

II

(Acts whose publication is not obligatory)

COUNCIL

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 ⁽¹⁾

(Only the French text is authentic)

THE FRENCH REPUBLIC

MINISTER FOR ECONOMIC AFFAIRS, FINANCE AND INDUSTRY

Mr Patrick Leclercq
Minister of State
Place de la Visitation - BP No 522
MC 98015 Monaco Cedex

Paris, 24 December 2001

Sir,

Following the exchanges between the representatives of our States with a view to introducing the euro into the Principality of Monaco, with which the European Commission and the European Central Bank were fully associated, I have the honour, by order of my Government and on behalf of the European Community, to propose the following provisions, which have received the agreement of the Economic and Financial Committee:

Having regard to the Treaty establishing the European Community, and in particular Article 111(3) thereof,

Having regard to the agreement of the European Central Bank (hereinafter the ECB) to grant access to payment systems in the euro area,

Having regard to Council Regulation (EC) No 974/98 of 3 May 1998,

Having regard to the opinion of the Economic and Financial Committee,

Having regard to the Council decision of 31 December 1998 on the position to be taken by the Community regarding an agreement concerning monetary relations with the Principality of Monaco,

The Commission of the European Communities (hereinafter the Commission) and the ECB having been fully associated,

Having regard to the Franco-Monegasque Agreement of 14 April 1945 concerning foreign exchange control and the Exchanges of Letters between the Government of the French Republic and the Government of His Serene Highness the Prince of Monaco of 18 May 1963, 27 November 1987 and 10 May 2001 concerning banking regulations,

(1) Whereas the Council of the European Union meeting at the level of the Heads of State or Government provided in its decision of 3 May 1998 that France is one of the Member States of the European Community that has adopted the euro;

Having regard to Article 18 of the Neighbourhood Agreement between France and the Principality of Monaco of 18 May 1963,

(2) Whereas since 1 January 1999, for Member States having adopted the euro, monetary issues fall under the competence of the European Community;

Having regard to the Exchange of Letters of 31 December 1998 between the Government of the French Republic and the Monegasque Government,

(3) Whereas pursuant to Declaration No 6 annexed to the Final Act of the Treaty on European Union, the Community undertakes to facilitate such renegotiations of existing arrangements between the Government of the French Republic and the Government of His Serene Highness the Prince of Monaco as might become necessary as a result of the introduction of the single currency;

⁽¹⁾ This convention entered into force on 26 December 2001.

- (4) Whereas the decision of 31 December 1998 provides that the Government of the French Republic is to conduct negotiations with the Monegasque Government on behalf of the European Community, that the Commission is to be fully associated with the negotiations and that the ECB is also to be fully associated with the negotiations in its fields of competence and that it is to agree to the conditions under which financial institutions located in the territory of the Principality of Monaco may have access to payment systems in the euro area;
- (5) Whereas the Council decision of 31 December 1998 provides that the Principality of Monaco may use the euro as its official currency and may grant legal tender status to banknotes and coins in euro issued by the European System of Central Banks and the Member States which have adopted the euro;
- (6) Whereas the abovementioned decision provides, as one of the principles on which the Community bases its position in the negotiations, that the Principality of Monaco is to undertake not to issue any banknotes, coins or monetary surrogates of any kind unless the conditions for such issuance have been agreed with the Community;
- (7) Whereas under the terms of the abovementioned decision, the Principality of Monaco must ensure that Community rules on banknotes and coins denominated in euro are applicable in its territory; whereas euro banknotes and coins must be given appropriate protection against counterfeiting; whereas it is important for the Principality of Monaco to take all the necessary measures to combat counterfeiting and to cooperate with the Commission, the ECB and the European Police Office (Europol) in this area;
- (8) Whereas the Council has provided that financial institutions established in the Principality of Monaco may have access to payment systems within the euro area under the conditions agreed with the ECB and that they may be subject to the minimum reserve and statistical reporting obligations of the ECB; whereas until 31 December 1998, credit institutions established in the Principality of Monaco were subject to the same minimum reserve and statistical reporting requirements as credit institutions established in France and had access to French payment systems and to refinancing by the Banque de France; whereas in order to maintain conditions allowing for competition, it is necessary to maintain these obligations and these possibilities, it being understood that the rules laid down by the ECB regarding minimum reserve and statistical reporting obligations should now be applied, and that access to payment systems now concerns the euro area under the conditions agreed with the ECB and laid down in this Agreement;
- (9) Whereas access to payment systems implies the possibility of access to securities settlement systems, since they apply the principle of settling in gross amounts and real time;
- (10) Whereas it is appropriate therefore for credit institutions, and where relevant, other financial institutions established in the territory of the Principality of Monaco to be subject, firstly, to the same rules as those established in the euro area for the purposes of monetary policy instruments and procedure and; secondly, to the same rules as those established in the euro area for the purposes of prudential supervision and prevention of systemic risks in payment and securities settlement systems; and thirdly, to equivalent provisions concerning other areas governed by this Agreement under the conditions mentioned therein;
- (11) Whereas registered companies, established in the Principality of Monaco, exclusively involved with portfolio management for third parties or the transmission of instructions, may not have access to the abovementioned systems or be subject to the abovementioned obligations;
- (12) Whereas this Agreement may not confer any right on credit institutions, or where relevant, on other financial institutions established in the territory of the Principality of Monaco concerning freedom of establishment and to provide services in the European Community; similarly, this Agreement may not confer any right on credit institutions, or where relevant, on other financial institutions established in the territory of the European Community concerning freedom of establishment and to provide services in the Principality of Monaco;
- (13) Whereas this Agreement does not impose any obligation on the ECB and national central banks to include Monaco's financial instruments in the list(s) of securities eligible for monetary policy operations of the European System of Central Banks;
- (14) Whereas as a consequence of subjecting credit institutions, and where appropriate, other financial institutions established in the territory of the Principality of Monaco to the same rules as those established in France for the purposes of banking regulations and the prevention of systemic risks to payment and securities settlement systems and to equivalent provisions concerning other areas governed by this Agreement, the parties undertake to cooperate in good faith in order to ensure that the law applicable in Monaco in the areas covered by this Agreement will at all times be identical, or where appropriate, equivalent to the law applicable in France;

