

## III

*(Acts adopted under the EU Treaty)*

## ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

## COUNCIL DECISION 2009/293/CFSP

of 26 February 2009

**concerning the Exchange of Letters between the European Union and the Government of Kenya on the conditions and modalities for the transfer of persons suspected of having committed acts of piracy and detained by the European Union-led naval force (EUNAVFOR), and seized property in the possession of EUNAVFOR, from EUNAVFOR to Kenya and for their treatment after such transfer**

THE COUNCIL OF THE EUROPEAN UNION,

the death penalty, to torture or to any cruel, inhuman or degrading treatment.

Having regard to the Treaty on European Union, and in particular Article 24 thereof,

Having regard to the recommendation from the Presidency,

Whereas:

(1) On 2 June 2008, the United Nations Security Council (UNSC) adopted Resolution 1816 (2008) calling upon all States to cooperate in determining jurisdiction, and in the investigation and prosecution of persons responsible for acts of piracy and armed robbery off the coast of Somalia. Those provisions were reaffirmed by UNSC Resolution 1846 (2008), adopted on 2 December 2008.

(2) On 10 November 2008, the Council adopted Joint Action 2008/851/CFSP on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast <sup>(1)</sup> (operation 'Atalanta').

(3) Joint Action 2008/851/CFSP provides that persons having committed, or suspected of having committed acts of piracy or armed robbery in Somali territorial waters, who are arrested and detained, with a view to their prosecution, and property used to carry out such acts, may be transferred to a third State which wishes to exercise its jurisdiction over the aforementioned persons and property, provided that the conditions for the transfer have been agreed with that third State in a manner consistent with relevant international law, notably international law on human rights, in order to guarantee in particular that no one shall be subjected to

(4) In accordance with Article 24 of the Treaty, the Presidency, assisted by the Secretary-General/High Representative (SG/HR), negotiated an Exchange of Letters between the European Union and the Government of Kenya on the conditions and modalities for the transfer of persons suspected of having committed acts of piracy and detained by the European Union-led naval force (EUNAVFOR), and seized property in the possession of EUNAVFOR, from EUNAVFOR to Kenya and for their treatment after such transfer.

(5) The Exchange of Letters should be approved,

HAS DECIDED AS FOLLOWS:

*Article 1*

The Exchange of Letters between the European Union and the Government of Kenya on the conditions and modalities for the transfer of persons suspected of having committed acts of piracy and detained by EUNAVFOR, and seized property in the possession of EUNAVFOR, from EUNAVFOR to Kenya and for their treatment after such transfer, is hereby approved on behalf of the European Union.

The text of the Exchange of Letters is attached to this Decision.

*Article 2*

The President of the Council is hereby authorised to designate the person(s) empowered to sign the respective letter in order to bind the European Union.

<sup>(1)</sup> OJ L 301, 12.11.2008, p. 33.

*Article 3*

This Decision shall take effect on the day of its adoption.

*Article 4*

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

Done at Brussels, 26 February 2009.

*For the Council*

*The President*

I. LANGER

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