



**COUNCIL OF
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"I/A" ITEM NOTE

from: Presidency
date: 14 June 2011
to: Coreper / Council

Subject: EU relations with the Principality of Andorra, the Republic of San Marino and the
Principality of Monaco
- Report to the Council

In the light of discussions in the Working Party on European Free Trade Association (EFTA), delegations will find attached a report of the Presidency on EU relations with the Principality of Andorra, the Republic of San Marino and the Principality of Monaco.

Subject to confirmation by the Permanent Representatives' Committee, the Council is invited to take note of this report.

EU relations with the Principality of Andorra, the Republic of San Marino and the Principality of Monaco

INTRODUCTION

1. Western Europe comprises a number of countries of small territorial extension, which are not members of the EU: the Principality of Andorra, the Republic of San Marino, the Principality of Monaco, the Principality of Liechtenstein and the Holy See¹. On the basis of Article 8 TEU, the EU maintains relations with all of them, though there are important differences regarding the extent and the institutional framework of relations.
2. While Liechtenstein is member of the European Free Trade Association (EFTA) and closely linked to the EU in the framework of the European Economic Area (EEA), relations of the EU with Andorra, Monaco and San Marino are governed by a number of agreements, covering selective areas of EU *acquis* and policies. All in all, EU relations with the three last mentioned countries are fragmented and diverge significantly from one country to the other.² In recent years, in particular Andorra and San Marino have shown strong interest to strengthen, extend and possibly restructure their relations with the EU.
3. In December 2010, when adopting conclusions on EU relations with EFTA countries³ based on an assessment of these relations under the Belgian Presidency, the Council stated that a similar assessment should be undertaken with regard to countries of small territorial dimension, in particular Andorra, Monaco and San Marino, in order to analyse possibilities and modalities of their possible progressive integration into the internal market⁴.

¹ The specific situation of the Holy See is not covered by this report.

² Concise information on the three countries and their current relations with the EU is included in the Annex to this report.

³ Doc. 17423/1/10 REV 1 (en).

⁴ Cf. paragraphs 8 and 9 of doc. 17423/1/10 REV 1 (en).

4. The Hungarian Presidency included this task in its priorities to be dealt with by the Working Party on European Free Trade Association (EFTA). During the first half of 2011, the EFTA Working Party held orientation debates on Andorra, San Marino and Monaco. The debates were preceded by informal meetings of Working Party members with the Ambassadors of the three countries. In the light of the orientation debates, the Presidency drew up the present report, setting out the result of the debates and a recommendation regarding further work.

OUTCOME OF THE ORIENTATION DEBATES

5. In the course of the orientation debates and in informal contacts with representatives of EU Institutions during the first half of 2011, Andorra, San Marino and Monaco expressed the wish to further develop their relations with the EU. The three countries showed strong interest in continuing to this effect the dialogue launched with the EU in the first half of 2011.
6. The EFTA Working Party welcomed the wish expressed by the three countries and commended the commitment and efforts shown by them in the recent past with regard to this aim. It agreed to continue the dialogue with the three States as well as the internal EU discussion, in order to allow all actors concerned to further clarify their positions and examine more in detail options for possible action.
7. The Working Party took note of current views of the three States with regard to their further integration into the EU. San Marino has expressed openness to consider a wide range of options for enhanced European integration, ranging from EU accession and EEA membership to a (common or individual) framework agreement. Andorra has also expressed openness to consider various options, while voicing a certain preference for an ad hoc Association Agreement. The new Government in place since May 2011 will need to further define its position. Monaco appears to be basically satisfied with the current framework of relations but also open to further discuss a possible new structure, and would appreciate improvements to certain parts of the current framework of relations.