(15) Whereas, in view of the objective of this Agreement, it is useful to establish a joint committee composed of representatives of the Principality of Monaco, the Commission, the ECB and France, in order to examine the equivalence of measures taken by the Principality of Monaco and by the Member States in implementing Community Acts mentioned in Annex B in addition to the technical steps according to which new Community legal acts will be added to the list in Annex B to this Agreement;

(16) Whereas, in view of the need to ensure a uniform interpretation of Community law, the parties have expressed their common wish for the jurisdiction of the Court of Justice, as laid down in Article 234 of the Treaty establishing the European Community, to be extended to the Principality of Monaco, and to all questions concerning the interpretation of this Agreement; whereas the Court of Justice is considering in a more general context the possibility of extending its jurisdiction to these questions; whereas the parties will adapt this Agreement if it is confirmed that the jurisdiction of the Court of Justice has indeed been extended in this way,

Article 1

The Principality of Monaco shall be entitled from 1 January 1999 to use the euro as its official currency, taking the necessary internal legal steps pursuant to Regulation (EC) No 1103/97, Regulation (EC) No 974/98, as amended, and Regulation (EC) No 2866/98, as amended.

Article 2

1. From 1 January 2002, the Principality of Monaco shall grant legal tender status to banknotes and coins in euro. The Principality of Monaco shall undertake, on the one hand, to take internal legal measures in order to apply to its territory the Community provisions concerning euro banknotes and coins, and, on the other hand, to adopt a timetable identical to that laid down by France for the introduction of euro banknotes and coins.

2. Currency circulating within the Principality of Monaco shall be withdrawn according to the procedure agreed between the Government of the French Republic and the Government of His Serene Highness the Prince of Monaco and according to a timetable identical to that laid down by France for the withdrawal of currency circulating within its own territory. France shall proceed to withdraw the currency of the Principality of Monaco in circulation within its territory following procedures agreed with the Government of His Serene Highness the Prince of Monaco.

Article 3

The Principality of Monaco shall not issue banknotes. It shall only issue coins after agreement with the Community concerning the conditions of issuance. The conditions relating

to issuance of a limited quantity of euro coins from 1 January 2002 and Monegasque coins in francs until 31 December 2001 are laid down by this Agreement in the following Articles.

Article 4

1. From 1 January 2002, the Principality of Monaco may issue euro coins with an annual volume of 1/500th of the quantity of coins minted in France.

2. Euro coins issued by the Principality of Monaco shall be identical to euro coins issued by the Member States of the European Community having adopted the euro with respect to the face value, legal tender status and technical and design characteristics on the common side and the common design characteristics on the national side.

3. The competent Community authorities shall be notified in advance of the design characteristics of the national side.

Article 5

1. The annual volume of euro coins issued by the Principality of Monaco shall be added to the volume of coins issued by France for the purposes of ECB approval of the total volume of coins minted by France, as required by Article 106(2) of the Treaty establishing the European Community.

2. Not later than 1 September each year, the Principality of Monaco shall notify France of the volume and the face value of the euro coins that it intends to issue during the following year.

Article 6

1. The Principality of Monaco may issue euro collector coins. Their value shall be taken into account with regard to the annual volume laid down by Article 4. The issuance of collector coins by the Principality of Monaco shall conform with the guidelines concerning collector coins issued by the Member States of the European Community which require, *inter alia*, the adoption of technical and design characteristics and unitary values allowing these coins to be distinguished from those intended for circulation.

2. Collector coins issued by the Principality of Monaco shall not be legal tender in the European Community.

Article 7

1. France shall place the Hôtel de la Monnaie de Paris at the disposal of the Principality of Monaco to mint its coins.

2. The Principality of Monaco shall undertake to use the Hôtel de la Monnaie de Paris and no other establishment to mint its coins.

