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I

(Legislative acts)

DECISIONS

DECISION No 388/2010/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 7 July 2010

providing macrofinancial assistance to Ukraine

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

IMF's SBA and the full amount of the third tranche were channelled to Ukraine's State budget.

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 212 thereof,

(5) Ukraine has requested Union macrofinancial assistance in view of the deteriorating economic situation and outlook.

Having regard to the proposal from the European Commission,

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

(6) Given that a residual financing gap in 2009-2010 remains in Ukraine's balance of payments, macrofinancial assistance is considered an appropriate response to Ukraine's request to support economic stabilisation in conjunction with the current IMF programme. This macrofinancial assistance is also expected to contribute to alleviating the external financing needs of the State budget.

Whereas:

(1) Relations between Ukraine and the European Union are developing within the framework of the European Neighbourhood Policy. In 2005, the Community and Ukraine agreed on a European Neighbourhood Policy Action Plan identifying medium-term priorities in EU-Ukraine relations. That Action Plan was replaced by the EU-Ukraine Association Agenda of November 2009. Since 2007, the Community and Ukraine have been negotiating an Association Agreement that is expected to replace the existing Partnership and Cooperation Agreement. The framework of EU-Ukraine relations is further enhanced by the newly launched Eastern Partnership.

(7) Union macrofinancial assistance can only contribute to economic stabilisation if the main political forces in Ukraine ensure political stability and establish a broad consensus on a rigorous implementation of the necessary structural reforms.

(2) The Ukrainian economy has been increasingly affected by the international financial crisis, with dramatically declining output, a deteriorating fiscal position and rising external financing needs.

(8) Union macrofinancial assistance should be provided to Ukraine in addition to the loan facility granted under Council Decision 2002/639/EC of 12 July 2002 providing supplementary macrofinancial assistance to Ukraine ⁽²⁾.

(3) Ukraine's economic stabilisation and recovery is supported by financial assistance from the International Monetary Fund (IMF). The IMF Stand-By Arrangement (SBA) for Ukraine was approved in November 2008.

(9) The Union macrofinancial assistance should not merely supplement programmes and resources from the IMF and the World Bank, but should ensure the added value of Union involvement.

(4) Following a further deterioration of Ukraine's fiscal position, a large part of the second tranche under the

(10) The Commission should ensure that the Union macrofinancial assistance is legally and substantially in line with the measures taken within the different areas of external action and other relevant Union policies.

⁽¹⁾ Position of the European Parliament of 18 May 2010 (not yet published in the Official Journal) and decision of the Council of 29 June 2010.

⁽²⁾ OJ L 209, 6.8.2002, p. 22.

- (11) The specific objectives of the Union macrofinancial assistance should strengthen efficiency, transparency and accountability. These objectives should be regularly monitored by the Commission.
- (12) The conditions underlying the provision of the Union macrofinancial assistance should reflect the key principles and objectives of the Union's policy towards Ukraine.
- (13) In order to ensure efficient protection of the Union's financial interests linked to this macrofinancial assistance, it is necessary that Ukraine adopt appropriate measures relating to the prevention of, and the fight against, fraud, corruption and any other irregularities linked to this assistance. It is also necessary that the Commission provide for appropriate controls and that the Court of Auditors provides for appropriate audits.
- (14) The release of the Union macrofinancial assistance is without prejudice to the powers of the budgetary authority.
- (15) This macrofinancial assistance should be managed by the Commission. In order to ensure that the European Parliament and the Economic and Financial Committee are able to follow the implementation of this Decision, the Commission should regularly inform them of developments relating to the assistance and provide them with relevant documents.
- (16) According to Article 291 of the Treaty on the Functioning of the European Union, rules and general principles concerning mechanisms for the control by Member States of the Commission's exercise of implementing powers shall be laid down in advance by a regulation adopted in accordance with the ordinary legislative procedure. Pending the adoption of that new regulation, Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽¹⁾ continues to apply, with the exception of the regulatory procedure with scrutiny, which is not applicable,

HAVE ADOPTED THIS DECISION:

Article 1

1. The Union shall make available to Ukraine macrofinancial assistance in the form of a loan facility with a maximum principal amount of EUR 500 million and a maximum average maturity of 15 years with a view to supporting

Ukraine's economic stabilisation and alleviating its balance of payments and budgetary needs, as identified in the current IMF programme.