8. Despite differences of views and situations of the countries in question, all three seem to converge in their openness to consider a common framework, which would take into account their particularities.
9. Discussions in the EFTA Working Party concerning a new structure of relations touched on the possibility of a comprehensive framework for future relations with elements of flexibility. Such a framework could comprise common elements applicable to all three countries and some elements, which might vary from one country to the other.
10. The EFTA Working Party came to the conclusion that a possible new institutional framework for relations, as well as areas of common and individual interest, need to be further explored. The importance of a coherent approach for all three countries, in full respect of their particular situation - according to the Union's declaration on Article 8 of the TEU⁵ was underlined. The use of existing instruments should not be *a priori* excluded.
11. In the course of the orientation debates it became apparent that though the EU has a considerable amount of background information on the three countries and their relations with the EU, its knowledge base is still incomplete. The EFTA Working Party invited the EEAS and the Commission to complete this knowledge base in contact with the third countries concerned, in order to allow Member States to take a well informed position on possible further steps.
12. While the analysis of the possibilities and modalities of possible progressive integration of the three countries into the internal market would continue, the EFTA Working Party encouraged current and future steps of Andorra, San Marino and Monaco to increase the convergence of their legislation with EU internal market *acquis*, as well as an in-depth examination of the administrative capacity needed for a further development of relations, as appropriate.

⁵ "The Union will take into account the particular situation of small-sized countries which maintain specific relations of proximity with it."

RECOMMENDATION

13. Andorra, Monaco and San Marino are countries of small territorial size and population, "locked" inside the territory of the EU, and are close partners of the EU. Their population seems to have a strong sense of European identity even though they are considered to be "third countries" on the same lines as other third countries, with which the EU does not experience the same proximity. The orientation debate exercise under the Hungarian Presidency was the first horizontal political review of relations with these countries undertaken so far by the EU. These facts will need to be taken into account, when considering in due time further steps, based on Art. 8 of the TEU.

14. With regard to the next step, and subject to confirmation by Coreper, it is recommended that:

In the light of the assessment undertaken so far and the interest expressed by Andorra, San Marino and Monaco in strengthening their relations with the EU, the Council invites the EEAS and the Commission to continue their analysis and reflections on the future development of EU relations with the three countries. This should include exploring further a possible new institutional framework for relations, taking into account the importance of a coherent approach for all three countries, while respecting the particularities of each country in accordance with the Union's declaration on Article 8 of the TEU. In the course of the analysis, due attention needs to be given to the institutional, political and economic impact of a possible new framework, in particular in view of the need to ensure the integrity of the Internal Market.

Against this background, the Council invites the EEAS as well as the Commission to present their initial findings to the Council under the Polish Presidency, and before the end of June 2012 recommendations regarding possible further steps, which might lead to a progressive integration of these countries into the internal market.

**Concise information on the Principality of Andorra, the Republic of San Marino and the
Principality of Monaco and their relations with the EU**

PRINCIPALITY OF ANDORRA

Situated in the Pyrenees in between France and Spain, mountainous Andorra comprises a territory of 468 km². Andorrans lived for centuries under a unique co-principality, ruled by a French and a Spanish leader (from 1607 onwards, by the French Head of State and the Spanish Bishop of *Urgell*). In 1993, this system was modified with the titular Heads of State retained, but the government transformed into a parliamentary democracy. Since World War II, the economy of Andorra has grown significantly, the main sectors being tourism, trade and the financial sector. Andorra has a population of approximately 80 000 (Andorrans forming a minority of 39 %, while 31 % of the inhabitants are Spanish, 15 % Portuguese and 6% French citizens). The official language is Catalan.

Currently, EU-Andorran relations are based on three agreements:

- A Customs Union Agreement⁶, in force since 1991, covering industrial products of Chapters 25 to 97 of the Harmonised System. The Agreement establishes a Joint Committee (mainly dealing with fiscal and trade issues) and a Customs Cooperation Committee.
- A Cooperation Agreement⁷, in force since 2005. This Agreement is complementary to the Customs Union Agreement and enlarged the scope of relations between the EU and Andorra to a number of specific sectors for future cooperation, such as environment, education and transport. However, until now, Andorra has not made full use of the potential of this agreement, which includes in addition an extension clause⁸.

