

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

COUNCIL DECISION 2009/877/CFSP

of 23 October 2009

on the signing and provisional application of the Exchange of Letters between the European Union and the Republic of Seychelles on the conditions and modalities for the transfer of suspected pirates and armed robbers from EUNAVFOR to the Republic of Seychelles and for their treatment after such transfer

THE COUNCIL OF THE EUROPEAN UNION,

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 ⁽¹⁾ (operation 'Atalanta').
- (3) Article 12 of 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 the death penalty, to torture or to any cruel, inhuman or degrading treatment.

- (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 Seychelles on the conditions and modalities for the transfer of suspected pirates and armed robbers from EUNAVFOR to the Republic of Seychelles and for their treatment after such transfer.

- (5) The Exchange of Letters should be signed and provisionally applied, subject to its conclusion at a later date,

HAS DECIDED AS FOLLOWS:

Article 1

The signing of the Exchange of Letters between the European Union and the Republic of Seychelles on the conditions and modalities for the transfer of suspected pirates and armed robbers from EUNAVFOR to the Republic of Seychelles and for their treatment after such transfer, is hereby approved on behalf of the European Union, subject to the conclusion of the said Agreement.

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 on behalf of the European Union, subject to its conclusion.

Article 3

The Exchange of Letters shall be applied on a provisional basis from the date of its signature, pending its entry into force.

⁽¹⁾ OJ L 301, 12.11.2008, p. 33.

Article 4

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

Article 5

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

Done at Luxembourg, 23 October 2009.

For the Council
The President
T. BILLSTRÖM