Article 8

1. The Principality of Monaco shall not issue euro coins before 1 January 2002.
2. The Principality of Monaco may issue Monegasque coins in francs until 31 December 2001. These coins shall be identical to coins in francs as regards their alloy, fineness, coinage and value.
3. Until the time of their withdrawal as legal tender, coins and banknotes in francs shall be legal tender in the Principality of Monaco.

Article 9

The Principality of Monaco shall cooperate closely with the European Community to combat counterfeiting of euro banknotes and coins and to suppress and punish any counterfeiting of euro banknotes and coins which may occur in its territory. The Principality of Monaco shall undertake to adopt, within a reasonable time, the appropriate steps to prevent counterfeiting laid down in the framework decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro and Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting. The measures laying down detailed rules for cooperation in this area shall be set out in specific Exchanges of Letters between France, acting on behalf of the European Community, and in agreement with the Commission and the ECB, and the Principality of Monaco.

Article 10

1. Credit institutions, and where appropriate, other financial institutions authorised to carry out their activities in the territory of the Principality of Monaco may, under the conditions laid down in Article 11, participate in interbank settlement and payment and securities settlement systems in the European Union under the same conditions as credit institutions and, where relevant, other financial institutions established in the territory of France, subject to the proviso that they fulfil the conditions laid down for access to those systems.
2. An interbank settlement and payment and securities settlement system shall be defined as a national or international procedure organising relations between its participants, allowing the execution on a habitual basis, with or without compensation, of payments or transfers of securities. This procedure must either have been established by a public authority of a Member State of the European Union, or must be governed by a framework contract or standard contract applicable in the European Union.
3. Credit institutions and, where appropriate, other financial institutions located in the territory of the Principality of Monaco shall be subject, under the conditions laid down in

Article 11, to the same measures adopted by the Banque de France in implementation of ECB provisions laying down monetary policy instruments and procedures as credit institutions and, where appropriate, other financial institutions located in the territory of France.

Article 11

1. Legal acts adopted by the Council pursuant to Article 107(6) of the Treaty establishing the European Community, in conjunction with Articles 5.4 or 19.1, or 34.3 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter Statute), by the ECB pursuant to the abovementioned legal acts adopted by the Council or pursuant to Articles 5, 16, 18, 19, 20, 22 or Article 34.3 of the Statute, or by the Banque de France when implementing legal acts adopted by the ECB, shall apply to the territory of the Principality of Monaco. This applies also to any possible amendments to these acts.

2. The Principality of Monaco shall apply the measures adopted by France to implement Community acts concerning the prudential supervision of credit institutions and the prevention of systemic risks to payment and securities settlement systems contained in Annex A. To this end, the Principality of Monaco shall apply, firstly, the provisions of the French Monetary and Financial Code concerning the activities and monitoring of credit institutions, in addition to implementing regulations in accordance with the Franco-Monegasque Agreement of 14 April 1945 concerning foreign exchange control and to the Exchanges of Letters between the Government of the French Republic and the Government of His Serene Highness the Prince of Monaco of 18 May 1963, 27 November 1987 and 10 May 2001 concerning banking regulations; and, secondly, the provisions of the French Monetary and Financial Code concerning the prevention of systemic risks to payment and securities settlement systems.

3. The list contained in Annex A shall be amended by the Commission after every amendment to Community texts and also after adoption of every new text, taking into account the date of entry into force and of transposition of the texts. After each amendment, the updated list shall be published in the *Official Journal of the European Communities* (OJEC).

4. The Principality of Monaco shall adopt measures equivalent to those taken by the Member States to apply Community acts contained in Annex B necessary for the implementation of this Agreement. The parties meeting within the Joint Committee referred to in Article 14 shall examine the equivalence between the measures taken by Monaco and by the Member States in application of the abovementioned Community acts according to a procedure to be defined by this Committee.

5. Notwithstanding the procedure laid down in paragraph 9 of this Article, the list contained in Annex B may be amended either by decision of the Joint Committee, convened at the request of the Monegasque authorities in the two weeks following adoption of new Community legislation falling under this Agreement, or by the Commission if the Committee is not so convened. For this purpose, the Commission, when drafting new legislation falling under this Agreement that it wishes to include in the list in Annex B, shall inform the Principality of Monaco thereof. The Principality of Monaco shall receive copies of the documents produced by Community institutions and bodies at the different stages of the legislative procedure. The Commission shall amend List B taking into account the date of entry into force and transposition of the legislation. After each amendment, the updated list shall be published in the *Official Journal of the European Communities* (OJEC).

6. The Principality of Monaco shall take measures equivalent in effect to the Community directive on prevention of the use of the financial system for the purpose of money-laundering, pursuant to the Financial Action Task Force (FATF) recommendations.

7. Credit institutions and, where appropriate, other financial institutions, and other reporting agents located within the territory of the Principality of Monaco shall be subject to the sanctions and disciplinary procedures implemented in the case of infringement of the legal acts referred to in the preceding paragraphs. The Principality of Monaco shall ensure enforcement of the sanctions applied by virtue of these provisions.

