the Monetary Agreement, the Commission considers that these amendments cannot be based on the existing Decision 1999/98/EC and on the third paragraph of Article 12 of the Monetary Agreement. This would imply that all future amendments to the Monetary Agreement would also need to be based on a new Council Decision. This calls into question the interpretation and relevance of the third paragraph of Article 12 of the Monetary Agreement. While in view of the purely technical nature of the proposed modifications the approach adopted by the Commission may be acceptable in the current case, the ECB suggests, in order to clarify this matter and to allow for an appropriate procedure for any future amendments to the Monetary Agreement, that recital 7 of the recommendation should be replaced by the following text:

   'The procedure according to which the Monetary Agreement was negotiated and concluded is that laid down in Articles 7 and 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 [1]. According to the third paragraph of Article 12 of the Monetary Agreement, if amendments to the provisions of the Agreement prove desirable current procedures and current Community law shall apply. The term "Current procedures" is to be interpreted as referring to Decision 1999/98/EC.'

   In addition, the Sole Article should become Article 1 and a new Article 2 should be added to the recommendation that reads as follows:

   'In the event that further amendments to the provisions of the Monetary Agreement are deemed appropriate in the future, the Italian Republic, on behalf of the Community, shall conduct the negotiations and agree the necessary amendments with the Vatican City State in accordance with the procedures laid down in Articles 7 and 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 [1].'

   In view of these changes it would then also be appropriate to delete the words 'Articles 3 and 7 of' from the title of the recommendation.

6. The ECB considers that the reference to the Monetary Convention and, in particular, to the maximum number of coins which was explicitly authorised under it, which is made in the recommendation to justify the proposed increase in the total issue ceiling for euro coins that the Vatican City State may issue as of 1 January 2004, could be further expanded to ensure that it is absolutely clear. In this regard, the ECB notes that the maximum face value of the euro coins issued under the Monetary Agreement is already above the levels permitted under the Monetary Convention. Furthermore, the proposed increase in the maximum face value would not necessarily lead to an increase in the number of coins which can be minted, which is close to the levels authorised under the Monetary Convention.

7. The ECB takes note of the proposed amendment to Article 3 of the Monetary Agreement and understands that the wording of paragraph 1(a) of the Sole Article of the recommendation refers only to the first paragraph of Article 3 and is as such without prejudice to its subsequent paragraphs, which concern the requirement for euro coins issued by the Vatican City State to be identical to those issued by the Member States of the European Community that have adopted the euro as far as the face value, legal tender status, technical characteristics, artistic features of the common side and the shared artistic features of the national side are concerned, and for the advance notification by the Vatican City State to the competent Community authorities of the artistic features of the national side of the euro coins within its competence. The ECB understands that the current paragraphs 2 and 3 of Article 3 of the Monetary Agreement will remain part of Article 3 after its amendment. In this regard it would be desirable for the first sentence of paragraph 1(a) to be redrafted as follows: 'The first paragraph of Article 3 shall be replaced by the following: [. . .]'.

8. The ECB considers that the current revision of the numbers of euro coins which may be issued by the Vatican City State will reduce the need for the competent financial bodies of the Italian Republic and of the Vatican City State to revise such numbers in 2004, as provided in the second paragraph of Article 12 of the Monetary Agreement. This is without prejudice to the subsequent biennial revisions provided for by the second paragraph of Article 12 of the Monetary Agreement.

9. Finally, the ECB considers that in recitals 3 and 4 [2] of the recommendation the correct ISO code should be used when referring to the Italian lira, therefore, ITL should replace LIT. Furthermore, the first 'and' in recital 4 should be deleted [3].

10. This opinion shall be published in the *Official Journal of the European Union*.

Done at Frankfurt am Main on 1 September 2003.

The President of the ECB

Willem F. DUISENBERG

[1] OJ L 30, 4.2.1999, p. 35.

[2] This remark only concerns the Greek, English and Dutch versions and the Danish version with regard to recital 4 only.

[3] This remark does not concern the German, Spanish and Dutch versions.