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Coins and banknotes:

in your hands on 1 January 2002

The two big euro dates are now known: on 1 January 1999 the euro will become a fully-fledged currency for commercial transactions, and on 1 January 2002 the new coins and banknotes will be introduced simultaneously in all participating countries. The final choice of this date, which had already been pencilled in at the Madrid Council, follows extensive preparation and consultation by the European Commission with representatives of all sectors concerned, including consumers, financial institutions, shopkeepers and accountants.

The Round Table of 15 May and the specific hearing of 22 September this year achieved an identity of viewpoints on a number of essential items: the introduction date must be the same in all countries and coincide with the legal change-over, the period of withdrawal of national banknotes must be as short as possible, and the logistic aspects of the operation require impeccable

preparation. Neither of these two meetings, however, achieved a consensus on the date, with three possible periods remaining under consideration, October 2001, January 2002 and February 2002.

After weighing all the arguments, and in agreement with the Central Banks, the Council has confirmed the date of 1 January 2002, as initially provided for in the Madrid scenario. The three main reasons for this decision are: it corresponds with the legal change-over as provided for in the proposal for a regulation on the introduction of the euro, it coincides with the change of financial year for the vast majority of business companies as well as the start of the tax year in most countries and, finally, many sectors have already used it as the basis for their preparations. In this way the timetable is respected, enabling all private and public users to plan their switchover with the greatest possible security and continuity.

Internet Site

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Early announcement of bilateral parities: a stabilizing factor

Meeting at Mondorf-les-Bains last September, the Ecofin Council took the decision to announce the bilateral parities between the currencies of participating countries as soon as they are known next spring. European Commissioner Yves-Thibaut de Silguy explains the precise scope of this decision.

Inf€ *Next spring will we know the value of the euro or will it be possible to extrapolate it?*

The exchange rate of the euro will not be set next spring but, as stipulated in the Treaty, on 1 January 1999 on the basis of the exchange rate between the euro and participating currencies which is indicated by the value of the Ecu on 31 December 1998. Continuity is guaranteed because the Ecu/euro ratio is 1:1. Extrapolation next spring will be impossible mainly because the Ecu basket comprises many currencies, some of which will not join the euro when it is launched. It will therefore be necessary to wait until 31 December 1998 to know the definitive exchange rate between national currencies and the euro.

Inf€ *Will the central rates of the European Monetary System be used as a basis for calculation?*

There has been neither a decision, nor any discussion of this point by finance ministers. The method has not yet been chosen. It will be made public on the day on which a decision is taken on the bilateral parities which will appear on the list of initial participants, in other words at the beginning of May 1998. We can only state that today most of the currencies concerned are very close to their central rates. Moreover, I note that a number of ministers and central bank governors have expressed a personal preference for a solution based on these rates which would have the merit of economic logic and consistency with the Treaty.

Inf€ *What is the main objective of this early announcement of the parities several months before the euro is launched?*

To reinforce the credibility of the Economic and Monetary Union and to reduce the degree of uncertainty. Economic operators affected will know eight months in advance the bilateral parities of the currencies. They will then be able to adjust their strategies for the rest of the year in advance of the deadline on 1 January 1999.

Inf€ *How can stable exchange rates be fixed in April/May 1998 whilst the markets continue to operate freely?*

Strict respect for the convergence criteria is a fundamental stabilizing factor in the transition process. In addition, the monetary authorities will ensure that the parities on 31 December 1998 correspond with those pre-announced in the spring. Having said this, the process will be largely spontaneous; the early announcement should serve to share market expectations. The exchange rates of participating currencies will progressively fall in line with the pre-defined parities.

Inf€ *Is the principle adopted therefore based on a smooth transition with no surprises for the markets?*

The European authorities would like to establish genuine cooperation with the financial markets. The authorities will provide key information and the necessary indicators in advance. The rates announced in advance will be credible. The rules of the game will be clear and understood by all concerned. The markets will themselves gravitate towards the positions defined in advance because they will be aligned with economic fundamentals.

Inf€ *Isn't this strategy a radical departure from the state of more or less permanent friction which has reigned until now in relations between the markets and the monetary authorities?*

The markets should not be taken by surprise, and it is not possible to govern exchange rates by decree. The monetary crises in 1992 and 1995 provided ample proof of this. It is therefore advisable to create a climate of confidence by responding to the expectation of markets, which requires transparency. The signals sent out to them will help to ensure a smooth transition to the euro, which is in everybody's interests.

