

EC/San Marino agreement: taxation of savings income in the form of interest payments

2004/0241(CNS) - 08/10/2004 - Legislative proposal

PURPOSE : The signature and conclusion of an Agreement between the European Community and the Republic of San Marino on taxation of savings income in the form of interest payments. The approval and signature of an accompanying Memorandum of Understanding (MoU).

PROPOSED ACT : Council Decision.

CONTENT : In 2001 the Council authorised the European Commission to begin negotiations with Switzerland, the United States of America, Andorra, Liechtenstein, Monaco and San Marino, for appropriate provisions for securing the adoption of measures equivalent to those applied with the Community on taxation of savings income in the form of interest payments. From the outset the Council has insisted on being informed, updated and involved in the negotiation process. Consequently, a large number of meetings at both a political and at a technical level have been held, with the full participation of the Council. In 2003, an Agreement was reached with Switzerland. The four key elements, which guided and sealed the Agreement, form the basis of Agreement with the other countries here involved. Those four elements are:

- Retention and Withholding: San Marino will apply the same rates of retention and withholding as Belgium, Luxembourg and Austria.

- Revenue sharing: San Marino will share the revenue of the retention tax and will accept the 75/25 division applied within the Community.

- Voluntary disclosure of information. The contracting parties will consult each other at least every three years and where necessary improve the technical functioning of the Agreement. When Belgium, Luxembourg and Austria change from withholding tax to automatic exchange of information, the Contracting Parties will consult each other to determine whether changes are necessary.

- San Marino grants exchange of information on request for all criminal or civil cases of fraud or similar misbehaviour on the part of taxpayers.

The Agreement is accompanied by an ancillary MoU, which confirms that, during the transitional period provided for, the EC will enter into discussion with other important financial centres with a view to promoting the adoption by those jurisdictions of measures equivalent to those to be applied by the Community. The MoU also provides that the agreed measures will be implemented in good faith and that parties will not act unilaterally to undermine this arrangement. In addition to the above, the MoU states that the parties shall enter into consultation in order to:

- Examine the conditions for improving mutual free access to the financial markets of both Parties. Questions regarding the functioning of the internal market require clarification since any Agreement must be founded on the application, by San Marino's business sector, of existing and future Community legislation.

- Examine the possibility of simplifying the procedures laid down in their Agreement on Customs Union and Co-operation.

- Examine the possibility for access by nationals of the Republic of San Marino to EU research, study and higher training programmes.