8. The legal acts referred to in the first paragraph of this Article shall enter into force in the Principality of Monaco on the same day as in the European Community where they are published in the OJEC, and on the same day as in France where they are published in the Official Journal of the French Republic (OJFR). Legal acts of general application not published in the OJEC or in the OJRF shall enter into force upon communication to the Monegasque authorities. Acts of an individual nature shall apply upon notification to the party concerned.

9. Before granting authorisation to investment firms seeking to establish themselves in the territory of the Principality of Monaco for the purposes of offering investment services, the Principality of Monaco shall undertake to take measures equivalent in effect to existing Community legal acts governing these services. By way of derogation from the procedure laid down in paragraph 5 of this Article, Community acts shall be subsequently integrated into Annex B to this Agreement by the Commission.

Article 12

The Principality of Monaco and France shall amend Article 18 of the Neighbourhood Agreement of 18 May 1963 in order to make it compatible with this Agreement.

Article 13

1. All questions concerning the validity of decisions of Community institutions or bodies — in particular of the ECB — implemented by virtue of this Agreement, shall fall within the exclusive jurisdiction of the Court of Justice of the European Communities. In particular, any natural or legal person domiciled in the territory of the Principality of Monaco may exercise any right of appeal available to natural and legal persons located in the territory of France against legal acts addressed to them, whatever their form or nature.

2. For matters falling under this Agreement, the applicable rules shall be interpreted for the purposes of their implementation in accordance with the relevant case-law of the Court of Justice of the European Communities.

Article 14

1. A Joint Committee shall be set up to facilitate the implementation and operation of this Agreement. It shall exchange views and information and adopt decisions under Article 11 of this Agreement. It shall similarly examine the measures taken by the Principality of Monaco, in accordance with Articles 9, 10 and 11 of this Agreement.

2. The Joint Committee shall be composed of representatives of the Principality of Monaco, France and the bodies which are party to this Agreement (the Commission and the ECB, hereinafter the bodies). It shall adopt decisions unanimously. It shall adopt its own Rules of Procedure.

3. The parties and the bodies shall cooperate in good faith in order to ensure the full effectiveness of this Agreement in its entirety and without prejudice to Article 15(4).

Article 15

1. This Agreement shall be re-examined by the Joint Committee one year after its entry into force and then, subsequently, every two years.

2. In the event that after examination by the Joint Committee it is decided that this Agreement should be amended, the procedures laid down by Council Decision 1999/96/EC of 31 December 1998 shall be applied.

3. Furthermore, the parties and bodies may request amendments to its provisions whenever necessary.

4. Each party may terminate this Agreement with notice of one year.

5. This Agreement is established in the French language.'

I should be obliged if you would let me know whether the above provisions have the approval of your government. If so, this letter and the Annexes thereto will, together with your reply, constitute 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 and will come into force on the date of your reply.

Please accept, Sir, the assurance of my highest consideration.

Laurent FABIUS



ANNEX A

2001/24/EC

Directive of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding-up of credit institutions

OJ L 125, 5.5.2001, pp. 15-23

2000/12/EC

Directive of the European Parliament and of the Council of 20 March 2000 relating to the taking-up and pursuit of the business of credit institutions (as amended by Directive 2000/28/EC of the European Parliament and of the Council of 18 September 2000, and by Directive 2000/46/EC of the European Parliament and of the Council of 18 September 2000 on the taking-up, pursuit of and prudential supervision of the business of electronic money institutions) with the exception of Titles III and IV

OJ L 126, 25.5.2000, pp. 1-59

OJ L 275, 27.10.2000, pp. 37-38

OJ L 275, 27.10.2000, pp. 39-43

97/5/EC

Directive of the European Parliament and of the Council of 27 January 1997 on cross-border credit transfers

OJ L 43, 14.2.1997, pp. 25-31

94/19/EC

Directive of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes

OJ L 135, 31.5.1994, pp. 5-14

93/22/EEC

Council Directive of 10 May 1993 on investment services in the securities field (for provisions applying to credit institutions) with the exception of Titles III and V

OJ L 141, 11.6.1993, pp. 27-45

93/6/EEC

Council Directive of 15 March 1993 on the capital adequacy of investment firms and credit institutions (for provisions applying to credit institutions)

OJ L 141, 11.6.1993, pp. 1-26

OJ L 204, 21.7.1998, pp. 13-25

89/117/EEC

Council Directive of 13 February 1989 on the obligations of branches established in a Member State of credit institutions and financial institutions having their head offices outside that Member State regarding the publication of annual accounting documents

OJ L 44, 16.2.1989, pp. 40-42

86/635/EEC

Council Directive of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions (for provisions applying to credit institutions)

OJ L 372, 31.12.1986, pp. 1-17

98/26/EC

Directive of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities systems

OJ L 166, 11.6.1998, pp. 45-50

ANNEX B

97/9/EC

Directive of the Parliament and of the Council of 3 March 1997 on investment compensation schemes