Inf€ *Haven't the markets moved in this direction since the decision to set the bilateral parities was announced?*

Yes. Increasing economic convergence in Europe has had a positive effect on exchange rate and interest rate movements since the Mondorf decision last September, even though the worrying monetary developments in Asia were helping fuel nervousness in the markets.

Inf€ *Which monetary authorities will control the situation between the spring of 1998 and 1 January 1999?*

The finance ministers, national central bank governors and the Central European Bank as soon as it is set up in the spring of 1998.

Inf€ *So enterprises and individual investors need have no fears concerning the coming year?*

There is no reason for concern, for two main reasons. Firstly, the change-over to the euro on 1 January 1999 is now totally irreversible. All of the information required for enterprises to prepare is now available, although a few technical points have yet to be resolved. Secondly, the economic environment looks promising. Europe is beginning to record growth figures comparable to those of the United States which makes it easier to respect the convergence criteria and facilitates job creation: Europe is expected to create 3.8 million jobs between 1997 and 1999. ■



Inf€uro Interview with Dr. Willem F. Duisenberg, President of the European Monetary Institute



Inf€ *In just over a year the euro will be introduced in the countries participating in Economic and Monetary Union. Which important stages have yet to be completed for the ESCB and the ECB to become fully operational by that time?*

Under the Maastricht Treaty, the European Monetary Institute (EMI) is responsible for setting up the regulatory, organizational and logistical framework necessary for the ESCB to perform its tasks in Stage Three. The EMI has almost finished this work. The conceptual groundwork has been completed in all key areas. Allow me to provide just two examples: this year we have worked out the operational framework for the single monetary policy, which included developing the monetary policy instruments and the details of the procedures for conducting transactions with the credit institutions. In the area of payment systems, the general principles have already been worked out, and it has been possible to move on to the testing stage. Next year, i.e. once the ECB has been established, all the technical systems will be tested to ensure that they are functional, so that there will not be any hitches on 1 January 1999.

Inf€ *Is it already possible, at this point in time — without prejudicing the future monetary policy strategy of the ECB — to say which monetary policy instruments it will have at its disposal? Which instruments should the ECB use to achieve its set objectives?*

In general, the ESCB will use open market operations to steer interest rates and liquidity in the market, and to signal the stance of monetary policy. The main refinancing operations will be regular liquidity-providing transactions with a weekly frequency and a maturity of two weeks. The ESCB will make a limited part of the global refinancing volume available via longer-term refinancing operations in the form of transactions with a monthly frequency and a maturity of three months. The ESCB may also carry out fine-tuning operations on an *ad hoc* basis and will also have the possibility of affecting the structural liquidity

position of the banking sector vis-à-vis the ESCB. The ESCB will offer the banking and finance sector two standing facilities, in addition to open market operations: the marginal lending facility for overnight liquidity, and the deposit facility for depositing assets overnight. The EMI has made the technical preparations for a minimum reserve system, so that the ECB has this instrument available, if necessary.

Inf€ *How can the ECB achieve a high level of credibility as quickly as possible on the financial markets? Is there not a risk that, at the beginning of Stage Three, key lending rates will be higher than they would otherwise have been at the national level in the absence of the ECB?*

The fastest way to gain credibility is by following words with action. The financial markets will respect the ECB if it makes it clear from the start that it takes seriously its objective to maintain price stability. The groundwork for this has already been accomplished. As you may know, various national central banks, including the Deutsche Bundesbank, recently acted in concert to raise short-term interest rates. This type of measure takes some twelve to eighteen months to have an impact on the economy, i.e. the effect can be expected in a period during which the euro will already be in circulation. The central banks were wanting to show market participants that they mean business when it comes to a stable euro. The direction of ECB monetary policy after the start of Stage Three will depend on the situation at that time. As long as there are no signs of inflationary pressures in the single currency area, the ECB too will be able to adopt a steady monetary policy. It need not be heavy-handed with interest rates straight away, just to make an impression. However, if there is a threat of price increases in the participating countries, the ECB will have to tackle this just as firmly as the national central banks would, if there were no euro. I am in no doubt that the Governing Council of the ECB will do the right thing.

Introducing the euro in practice

The preparatory work for the change-over to the euro under the auspices of the Commission, which began immediately after the European Council meeting in Madrid in December 1995, is advancing apace. The Commission has published a communication on this subject (*) which is briefly presented in this article.