⁶ OJ L 374 of 31.12.1990, p.14. This Agreement was supplemented in 1997 by a Protocol, covering trade in live animals and animal products (OJ L 148 of 6.6.1997, p.16) and recently by a Protocol on customs security measures, signed in January 2011 (doc. 17401/10).

⁷ OJ L 135 of 28 May 2005, p.14.

⁸ Art. 8 of the Agreement provides that "*The Contracting Parties may by mutual consent extend this Agreement by concluding agreements on specific matters*".

- An Agreement on the taxation of savings income⁹, in force since 1 July 2005, provides for measures equivalent to those laid down in the savings taxation directive 2003/48/EC.

In addition, a Monetary Agreement between the EU and Andorra was initialled on 10 February 2011. It will allow Andorra, which has used the Euro de facto since 2002, to introduce the Euro as its official currency and to mint coins, while Andorra commits itself to transpose the EU financial and banking *acquis* into its legislation.

Furthermore, the Commission presented to the Council in November 2009 a recommendation to open negotiations with Andorra on an anti-fraud and tax information exchange agreement, which is still under discussion on ECOFIN level. The Principality had long maintained bank secrecy in its financial sector, but committed in March 2009 to implement OECD standards on tax information exchange and was removed from the OECD grey list of uncooperative jurisdictions in 2010.

Andorra maintains privileged relations with its neighbours France and Spain, as well as with Portugal, through agreements in several areas such as the free movement of persons, education and justice and home affairs.

The Principality does not participate in the Schengen area. Border controls are carried out at the borders between Andorra and the neighbouring Schengen States, France and Spain. However, it coordinates its visa requirements with the Schengen area and accepts Schengen visas. According to a pragmatic approach agreed with the EU, Andorran nationals are allowed to undergo passport controls at the counters for citizens of the EU and EFTA Member States.

Andorra is member of the UN (since 1993) and votes regularly with the EU in this framework. There is no political dialogue between the Principality and the EU.

⁹ OJ L 359 of 4.12.2004, p.33.

REPUBLIC OF SAN MARINO

With 61.2 km² and a population of approximately 30 000 the third smallest State in Europe, San Marino is according to tradition the world's oldest Republic, founded in 301. Today, it is a parliamentary democracy. The mountainous landlocked State is completely surround by Italy, with which it has historically developed close political, social and economic links. San Marino has a stable economy, mainly relying on tourism, industry and the financial sector, with a GDP per capita relatively high compared to other industrialised countries. The official language is Italian.

The current legal framework for EU relations with San Marino consists of three agreements:

- A Cooperation and Customs Union Agreement (signed on 16 December 1991 and in force since 1 April 2002)¹⁰ establishes a customs union with San Marino covering all types of products, and provides for cooperation primarily in the fields of environment, SME and tourism, as well as for joint operations in communications, information and cultural matters. However, cooperation in these areas has not yet materialised. Article 19 of the Agreement foresees the enlargement of its scope to other areas, but the possibilities offered by this Article have not been exploited in the past.
- A Monetary Convention¹¹ with Italy on behalf of the European Community, in force since 1 April 2001, covering the use of the Euro as official currency and the minting of Euro coins. This Convention is currently being renegotiated. Changes should concern the calculation of the ceiling for the issuance of euro coins and the implementation of the EU *acquis* concerning the prevention of money laundering, fraud and counterfeiting, and banking and financial legislation.

¹⁰ OJ L 84, 28.03.2002, p.43. Pending the long ratification procedures, an Interim Agreement on trade and trade-related issues was applied as from 1 December 1992. The Cooperation and Customs Union Agreement was supplemented in March 2010 by an "Omnibus Decision" adopted by the EC-San Marino Joint Committee, covering customs security measures and veterinary and phytosanitary matters (OJ L 156, 23.06.2010 p. 13).

¹¹ OJ C 209, 27.7.2001, p. 1.

- An Agreement on the taxation of savings income¹², in force since 1 July 2005, provides for measures equivalent to those laid down in the savings taxation directive 2003/48/EC.