OJ L 84, 26.3.1997, pp. 22-31

PRINCIPALITY OF MONACO

MINISTER OF STATE

M Laurent Fabius
 Minister for Economic Affairs, Finance and Industry
 Télédéc 151
 139, rue de Bercy
 F-75572 Paris Cedex 12

Monaco, 26 December 2001

Sir,

By letter dated 24 December 2001, you made the following proposal:

Following the exchanges between the representatives of our States with a view to introducing the euro into the Principality of Monaco, with which the European Commission and the European Central Bank were fully associated, I have the honour, by order of my Government and on behalf of the European Community, to propose the following provisions, which have received the agreement of the Economic and Financial Committee:

“Having regard to the Treaty establishing the European Community, and in particular Article 111(3) thereof,

Having regard to Council Regulation (EC) No 974/98 of 3 May 1998,

Having regard to the Council decision of 31 December 1998 on the position to be taken by the Community regarding an agreement concerning monetary relations with the Principality of Monaco,

Having regard to the Franco-Monegasque Agreement of 14 April 1945 concerning foreign exchange control and the Exchanges of Letters between the Government of the French Republic and the Government of His Serene Highness the Prince of Monaco of 18 May 1963, 27 November 1987 and 10 May 2001 concerning banking regulations,

Having regard to Article 18 of the Neighbourhood Agreement between France and the Principality of Monaco of 18 May 1963,

Having regard to the Exchange of Letters of 31 December 1998 between the Government of the French Republic and the Monegasque Government,

Having regard to the agreement of the European Central Bank (hereinafter the ECB) to grant access to payment systems in the euro area,

Having regard to the opinion of the Economic and Financial Committee,

The Commission of the European Communities (hereinafter the Commission) and the ECB having been fully associated,

- (1) Whereas the Council of the European Union meeting at the level of the Heads of State or Government provided in its decision of 3 May 1998 that France is one of the Member States of the European Community that has adopted the euro;
- (2) Whereas since 1 January 1999, for Member States having adopted the euro, monetary issues fall under the competence of the European Community;
- (3) Whereas pursuant to Declaration No 6 annexed to the Final Act of the Treaty on European Union, the Community undertakes to facilitate such renegotiations

of existing arrangements between the Government of the French Republic and the Government of His Serene Highness the Prince of Monaco as might become necessary as a result of the introduction of the single currency;

- (4) Whereas the decision of 31 December 1998 provides that the Government of the French Republic is to conduct negotiations with the Monegasque Government on behalf of the European Community, that the Commission is to be fully associated with the negotiations and that the ECB is also to be fully associated with the negotiations in its fields of competence and that it is to agree to the conditions under which financial institutions located in the territory of the Principality of Monaco may have access to payment systems in the euro area;
- (5) Whereas the Council decision of 31 December 1998 provides that the Principality of Monaco may use the euro as its official currency and may grant legal tender status to banknotes and coins in euro issued by the European System of Central Banks and the Member States which have adopted the euro;
- (6) Whereas the abovementioned decision provides, as one of the principles on which the Community bases its position in the negotiations, that the Principality of Monaco is to undertake not to issue any banknotes, coins or monetary surrogates of any kind unless the conditions for such issuance have been agreed with the Community;
- (7) Whereas under the terms of the abovementioned decision, the Principality of Monaco must ensure that Community rules on banknotes and coins denominated in euro are applicable in its territory; whereas euro banknotes and coins must be given appropriate protection against counterfeiting; whereas it is important for the Principality of Monaco to take all the necessary measures to combat counterfeiting and to cooperate with the Commission, the ECB and the European Police Office (Europol) in this area;