PUBLIC administrations

The technical and operational changeover at the Commission and other European institutions is addressed elsewhere in this edition (see p. 6). For national public administrations, the Commission has created an informal network of national coordinators responsible for directing the change-over of public administrations to the euro. This allows a flexible exchange of information, experiences and solutions concerning the internal change-over by administrations and various aspects of relations between the private sector, citizens and the administration.

Last October, eight Member States presented transition plans or action programmes offering a very broad range of "euro options" to enterprises during the three-year transition period. These can change over to the euro immediately on 1 January 1999 for legal and accounting purposes, as well as for taxation to a large degree. In most cases, the changeover to the euro will be irreversible. Certain countries will also offer individuals the possibility of choosing the euro for tax declarations and tax payments. Internally, administrations will retain their national monetary units during the transition period.

Computer systems

Unlike the changeover to the year 2000, the transition to the euro does not comprise exclusively technical operations; there are also strategic aspects of paramount importance. Nevertheless, these two events have one point in common in that they both represent a challenge to adapt computer systems. The Commission has organised several forums on this theme, the last of which on 2 October was devoted to "The euro and information technologies" (see the article on this subject on p. 7). On this topic, it is important to note that the International Standard Organisation (ISO) ratified the "EUR" symbol on 21 April 1997 as the monetary code for the euro. In addition, the European Commission presented a special communication in July 1997 on the "€" symbol which is in the process of being incorporated into software character sets. Direct integration into keyboards is under study.

Accounting and tax aspects

A group of tax and customs experts chaired by the Commission is studying the issues raised by the subject of the tax treatment of costs generated by the changeover to the euro. With regard to the deductibility of VAT, a formal amendment to the Community regulations appears to be neither justified nor appropriate. As for income tax and corporation tax, regulation is the responsibility of Member States.

In the field of accounting, in July 1997 the Commission published the document *Accounting aspects of the introduction of the euro*. The main thing to remember is that the change-over to the euro will have a neutral effect on accounting, although some adaptations will be necessary. The principles will be as follows: translation differences resulting from the use of the euro must be posted in the annual accounts for the financial year which covers 31 December 1998, whether they originate from cash or forward operations, unless the contract serves to hedge a future transaction; translation differences resulting from the "closing rate/net investment" consolidation should not be taken into the profit and loss account before the sale or liquidation of the establishment and, finally, comparative figures from earlier years must be converted using the irrevocable rate for the national currency against the euro.

The general public and the euro

A Round Table meeting in May 1997 brought together users and retailers, the financial sector and public administrations. Following this meeting the Commission selected several major issues which are currently under study with the support of experts. These include conversion charges (e.g. of bank money during the transition period and the definitive replacement of notes and coins), consumer adaptation to prices expressed in euros and the role of education and training, as well as the special problems which arise for SMEs. Another Round Table will be held in March 1998. The objective will be to prepare for the pending decisions which the Commission wants to be taken at the latest in May 1998 at the same time as the list of participating countries is announced.



Dual pricing

Today there is a broad consensus on the usefulness of dual pricing in both euros and the national currency in order to facilitate comprehension and acceptance and to create a climate of confidence in the euro. There is still active discussion of the form dual pricing should take, its field of application, its duration and the necessity for regulation in this area, as well as the possible alternatives. Consumer associations advocate mandatory dual pricing whilst retailers' representatives do not want to see further regulatory constraints. Firstly, they consider that freedom of choice is the best form of consumer protection. Secondly, they fear that the high cost of regulatory measures will have to be passed on to consumers.

Conversion costs

Current regulations do not explicitly tackle this issue which touches on several aspects: conversion of payments and the voluntary conversion of bank money during the transition period, the mandatory conversion of bank money at the end of the transition period, exchanging notes and coins between national currencies and the replacement of national notes and coins by euro notes and coins. These issues are under study by the Commission to determine the desirability of a common approach, voluntary agreements and codes of good practice. Transparency is the key word in this process.

Education and training

The role of education in the transition process is essential for a smooth change-over to the euro. The Commission is working on the most appropriate choice of mechanism for disseminating information and the manner in which each level of the education system is best suited to the distribution of such information. It is reviewing the coordination of initiatives at Community level and how its cooperation policy could provide support for actions undertaken by Member States.

Understanding the new scale of values

Additional work is required to guarantee that all social groups are capable of understanding and accepting the new values and recognizing the notes and coins. Special attention needs to be given to vulnerable groups such as the elderly, the visually impaired and non-readers.

