

COUNCIL DECISION

of 22 December 2004

on the conclusion of the Agreement between the European Community and the Republic of San Marino providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments

(2005/357/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 94 in conjunction with the first subparagraph of paragraph 2, the first subparagraph of paragraph 3 and paragraph 4 of Article 300 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

(1) On 16 October 2001, the Council authorised the Commission to negotiate with the Republic of San Marino an appropriate agreement for securing the adoption by the Republic of San Marino of measures equivalent to those to be applied within the Community to ensure effective taxation of savings income in the form of interest payments.

(2) The text of the Agreement which is the result of the negotiations reflects duly the negotiating directives issued by the Council. It is accompanied by a Memorandum of Understanding between the European Community and its Member States, of the one part, and the Republic of San Marino of the other part, the text of which is attached to Council Decision 2004/903/EC ⁽²⁾.

(3) The application of the provisions of Directive 2003/48/EC ⁽³⁾ depends on the application by the Republic of San Marino of measures equivalent to those contained in that Directive, in accordance with an Agreement entered into by the Republic of San Marino with the European Community.

(4) According to Decision 2004/903/EC, and subject to the adoption at a later date of a Decision on the conclusion of the Agreement, the Agreement was signed on behalf of the European Community on 7 December 2004.

(5) The Agreement should be approved on behalf of the Community.

(6) It is necessary to provide for a simple and rapid procedure for possible adaptations of Annexes I and II to the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and the Republic of San Marino providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments is hereby approved on behalf of the European Community.

The text of the Agreement is attached to this Decision ⁽⁴⁾.

Article 2

The Commission is hereby authorised to approve, on behalf of the Community, amendments to the Annexes to the Agreement which ensure that they correspond to the data relating to the competent authorities resulting from the notifications referred to in Article 5(a) of Directive 2003/48/EC and in the Annex thereto.

Article 3

The President of the Council shall effect the notification provided for in Article 16(1) of the Agreement on behalf of the Community ⁽⁵⁾.

⁽¹⁾ Opinion delivered on 2 December 2004 (not yet published in the Official Journal).

⁽²⁾ OJ L 381, 28.12.2004, p. 32.

⁽³⁾ OJ L 157, 26.6.2003, p. 38. Directive as last amended by Directive 2004/66/EC (OJ L 168, 1.5.2004, p. 35).

⁽⁴⁾ OJ L 381, 28.12.2004, p. 33.

⁽⁵⁾ The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

Article 4

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

Done at Brussels, 22 December 2004.

For the Council
The President
C. VEERMAN