2. To this end, the Commission shall be empowered to borrow the necessary resources on behalf of the Union.

3. The release of the Union macrofinancial assistance shall be managed by the Commission in a manner consistent with the agreements or understandings reached between the IMF and Ukraine and with the key principles and objectives of economic reform set out in the EU-Ukraine Association Agenda. The Commission shall regularly inform the European Parliament and the Economic and Financial Committee of developments in the management of the assistance and provide them with relevant documents.

4. The Union macrofinancial assistance shall be made available for two years and six months starting from the first day after the entry into force of the Memorandum of Understanding referred to in Article 2(1).

Article 2

1. The Commission, acting in accordance with the advisory procedure referred to in Article 6(2), shall be empowered to agree with the Ukrainian authorities on the economic policy conditions attached to the Union macrofinancial assistance, to be laid down in a Memorandum of Understanding which shall include a timeframe for their fulfilment (hereinafter the 'Memorandum of Understanding'). The conditions shall be consistent with the agreements or understandings reached between the IMF and Ukraine and with the key principles and objectives of economic reform set out in the EU-Ukraine Association Agenda. These principles and objectives aim at strengthening the efficiency, transparency and accountability of the assistance, including in particular public finance management systems in Ukraine. Progress in attaining these objectives shall be regularly monitored by the Commission. The detailed financial terms of the assistance shall be laid down in a Loan Agreement to be agreed between the Commission and the Ukrainian authorities.

2. During the implementation of the Union macrofinancial assistance, the Commission shall monitor the soundness of Ukraine's financial arrangements, administrative procedures, internal and external control mechanisms which are relevant to such assistance and the adherence to the agreed timeframe.

3. The Commission shall verify at regular intervals that Ukraine's economic policies are in accordance with the objectives of the Union macrofinancial assistance and that the agreed economic policy conditions are being satisfactorily fulfilled. In doing so, the Commission shall coordinate closely with the IMF and the World Bank, and, when required, with the Economic and Financial Committee.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

Article 3

1. Subject to the conditions of paragraph 2, the Union macrofinancial assistance to Ukraine shall be made available by the Commission in two loan instalments. The size of each instalment shall be laid down in the Memorandum of Understanding.

2. The Commission shall decide on the release of the instalments subject to satisfactory implementation of the economic policy conditions agreed in the Memorandum of Understanding. The disbursement of the second instalment shall not take place earlier than three months after the release of the first instalment.

3. The Union funds shall be paid to the National Bank of Ukraine. Subject to provisions to be agreed in the Memorandum of Understanding, including a confirmation of residual budgetary financing needs, the Union funds may be transferred to the Treasury of Ukraine as the final beneficiary.

Article 4

1. The borrowing and the lending operations referred to in this Decision shall be carried out in euro using the same value date and shall not involve the Union in the transformation of maturities, in any exchange or interest rate risks or in any other commercial risk.

2. The Commission shall take the necessary steps, if Ukraine so requests, to ensure that an early repayment clause is included in the loan's terms and conditions and that it is matched by a corresponding clause in the terms and conditions of the borrowing operations.

3. At the request of Ukraine, and where circumstances permit an improvement of the interest rate of the loan, the Commission may refinance all or part of its initial borrowings or restructure the corresponding financial conditions. Refinancing or restructuring operations shall be carried out in accordance with the conditions set out in paragraph 1 and shall not have the effect of extending the average maturity of the borrowing concerned or increasing the amount of capital outstanding at the date of the refinancing or restructuring.