Communication actions

In 1996 the Commission launched a major communication programme with the priority tasks of encouraging the main users to start technical preparations, informing the general public and promoting acceptance of the euro. In 1996/97, actions were targeted at specific professional groups and at sectors with a role in disseminating information. Presentations of the euro were organized in the United States and Japan. Several broadly-based actions were launched such as creating an Internet site (see p. 12) and publishing *InfEuro* six times a year in the 11 languages of the European Union. The budget allocated by the European Parliament will be used to fund this information programme, including actions undertaken in partnership with Member States.

Euro coins

On 29 May 1997 the Commission adopted a draft regulation on the unit values and technical specifications of the future euro coins. This text is currently being reviewed by the European Parliament and the Council. Moreover, the design of the common face of the coins was selected by the Council in June 1997 following a competition and an opinion poll organized by the Commission. The designs of several national faces remain to be defined. Although they differ from one country to another, the national faces will all carry the 12 stars of the European flag.

The financial markets

In July 1997 the Commission delivered a communication on "*The impact of the introduction of the euro on capital markets*" (COM (97) 337) which was featured in the previous edition of *InfEuro*. Readers are reminded that it essentially covered the following points: harmonization of market rules and conventions, the conversion of outstanding debt, and continuity of reference prices and share prices. The Commission communication was followed by a joint declaration by representatives from the European banking and financial sectors which approved the conclusions. Professionals have also subscribed to the proposals put forward by the European Monetary Institute on the subject of its competence. ■

(*) Commission Communication "*Practical aspects of the introduction of the euro*", COM (97) 491.





The European institutions get ready...

Although Member States have their eyes firmly fixed on the date of 1st January 1999, the same applies to an even greater degree to Community institutions. Since creating an inter-departmental working group in January 1997, the Commission has been systematically working to identify and analyse the problems to be tackled and how to resolve them.

THE Commission has now completed this work and on 5 November it adopted a communication to the other European institutions reviewing the real impact which the change will have on Community policies, as well as on legislation and the way the institutions operate.

Created in January 1997, the inter-departmental group was assigned three key tasks: to organize the technical change-over of Commission departments (computing, administrative issues, training and staff information); to ensure that in all areas Community law is compatible with the introduction of the euro in 1999; and to supervise any additional measures associated with the transition to the third phase of the Economic and Monetary Union (EMU). Each directorate-general (DG) is represented on this working group. Furthermore, since the changeover to the euro concerns not only the Commission but also the other Community institutions (European Parliament, Council, Court of Auditors, Court of Justice, Economic and Social Committee, and Committee of the Regions), an institutional network has been created to allow the various officials responsible in each institution for the transition to the euro to consult each other and exchange information.

Each DG has made a detailed verification of the foreseeable consequences of introducing the euro in its own sector, from the operational, computing (with each DG managing its own computer programmes) and legal standpoints, both in its relations with the outside world and on a strictly internal basis. The general finding of the inter-departmental group was that it should be possible to introduce the euro without too much difficulty, since in most Community fields of administration the Commission is already using the Ecu. The change-over from the Ecu to the euro on 1 January 1999 has in actual fact been in the pipeline for several years.

With regard to *legal compatibility*, a targeted search in the specialised CELEX database has identified

over 4000 legislative texts that are potentially affected by the transition to the euro. These texts refer to specific amounts in Ecu or in national currencies and/or interest or exchange rates. Each DG took charge of closely examining all the texts for which it was responsible and remedying any special difficulties. It turned out that very few texts have really been rendered null and void; some might have to be supplemented by interpretative notes and a few others may need to be substantively modified.

From an *operational standpoint* the issue is effective management of the budget and Community finances. Currently around 45% of the Union's outgoings are paid in Ecu (structural funds, research, other operational sectors, etc.), except for payments into the European Agricultural Guidance and Guarantee Fund (EAGGF— expenditure related to the Common Agricultural Policy) and administrative payments (2.7 billion Ecu, equivalent to 3.5% of the overall budget, chiefly in staff costs). However, on the revenue side, contributions from the Member States are paid in national currencies. This situation is creating a dual problem. On the one hand, any operations still being carried out in national currencies (both revenue and expenditure) carry major exchange risks for the budget. On the other hand, the absence of budgetary revenues paid directly in Ecu creates a structural cash requirement which obliges the Community to procure between 33 and 35 billion Ecu per annum on the market. This is an imbalance which transition to the euro should bring to an end. Nevertheless, the change-over involves certain accounting and banking modifications which need to be negotiated between the Commission and its partners. Working sub-groups have been set up for the purpose. Similarly, wages and pensions will be adjusted to the euro in consultation with the trade unions, largely to ensure that staff are properly informed prior to the changeover. Finally, for the Common Agricultural Policy (CAP), where the scale of financial operations is particularly large, transition to the euro will bring about significant simplification. ■



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IT: How far have companies progressed?