- (8) Whereas the Council has provided that financial institutions established in the Principality of Monaco may have access to payment systems within the euro area under the conditions agreed with the ECB and that they may be subject to the minimum reserve and statistical reporting obligations of the ECB; whereas until 31 December 1998, credit institutions established in the Principality of Monaco were subject to the same minimum reserve and statistical reporting requirements as credit institutions established in France and had access to French payment systems and to refinancing by the Banque de France; whereas in order to maintain conditions allowing for competition, it is necessary to maintain these obligations and these possibilities, it being understood that the rules laid down by the ECB regarding minimum reserve and statistical reporting obligations should now be applied, and that access to payment systems now concerns the euro area under the conditions agreed with the ECB and laid down in this Agreement;
- (9) Whereas access to payment systems implies the possibility of access to securities settlement systems, since they apply the principle of settling in gross amounts and real time;
- (10) Whereas it is appropriate therefore for credit institutions, and where relevant, other financial institutions established in the territory of the Principality of Monaco to be subject, firstly, to the same rules as those established in the euro area for the purposes of monetary policy instruments and procedure and; secondly, to the same rules as those established in the euro area for the purposes of prudential supervision and prevention of systemic risks in payment and securities settlement systems; and thirdly, to equivalent provisions concerning other areas governed by this Agreement under the conditions mentioned therein;
- (11) Whereas registered companies, established in the Principality of Monaco, exclusively involved with portfolio management for third parties or the transmission of instructions, may not have access to the abovementioned systems or be subject to the abovementioned obligations;
- (12) Whereas this Agreement may not confer any right on credit institutions, or where relevant, on other financial institutions established in the territory of the Principality of Monaco concerning freedom of establishment and to provide services in the European Community; similarly, this Agreement may not confer any right on credit institutions, or where relevant, on other financial institutions established in the territory of the European Community concerning freedom of establishment and to provide services in the Principality of Monaco;
- (13) Whereas this Agreement does not impose any obligation on the ECB and national central banks to include Monaco's financial instruments in the list(s) of securities eligible for monetary policy operations of the European System of Central Banks;
- (14) Whereas as a consequence of subjecting credit institutions, and where appropriate, other financial institutions established in the territory of the Principality of Monaco to the same rules as those established in France for the purposes of banking regulations and the prevention of systemic risks to payment and securities settlement systems and to equivalent provisions concerning other areas governed by this Agreement, the parties undertake to cooperate in good faith in order to ensure that the law applicable in Monaco in the areas covered by this Agreement will at all times be identical, or where appropriate, equivalent to the law applicable in France;
- (15) Whereas, in view of the objective of this Agreement, it is useful to establish a joint committee composed of representatives of the Principality of Monaco, the Commission, the ECB and France, in order to examine the equivalence of measures taken by the Principality of Monaco and by the Member States in implementing Community Acts mentioned in Annex B in addition to the technical steps according to which new Community legal acts will be added to the list in Annex B to this Agreement;
- (16) Whereas, in view of the need to ensure a uniform interpretation of Community law, the parties have expressed their common wish for the jurisdiction of the Court of Justice, as laid down in Article 234 of the Treaty establishing the European Community, to be extended to the Principality of Monaco, and to all questions concerning the interpretation of this Agreement; whereas the Court of Justice is considering in a more general context the possibility of extending its jurisdiction to these questions; whereas the parties will adapt this Agreement if it is confirmed that the jurisdiction of the Court of Justice has indeed been extended in this way,

Article 1

The Principality of Monaco shall be entitled from 1 January 1999 to use the euro as its official currency, taking the necessary internal legal steps pursuant to Regulation (EC) No 1103/97, Regulation (EC) No 974/98, as amended, and Regulation (EC) No 2866/98, as amended.

Article 2

1. From 1 January 2002, the Principality of Monaco shall grant legal tender status to banknotes and coins in euro. The Principality of Monaco shall undertake, on the one hand, to take internal legal measures in order to apply to its territory the Community provisions concerning euro banknotes and coins, and, on the other hand, to adopt a timetable identical to that laid down by France for the introduction of euro banknotes and coins.

2. Currency circulating within the Principality of Monaco shall be withdrawn according to the procedure agreed between the Government of the French Republic and the Government of His Serene Highness the Prince of Monaco and according to a timetable identical to that laid down by France for the withdrawal of currency circulating within its own territory. France shall proceed to withdraw the currency of the Principality of Monaco in circulation within its territory following procedures agreed with the Government of His Serene Highness the Prince of Monaco.

Article 3

The Principality of Monaco shall not issue banknotes. It shall only issue coins after agreement with the Community concerning the conditions of issuance. The conditions relating to issuance of a limited quantity of euro coins from 1 January 2002 and Monegasque coins in francs until 31 December 2001 are laid down by this Agreement in the following Articles.

Article 4

1. From 1 January 2002, the Principality of Monaco may issue euro coins with an annual volume of 1/500th of the quantity of coins minted in France.

2. Euro coins issued by the Principality of Monaco shall be identical to euro coins issued by the Member States of the European Community having adopted the euro with respect to the face value, legal tender status and technical and design characteristics on the common side and the common design characteristics on the national side.

3. The competent Community authorities shall be notified in advance of the design characteristics of the national side.

Article 5

1. The annual volume of euro coins issued by the Principality of Monaco shall be added to the volume of coins issued by France for the purposes of ECB approval of the total volume of coins minted by France, as required by Article 106(2) of the Treaty establishing the European Community.

2. Not later than 1 September each year, the Principality of Monaco shall notify France of the volume and the face value of the euro coins that it intends to issue during the following year.

Article 6

1. The Principality of Monaco may issue euro collector coins. Their value shall be taken into account with regard to the annual volume laid down by Article 4. The issuance of collector coins by the Principality of Monaco shall conform with the guidelines concerning collector coins issued by the Member States of the European Community which require, *inter alia*, the adoption of technical and design characteristics

and unitary values allowing these coins to be distinguished from those intended for circulation.

2. Collector coins issued by the Principality of Monaco shall not be legal tender in the European Community.

Article 7

1. France shall place the Hôtel de la Monnaie de Paris at the disposal of the Principality of Monaco to mint its coins.

2. The Principality of Monaco shall undertake to use the Hôtel de la Monnaie de Paris and no other establishment to mint its coins.

Article 8

1. The Principality of Monaco shall not issue euro coins before 1 January 2002.

2. The Principality of Monaco may issue Monegasque coins in francs until 31 December 2001. These coins shall be identical to coins in francs as regards their alloy, fineness, coinage and value.