Furthermore, the Commission presented to the Council in November 2009 a recommendation to open negotiations with San Marino on an anti-fraud and tax information exchange agreement, which is still under discussion on ECOFIN level. The banking system of the country was traditionally based on bank secrecy. The country committed itself to implement OECD standards on tax information exchange in March 2009 and was removed from the OECD list of uncooperative jurisdictions in September 2009.

Although San Marino is not part of the Schengen area, a pragmatic approach has been agreed between the EU and San Marino concerning the facilitation of San Marino nationals passing the external borders of the EU. No external border checks between Italy and San Marino are carried out, but other elements of the Schengen *acquis*, such as cooperation in judicial and police matters are not applicable.

San Marino is member of the UN (since 1992) and votes regularly with the EU in this framework. No political dialogue has been established with the EU.

¹² OJ L 381, 28.12.2004, p. 33.

PRINCIPALITY OF MONACO

Situated on the Mediterranean coast and surrounded on the land side by France, with which it has very close political and contractual links, the City-State of Monaco comprises a territory of 1.95 km², making it the second smallest State of the World after the Holy See. Monaco has approximately 36 000 inhabitants, approximately 20% of which are Monegasque nationals (French residents 28%, Italian residents 19% and British residents 7.5%). The State, which was founded in 1215, is a constitutional monarchy, headed by the Prince, who is substantially involved in the governance of the country, including international relations. Monaco has a stable economy, mainly relying on tourism and financial services, as well as on a number of small industries in areas such as cosmetics and pharmaceuticals. With 45 000 cross-border workers coming in daily from France and Italy, the Monegasque economy is an important employment factor in the region. The official language is French.

Legal framework of relations

Monaco has concluded a number of economic agreements with France, which have, in certain cases, the effect that Monaco has to apply the same rules as EU Member States. To cite two examples:

- Through its Customs Union with France, dating back to 1861, Monaco is in a Customs Union with the EU. This Customs Union also extends to indirect taxation (VAT).
- If France adopts internal legislation transposing EU directives in certain areas covered by bilateral Agreements with Monaco, the Principality directly applies the French legislation in certain areas (e.g. rules on functioning and supervision in the area of insurance).

With the EU, Monaco has concluded the following Agreements:

- A Monetary Convention with France on behalf of the European Community¹³, in force since 26 December 2002, covering the introduction of the Euro as official currency and the minting of Euro coins as well as the take-over of most of the EU financial *aquis*. This Agreement is currently being renegotiated in parallel with similar agreements with Andorra and San Marino.
- Agreement on the application of certain Community acts on the territory of the Principality of Monaco¹⁴, in force since 1 May 2004, providing for the application of EU legal acts in the area of medicines for human and veterinary use, cosmetic products and medical devices to the territory of Monaco.
- Agreement on the taxation of savings income¹⁵, in force since 1 July 2005, provides for measures equivalent to those laid down in the savings taxation directive 2003/48/EC.

Furthermore, Monaco was included together with Andorra and San Marino in a Commission recommendation to the Council of November 2009 to open negotiations on anti-fraud and tax information exchange agreements (still under discussion on ECOFIN level). The banking system has traditionally been based on bank secrecy. In March 2009, the Principality committed itself to implement OECD standards on tax information exchange. It was removed in September 2009 from the OECD list of uncooperative jurisdictions.

¹³ OJ L 142, 31.5.2002, p. 59.

¹⁴ OJ L 332, 19.12.2003, p. 42.

¹⁵ OJ L 19, 21.1.2005, p. 55.

Though Monaco is not a party to the Schengen Agreement and not associated to the Schengen *acquis*, it participates in the Schengen area through legal arrangements with France prior to the Schengen *acquis* and a Decision of 1998 of the Executive Committee created under the Convention implementing the Schengen Agreement¹⁶.

Monaco became a full member of the UN in 1993 and joined the Council of Europe in 2004. It votes regularly with the EU in the UN, but does not have a political dialogue with the EU.

¹⁶ OJ L 239, 22.9.2000, p.199.