On 2 October last, the European Commission brought together representatives of computer software and service providers and users, to assess how far companies had progressed in moving to the euro. *InfEuro* interviewed Stefano Micossi, Director-General of DG III, and Robert Verrue, Director-General of DG XIII, who co-chaired the IT Forum.

InfEuro *How far have companies, in particular SMEs, computer software and service providers and related professions (advisors/consultants) already taken action?*

The situation is very diverse. If you look at the IT industry and in particular software providers, you see that the large players all have packages and products which are either available today or will be available in the first quarter of next year. On the other hand there is evidence that many of the smaller software houses have not really started their preparation in earnest.

If we look at the customers of the software and service providers again we see a contrasted situation. Most major international companies have made considerable progress. On the other hand very small companies, maybe up to ten employees, tend not to be IT-dependent, while companies of up to between 100 and 500 employees will be able to buy off-the-shelf products which will be cost-effective. The main problem seems to be with the substantial middle-sized companies of maybe 500 to 5000 employees, many of which have tailor-made systems which will need to be brought into conformity with the new situation created by the euro. The information we have today is that these companies are especially slow in realizing that they need to start preparations now.

InfEuro *During the discussion, a certain number of as yet unresolved problems were identified. What are they?*

The first difficulty is to make sure that companies realize that there is a lot of work to be done to convert their systems to make them "euro-ready". We have a big job of awareness raising. If companies act quickly, they will be better placed to secure scarce computing resources. The demand for IT industry products and services is growing year by year as a result of the information society and on top of this we are having to cope world wide with the "year 2000" problem. Of particular importance is the need to ensure that companies recognise that, while the year 2000 problem is essentially one of "survival" with little business benefit, the euro can and should prompt a deeper review of the way they do business, leading to longer term business advantage.

Another factor which has to be taken into account is that the details of the change-over scenario agreed in December 1995 in Madrid, are only now being finalized. In June and August 1997 the two euro regulations on the legal status of the euro were published in the *Official Journal*. By the end of this year (1997) we should also know the exact date of introducing euro notes and coins, and how dual display should be handled so as to help people come to terms with the new currency.

Lastly, Member States themselves must publish their own change-over plans to tell the public such details as whether company accounts, tax declarations and company reporting can be carried out in euro in the transition period between its start on 1 January 1999 and 1 January 2002. Those countries which have not already published plans need to do so quickly to provide companies with the information they need.

InfEuro *Does the task of solving these difficulties lie strictly with the Commission, with Member States, with professional associations or with the enterprises themselves?*

In any business system you have to take account of various requirements. First of all and probably most importantly, the requirements of the business itself. Then you will want to take account of best practice and industry standards. Then, moving up into the legal sphere, you need to take account of national rules and regulations and also of rules set at EU level. So IT software and service suppliers and their customers need to take account of all these levels of requirement in designing their systems. But there is clearly a split of responsibility between the Member States and the Union. As regards the role of professional advisors, most medium-sized companies are audited each year and the accounting profession should be in a position to encourage their clients to prepare actively for the coming of the euro.

InfEuro *The participants in the forum have called for better information. What initiatives is the Commission taking in this area?*

The Commission undoubtedly has a role in helping to make information available as widely as possible. It is doing so in various ways, e.g. this *InfEuro* newsletter is distributed to 300,000 readers. Member States, with the help of the Commission, have begun to issue explanatory booklets targeted at the public at large (for instance, 20 millions leaflets were distributed in France in November 1997). We provide speakers for conferences at a rate which is expected to reach 1000 a year in 1998. It will always be difficult to reach everybody who will be affected and so we will have to use every means of communication at our disposal, including professional associations.

As for more detailed information, the kind which professionals in the IT industry need, this is available in various forms, the most practical perhaps being the Community web-sites. These have links with national web-sites and thus someone searching for information can get not only the latest situation at Community level but, through the links, get information on the latest situation in the Member States. This is the Commission's knowledge hub and it is available at:

<http://www.cordis.lu/esprit/src/y2keuro.htm>.

Ireland all set for 1999

Ireland has officially presented its national plan for changing over to the euro. A precise plan, targeted at the sectors concerned — public administrations, banking institutions, businesses and private individuals — accompanied by a timetable and a real public information strategy.