3. Until the time of their withdrawal as legal tender, coins and banknotes in francs shall be legal tender in the Principality of Monaco.

Article 9

The Principality of Monaco shall cooperate closely with the European Community to combat counterfeiting of euro banknotes and coins and to suppress and punish any counterfeiting of euro banknotes and coins which may occur in its territory. The Principality of Monaco shall undertake to adopt, within a reasonable time, the appropriate steps to prevent counterfeiting laid down in the framework decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro and Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting. The measures laying down detailed rules for cooperation in this area shall be set out in specific Exchanges of Letters between France, acting on behalf of the European Community, and in agreement with the Commission and the ECB, and the Principality of Monaco.

Article 10

1. Credit institutions, and where appropriate, other financial institutions authorised to carry out their activities in the territory of the Principality of Monaco may, under the conditions laid down in Article 11, participate in interbank settlement and payment and securities settlement systems in the European Union under the same conditions as credit institutions and, where relevant, other financial institutions established in the territory of France, subject to the proviso that they fulfil the conditions laid down for access to those systems.

2. An interbank settlement and payment and securities settlement system shall be defined as a national or international procedure organising relations between its participants, allowing the execution on a habitual basis, with or without compensation, of payments or transfers of securities. This procedure must either have been established by a public authority of a Member State of the European Union, or must be governed by a framework contract or standard contract applicable in the European Union.

3. Credit institutions and, where appropriate, other financial institutions located in the territory of the Principality of Monaco shall be subject, under the conditions laid down in Article 11, to the same measures adopted by the Banque de France in implementation of ECB provisions laying down monetary policy instruments and procedures as credit institutions and, where appropriate, other financial institutions located in the territory of France.

Article 11

1. Legal acts adopted by the Council pursuant to Article 107(6) of the Treaty establishing the European Community, in conjunction with Articles 5.4 or 19.1, or 34.3 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter Statute), by the ECB pursuant to the abovementioned legal acts adopted by the Council or pursuant to Articles 5, 16, 18, 19, 20, 22 or Article 34.3 of the Statute, or by the Banque de France when implementing legal acts adopted by the ECB, shall apply to the territory of the Principality of Monaco. This applies also to any possible amendments to these acts.

2. The Principality of Monaco shall apply the measures adopted by France to implement Community acts concerning the prudential supervision of credit institutions and the prevention of systemic risks to payment and securities settlement systems contained in Annex A. To this end, the Principality of Monaco shall apply, firstly, the provisions of the French Monetary and Financial Code concerning the activities and monitoring of credit institutions, in addition to implementing regulations in accordance with the Franco-Monegasque Agreement of 14 April 1945 concerning foreign exchange control and to the Exchanges of Letters between the Government of the French Republic and the Government of His Serene Highness the Prince of Monaco of 18 May 1963, 27 November 1987 and 10 May 2001 concerning banking regulations; and, secondly, the provisions of the French Monetary and Financial Code concerning the prevention of systemic risks to payment and securities settlement systems.

3. The list contained in Annex A shall be amended by the Commission after every amendment to Community texts and also after adoption of every new text, taking into account the date of entry into force and of transposition of the texts. After each amendment, the updated list shall be published in the *Official Journal of the European Communities* (OJEC).

4. The Principality of Monaco shall adopt measures equivalent to those taken by the Member States to apply Community acts contained in Annex B necessary for the implementation of

this Agreement. The parties meeting within the Joint Committee referred to in Article 14 shall examine the equivalence between the measures taken by Monaco and by the Member States in application of the abovementioned Community acts according to a procedure to be defined by this Committee.

5. Notwithstanding the procedure laid down in paragraph 9 of this Article, the list contained in Annex B may be amended either by decision of the Joint Committee, convened at the request of the Monegasque authorities in the two weeks following adoption of new Community legislation falling under this Agreement, or by the Commission if the Committee is not so convened. For this purpose, the Commission, when drafting new legislation falling under this Agreement that it wishes to include in the list in Annex B, shall inform the Principality of Monaco thereof. The Principality of Monaco shall receive copies of the documents produced by Community institutions and bodies at the different stages of the legislative procedure. The Commission shall amend List B taking into account the date of entry into force and transposition of the legislation. After each amendment, the updated list shall be published in the *Official Journal of the European Communities* (OJEC).

6. The Principality of Monaco shall take measures equivalent in effect to the Community directive on prevention of the use of the financial system for the purpose of money-laundering, pursuant to the Financial Action Task Force (FATF) recommendations.

7. Credit institutions and, where appropriate, other financial institutions, and other reporting agents located within the territory of the Principality of Monaco shall be subject to the sanctions and disciplinary procedures implemented in the case of infringement of the legal acts referred to in the preceding paragraphs. The Principality of Monaco shall ensure enforcement of the sanctions applied by virtue of these provisions.

