



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 20 October 2010
(OR. fr)**

15224/10

**CO EUR-PREP 54
POLGEN 160
INST 418
PTOM 43
REGIO 68**

"I/A" ITEM NOTE

from: General Secretariat of the Council
to: COREPER/COUNCIL

Subject: Draft European Council Decision on amendment of the European status of the island of Saint-Barthélemy
– adoption

1. On 30 June 2010, the French Republic, in a letter from its President, submitted a request to the European Council for an amendment of the European status of the island of Saint-Barthélemy¹.
2. The Commission delivered its opinion on 18 October 2010².
3. Coreper/the Council is therefore invited to recommend to the European Council that it adopt the attached draft European Council Decision on amendment of the European status of the island of Saint-Barthélemy, after its finalisation by legal-linguistic experts.

¹ EUCO 16/10 CO EUR 12 POLGEN 109 PTOM 33 REGIO 45.

² 15233/10 CO EUR-PREP 55 POLGEN 161 INST 419 PTOM 44 REGIO 69.

DRAFT EUROPEAN COUNCIL DECISION

of

on amendment of the European status of the island of Saint-Barthélemy

THE EUROPEAN COUNCIL,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 355(6) thereof,

Having regard to the initiative of the French Republic, sent in a letter from its President on 30 June 2010¹,

Having regard to the opinion of the European Commission²,

Whereas:

- (1) By an amendment which it made to Article 299 of the Treaty establishing the European Community, renumbered as Article 355 of the Treaty on the Functioning of the European Union (TFEU), the Treaty of Lisbon, which came into force on 1 December 2009, allows the European Council, on the initiative of the Member State concerned, to adopt a decision amending the status, with regard to the Union, of a Danish, French or Netherlands country or territory referred to in Article 355(1) or (2), acting unanimously after consulting the Commission.

¹ EUCO 16/10 CO EUR 12 POLGEN 109 PTOM 33 REGIO 45.

² CO EUR-PREP 55 POLGEN 161 ANST 419 PTOM 44 REGIO 69.

- (2) In a letter from its President on 30 June 2010, the French Republic asked the European Council to take such a decision as regards the island of Saint-Barthélemy which is referred to in Article 355(1) of the TFEU. France asks that the status of this island should change from that of outermost region, covered by Article 349 of the TFEU, to that of overseas country or territory, covered by Part Four of the TFEU.
- (3) France's request reflects the desire expressed by the elected representatives of the island of Saint-Barthélemy, which is an overseas collectivity within the French Republic, governed by Article 74 of the French Constitution, with autonomy, to obtain a European status which would be better suited to its status under domestic law, particularly given its remoteness from the mainland, its small insular economy largely devoted to tourism and subject to difficulties in obtaining supplies which hamper the application of some European Union standards.
- (4) France has undertaken to conclude the agreements necessary to ensure that the interests of the Union are preserved when this change takes place. These agreements relate firstly to monetary matters, as France intends to retain the euro as the sole currency on Saint-Barthélemy and it must be ensured that the application of the law of the Union in the essential fields of the good functioning of economic and monetary union is maintained. They relate secondly to taxation and will aim to guarantee that the mechanisms of the relevant Directives (77/799/EEC and 2003/48/EC), which target in particular fraud and cross-border tax evasion, will continue to apply in future to the territory of Saint-Barthélemy. The citizens of Saint-Barthélemy will remain citizens of the European Union and will enjoy the same rights and freedoms within the Union as other French citizens, just as all citizens of the Union will continue to benefit from the same rights and freedoms in Saint-Barthélemy as they do now.

- (5) As a result, the change in the European status of the island of Saint-Barthélemy, in response to the democratically expressed request of its elected representatives, will not jeopardise the Union's interests and is consistent with the access of the island to autonomous status under national law,

HAS ADOPTED THIS DECISION:

Article 1

With effect from 1 January 2010, the island of Saint-Barthélemy shall cease to be an outermost region of the European Union and shall have the status of associated overseas country or territory provided for in Part Four of the Treaty on the Functioning of the European Union (TFEU).

Article 2

The Treaties shall consequently be amended as follows:

- 1) in the first paragraph of Article 349 of the TFEU, the words "Saint-Barthélemy" shall be deleted;
- 2) in Article 355(1) of the TFEU, the words "Saint-Barthélemy" shall be deleted;
- 3) in Annex II, a new eighth indent shall be inserted, between that relating to Saint Pierre and Miquelon and that relating to Aruba, which shall read as follows:

"- Saint-Barthélemy,"

Article 3

This Decision shall enter into force on the date of its adoption.

It shall apply from 1 January 2012.

Done at Brussels,

For the European Council

The President