The Euro Changeover Group,

established in 1996 and composed of representatives of the social partners (Congress of Trade Unions and Business and Employers Confederation), chambers of commerce, consumers, the finance sector (Bankers Federation; Mortgage and Savings Association), insurance companies, the Farmers Association, the Stock Exchange and the Consultative Committee of Accountancy Bodies, as well as the Department of Finance and the Central Bank of Ireland. Its objective is to advise the ministry on the technical aspects of measures required to qualify Ireland for the euro between now and 1998, and to help prepare all economic sectors for transition to the euro.

The national information programme,

launched in 1996 by the Ministers for Finance, Enterprise and Employment and Tourism and Trade, the plan is designed to provide the general public with information about the Economic and Monetary Union and the transition to the euro, updating it on the progress made in implementing the single currency. The first part of this programme, which extends until the end of 1997, is centred around the Forfás Business Awareness Campaign, the aim of which is to provide businesses with the information they need to prepare for the change-over to the euro. An information file was drawn up, a real "vade mecum" covering all aspects of the issue, from a linear explanation of economic and monetary union to the different phases and procedures which should enable businesses to change over smoothly from the national currency to the euro. It also contains a more detailed description of the tasks incumbent upon each player, including the public authorities, from the National Treasury Management Agency to the Irish Stock Exchange. Attention is drawn to the crucial role of information technologies, first and foremost in public institutions: the Department of Finance has therefore sent a memorandum to all ministerial departments urging them to review the current state of progress in the computing field, to identify which programmes and systems need to be modified and to make the required proposals for updating these systems in good time.

THE plan was drawn up by the Minister of Finance which has overall responsibility for transition to the euro in collaboration with the team of officials in charge of the single currency, the leading financial institutions (Central Bank, stock exchange, savings banks, savings and loans associations) and the Euro Changeover Group. The plan will evolve and be modified as the effective date for introducing the euro draws near: public service-related organizations (subsidized bodies, local authorities, health organizations) should be integrated into the plan before the end of 1997. The plan identifies and sets out the practical steps to be taken by the various State bodies and establishes two main phases: the first extending from now up to Ireland's entry into the euro zone, and the second dating from the time euro notes and coins are put into circulation.

In concrete terms, the Irish authorities have set up a number of structures specifically responsible for preparing for transition to the euro:

The Single Currency Officers Team (SCOT), created in 1995 and composed of representatives from all of the ministries and from the Office of the Revenue Commissioners, the Office of the Controller and Auditor General, the Central Statistics Office and the National Treasury Management Agency. This group is in charge of coordinating all the work relating to transition to the euro by the public sector.

Continuity of contracts: in non-Union countries too

A cornerstone for the introduction of the euro, the principle of continuity of contracts is widely accepted internationally. In the United States, several States have passed legislation on the subject.

THE Green Paper on the practical aspects of introducing the single currency, published in May 1995, already mapped out the key elements for legal recognition of the euro outside the European Union: "For third countries, the recognition of the ECU as the successor to the national currencies at the official conversion rates (*lex monetae*) can be expected, as well as the recognition of the continuity of the other terms of a contract (*lex obligationis*) such as coupon rates, interest rates and other ancillary obligations".

Twelve months prior to the introduction of the euro, the experts have confirmed this point of view. For numerous jurisdictions outside the EU, in all likelihood in the case of a dispute, the courts will rule that the obligation to pay an amount expressed in a currency participating in the Economic and Monetary Union should be transformed into an amount in euros using the fixed conversion rate and that the remainder of the contract or legal instrument should not be affected. The European regulation, based on Article 235 of the Treaty, stipulates that European monetary law will follow the principle of *lex monetae* and that bonds denominated in participant currencies will, apart from the change-over into euros, remain unchanged. In spite of this legal situation under Community law and recognition of *lex monetae* by numerous very important States, some financial institutions and legal consulting companies in non-Union countries have deemed it necessary for the legal certainty to be confirmed by their own jurisdictions in order to avoid losing contracts to other jurisdictions where continuity is guaranteed, for example in European financial centres. Several specific examples can be cited.