8. The legal acts referred to in the first paragraph of this Article shall enter into force in the Principality of Monaco on the same day as in the European Community where they are published in the OJEC, and on the same day as in France where they are published in the *Official Journal of the French Republic* (OJFR). Legal acts of general application not published in the OJEC or in the OJFR shall enter into force upon communication to the Monegasque authorities. Acts of an individual nature shall apply upon notification to the party concerned.

9. Before granting authorisation to investment firms seeking to establish themselves in the territory of the Principality of Monaco for the purposes of offering investment services, the Principality of Monaco shall undertake to take measures equivalent in effect to existing Community legal acts governing these services. By way of derogation from the procedure laid down in paragraph 5 of this Article, Community acts shall be subsequently integrated into Annex B to this Agreement by the Commission.

Article 12

The Principality of Monaco and France shall amend Article 18 of the Neighbourhood Agreement of 18 May 1963 in order to make it compatible with this Agreement.

Article 13

1. All questions concerning the validity of decisions of Community institutions or bodies — in particular of the ECB — implemented by virtue of this Agreement, shall fall within the exclusive jurisdiction of the Court of Justice of the European Communities. In particular, any natural or legal person domiciled in the territory of the Principality of Monaco may exercise any right of appeal available to natural and legal persons located in the territory of France against legal acts addressed to them, whatever their form or nature.

2. For matters falling under this Agreement, the applicable rules shall be interpreted for the purposes of their implementation in accordance with the relevant case-law of the Court of Justice of the European Communities.

Article 14

1. A Joint Committee shall be set up to facilitate the implementation and operation of this Agreement. It shall exchange views and information and adopt decisions under Article 11 of this Agreement. It shall similarly examine the measures taken

by the Principality of Monaco, in accordance with Articles 9, 10 and 11 of this Agreement.

2. The Joint Committee shall be composed of representatives of the Principality of Monaco, France and the bodies which are party to this Agreement (the Commission and the ECB, hereinafter the bodies). It shall adopt decisions unanimously. It shall adopt its own Rules of Procedure.

3. The parties and the bodies shall cooperate in good faith in order to ensure the full effectiveness of this Agreement in its entirety and without prejudice to Article 15(4).

Article 15

1. This Agreement shall be re-examined by the Joint Committee one year after its entry into force and then, subsequently, every two years.

2. In the event that after examination by the Joint Committee it is decided that this Agreement should be amended, the procedures laid down by Council Decision 1999/96/EC of 31 December 1998 shall be applied.

3. Furthermore, the parties and bodies may request amendments to its provisions whenever necessary.

4. Each party may terminate this Agreement with notice of one year.

5. This Agreement is established in the French language.”

I should be obliged if you would let me know whether the above provisions have the approval of your government. If so, this letter and the Annexes thereto will, together with your reply, constitute 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 and will come into force on the date of your reply.’

I have the honour to inform you that the Prince's Government agrees to the above.

Please accept, Sir, the assurance of my highest consideration.

Minister of State
Patrick LECLERCQ

ANNEX A

2001/24/EC

Directive of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding-up of credit institutions

OJ L 125, 5.5.2001, pp. 15-23

2000/12/EC

Directive of the European Parliament and of the Council of 20 March 2000 relating to the taking-up and pursuit of the business of credit institutions (as amended by Directive 2000/28/EC of the European Parliament and of the Council of 18 September 2000, and by Directive 2000/46/EC of the European Parliament and of the Council of 18 September 2000 on the taking-up, pursuit of and prudential supervision of the business of electronic money institutions) with the exception of Titles III and IV

OJ L 126, 25.5.2000, pp. 1-59

OJ L 275, 27.10.2000, pp. 37-38

OJ L 275, 27.10.2000, pp. 39-43

97/5/EC

Directive of the European Parliament and of the Council of 27 January 1997 on cross-border credit transfers

OJ L 43, 14.2.1997, pp. 25-31

94/19/EC

Directive of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes

OJ L 135, 31.5.1994, pp. 5-14

93/22/EEC

Council Directive of 10 May 1993 on investment services in the securities field (for provisions applying to credit institutions) with the exception of Titles III and V

OJ L 141, 11.6.1993, pp. 27-45

93/6/EEC

Council Directive of 15 March 1993 on the capital adequacy of investment firms and credit institutions (for provisions applying to credit institutions)

OJ L 141, 11.6.1993, pp. 1-26

OJ L 204, 21.7.1998, pp. 13-25

89/117/EEC

Council Directive of 13 February 1989 on the obligations of branches established in a Member State of credit institutions and financial institutions having their head offices outside that Member State regarding the publication of annual accounting documents

OJ L 44, 16.2.1989, pp. 40-42

86/635/EEC

Council Directive of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions (for provisions applying to credit institutions)

OJ L 372, 31.12.1986, pp. 1-17

98/26/EC

Directive of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities systems

OJ L 166, 11.6.1998, pp. 45-50

ANNEX B

97/9/EC

Directive of the Parliament and of the Council of 3 March 1997 on investment compensation schemes

OJ L 84, 26.3.1997, pp. 22-31