New York and Illinois

Legislation was introduced in the State of New York in the spring of 1997 to confirm the principle of continuity of contract in relation to the introduction of the euro. The amendment explicitly states that the introduction of the euro will not lead to the non-performance of any contract or

other instrument, nor will it allow one of the parties to revoke all or part of a contract. The text specifies that the euro is a "commercially reasonable substitute and substantial equivalent". In other words, in the eyes of New York law it will be possible to use the euro to determine the value of a currency participating in the economic union mentioned in a contract and the conversion will be calculated at the mandatory rate adopted by the Council. It will also be possible to substitute the euro for the Ecu in line with the conversion rate.

It will be possible to execute a contract either in the currency mentioned in the contract and which is considered as a subdivision of the euro, or directly in euros, to the exclusion of any other currency, without the need for the creditor's agreement. This provision, which complies with European provisions, is an exception to the principle of "no compulsion, no prohibition".

Experts are of the opinion that there would have been great certainty even without such provisions. The State of New York has nevertheless paved the way for others. The State of Illinois is passing similar legislation and it is likely that other States will follow, in particular California.

Japan and Switzerland

No legislative initiative appears to be planned in Japan but it is now generally accepted that the Japanese courts will confirm the principle of continuity. In Switzerland the Federal Government replied to a parliamentary motion that *the value of the euro compared with other currencies will be determined in accordance with economic data and not by a sovereign act. (...) This will safeguard contractual relations and the parties will not be able to plead a posteriori that it is impossible to comply with their obligations. There is no need for legislation in this field.*



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Fine-tuning the legal framework for the euro

One year before the euro is launched, operators are still asking questions about the legal implications of using the euro between 1st January 1999 and the introduction of notes and coins. In most cases the answer already exists



Payments

Article 8 (3) of the regulation states that sums which are denominated in euro units or in a national currency unit and which have to be settled in the Member State concerned, may be paid by the debtor either in the euro unit or in the national currency unit. In other words, a debtor may opt for a currency unit other than that stipulated in the contract. The financial institution receiving the payment will be obliged to accept it and, if necessary, to carry out the conversion into the creditor account currency without being obliged to obtain the account holder's authorisation. However, a bank will not be obliged to execute a payment from an account established in the national currency unit if the client makes out the transfer in euros or vice versa. Even though most banks will allow clients to open accounts in euros, the regulation will not oblige them to do so during the transition period. These rules concerning conversions between the different currency units will apply to domestic payments, as well as to cross-border payments in euros and to cross-border payments in the national currency unit of the Member State where the beneficiary's account is held. The idea behind this restriction is that a credit institution should only be obliged to carry out the conversion between the euro unit and the national currency unit of the Member State where the beneficiary's account is held. Likewise, there is an obligation to convert any payment from a non-Union country if it is denominated in euros or in the national currency unit of the Member State where the originator's account is held. Bank clients are strongly recommended not to carry out the conversions themselves in order to avoid minor inaccuracies which could result from rounding. The banking sector has very sophisticated calculation methods which will enable it to avoid such difficulties.

It is imperative for the conversion between the currency units of the participating countries to operate via the euro. The use of bilateral conversion rates between the national currency units will be permitted, but only if it gives the same result as conversion via the euro. On the subject of conversion costs, the European Commission is examining whether it is necessary to take legal measures to protect consumers.

Payment methods

During the transition period, creditors will be obliged to accept payment in notes and coins denominated in the national currency unit, except where the

contract expressly excludes cash payment. The choice of the euro as the reference currency may not be interpreted as implicit refusal of a cash payment.

Traders will be free to choose whether to sell in the national currency unit or in euros. If a trader chooses exclusively the national unit, he will be allowed to refuse a cheque in euros. The trader's bank will be obliged to convert any cheque in euros which it has previously accepted, into the currency unit in which the trader's account is denominated. For credit cards, the retailer will also be allowed to stipulate payment in the currency unit of his choice and the bank will be obliged to convert it where required.

Continuity of contracts

This key aspect has been the subject of prolonged analysis in previous issues of *InfEuro*. Let us recall that the universally accepted *lex monetae* principle also guarantees continuity of contracts in non-Union countries. According to this principle, each State exercises sovereign power over its own currency and no other State is allowed to pass legislation on the currency of another country. Any contractual references to the currency of a State participating in the euro should therefore be interpreted in accordance with the European law considered as forming an integral part of the law of each Member State. This principle is also valid for international contracts. At national level, Member States may not pass legislation which contradicts the continuity of contract principle.

The case of the disappearance of a reference rate is not settled by payment in euros. Nevertheless it may be assumed that the introduction of the euro will not put an end to the execution of contracts containing reference rates. The parties, or if need be the courts, will define a substitution rate if this is not stipulated in the contract.

In parallel, *force majeure* provisions may not be invoked: on no account may the Economic and Monetary Union be considered as an unpredictable factor calling into question the circumstances of a contract.

The principle of continuity also applies to swap contracts. For example an interest-rate swap referring to the currencies of two States participating in EMU will be transformed, following the introduction of the euro into an obligation for one of the parties to make a net payment to the co-contracting party.

No compulsion, no prohibition

By virtue of Articles 2 and 3 of the Council Regulation, the euro will be introduced as the single currency of the participating countries. It will supplant the national currencies, each being considered during the transition period as a subdivision of the euro and usable on that basis. Introduction of the euro will enable operators to use the euro unit in their contractual relations, and national legislation will not be allowed to interfere with this freedom. Private operators will also be able to choose to modify existing contracts during the transition period by re-denominating them in euros. This also applies to agreements between more than two moral or physical persons, such as shareholders. A limited liability company may, for instance, alter the denomination of its stock to euros during the transition period and this decision will be binding on all the shareholders even if the decision was not taken unanimously.

From Ecu to euros

According to Community legislation, any reference to the Ecu contained in a legal instrument shall be replaced by a reference to the euro at the rate of one euro for one Ecu.

In view of the fact that in a number of contracts the term Ecu is not clearly enough defined, a presumption is established whereby all references to the Ecu are presumed to be references to the official Ecu in accordance with Community legislation. This presumption will apply to contracts that make reference to the Ecu or similar titles such as *Écu*, *ecu*, *ECU* or *E.C.U.* The parties can theoretically rule out this presumption by demonstrating that it was their intention to use another reference — for example, a fixed basket of currencies.

Re-denominating debt and rounding rules

During the transition period the

euro will exist in several forms: the euro unit itself and the national currency units. Introduction of the euro on 1 January 1999 does not in itself modify the denomination of legal instruments already in existence on the change-over date. It is only at the end of the transition period that all of the legal instruments will become denominated in the euro unit at the same time.

Prior to the end of the transition period, the Member States will be allowed to re-denominate outstanding government debt in the euro unit. As soon as a Member State has re-denominated all or part of its debt denominated in its national currency unit, private issuers will also be able to re-denominate their negotiable debt, if it is expressed in the same currency unit. Re-denomination will not affect any other condition of the debt. The consequences of this operation will be limited for investors who continue to receive payments in the currency of their account. The rule on rounding figures to the nearest cent will be applied but the parties will be allowed to employ a greater degree of accuracy. Member States will be able to take measures to facilitate the process of re-denominating shares provided that they do not contradict the principle of "no compulsion, no prohibition".

Impact on Community legislation

Most of the monetary references in Community legislation are expressed in Ecu. These will be replaced on 1 January 1999 by references to euros at a conversion rate of 1:1. As from the same date, references to national currency units shall be considered as references to the euro and expressed as an equal number of subdivisions of the euro. Special provisions which cover conversion of Ecu amounts into a national currency unit at a predefined rate will remain in application during the transition period. ■



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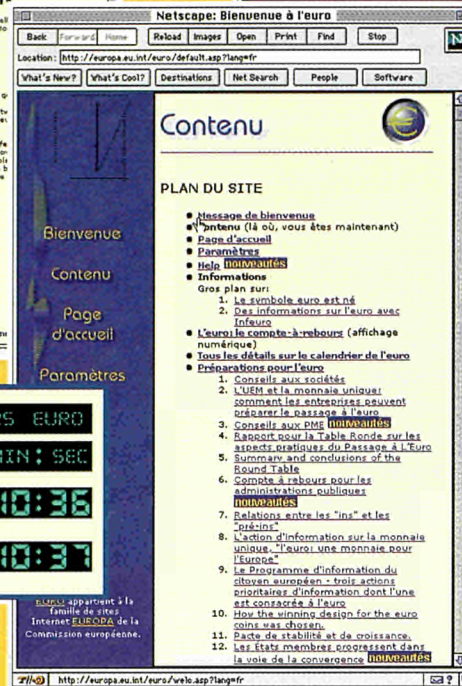
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- Access to the "QUEST" euro database. In it you will find some 150 questions on the Economic and Monetary Union in general and the euro in particular. The twenty-line responses are clear and accessible. Site visitors wanting to know more have direct access to reference documents.
- A second-by-second countdown of the time remaining before the arrival of the euro and the introduction of notes and coins.
- The possibility of downloading a vector image or a bitmap of the euro symbol: €.



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