4. All costs incurred by the Union which are related to the borrowing and lending operations under this Decision shall be borne by Ukraine.

5. The European Parliament and the Economic and Financial Committee shall be kept informed of developments in the operations referred to in paragraphs 2 and 3.

Article 5

The Union macrofinancial assistance shall be implemented in accordance with the provisions of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities⁽¹⁾ and its implementing rules⁽²⁾. In particular, the Memorandum of Understanding and the Loan Agreement to be agreed with the Ukrainian authorities shall provide for specific measures to be implemented by Ukraine in relation to the prevention of, and the fight against, fraud, corruption and other irregularities affecting the assistance. In order to ensure greater transparency in the management and disbursement of funds, the Memorandum of Understanding and the Loan Agreement shall also provide for controls, including on-the-spot checks and inspections, to be carried out by the Commission, including the European Anti-Fraud Office. They shall in addition provide for audits, including where appropriate on-the-spot audits, by the Court of Auditors.

Article 6

1. The Commission shall be assisted by a committee.

2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 7

By 31 August of each year, the Commission shall submit to the European Parliament and to the Council a report on the implementation of this Decision in the preceding year, including an evaluation thereof. The report shall indicate the connection between the policy conditions as laid down in the Memorandum of Understanding, Ukraine's on-going economic and fiscal performance and the Commission's decisions to release the instalments of the assistance.

No later than two years after the expiry of the availability period referred to in Article 1(4), the Commission shall submit to the European Parliament and to the Council an *ex post* evaluation report.

Article 8

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Done at Strasbourg, 7 July 2010.

For the European Parliament
The President
J. BUZEK

For the Council
The President
O. CHASTEL

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

⁽²⁾ Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 357, 31.12.2002, p. 1).

II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) No 615/2010

of 13 July 2010

establishing the standard import values for determining the entry price of certain fruit and vegetables

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽²⁾, and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 14 July 2010.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 July 2010.

*For the Commission,
On behalf of the President,*

Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	MK	43,1
	TR	89,0
	ZZ	66,1
0707 00 05	MK	41,0
	TR	108,5
	ZZ	74,8
0709 90 70	TR	103,3
	ZZ	103,3
0805 50 10	AR	92,6
	TR	111,6
	UY	89,5
	ZA	83,7
	ZZ	94,4
0808 10 80	AR	88,4
	BR	71,3
	CA	119,1
	CL	88,6
	CN	57,3
	NZ	113,3
	US	114,1
	UY	116,3
	ZA	95,8
	ZZ	96,0
0808 20 50	AR	91,6
	CL	136,3
	NZ	141,4
	ZA	98,1
	ZZ	116,9
0809 10 00	TR	198,0
	ZZ	198,0
0809 20 95	TR	280,3
	US	509,9
	ZZ	395,1
0809 30	AR	130,0
	TR	147,1
	ZZ	138,6
0809 40 05	IL	131,9
	TR	166,1
	ZZ	149,0

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EU) No 616/2010**of 13 July 2010****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 877/2009 for the 2009/10 marketing year**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (single CMO Regulation) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector ⁽²⁾, and in particular Article 36(2), second subparagraph, second sentence thereof,

Whereas:

- (1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups

for the 2009/10 marketing year are fixed by Commission Regulation (EC) No 877/2009 ⁽³⁾. These prices and duties have been last amended by Commission Regulation (EU) No 604/2010 ⁽⁴⁾.

- (2) The data currently available to the Commission indicate that those amounts should be amended in accordance with the rules and procedures laid down in Regulation (EC) No 951/2006,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EC) No 877/2009 for the 2009/10, marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 14 July 2010.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 July 2010.

*For the Commission,
On behalf of the President,*

Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 178, 1.7.2006, p. 24.

⁽³⁾ OJ L 253, 25.9.2009, p. 3.

⁽⁴⁾ OJ L 174, 9.7.2010, p. 44.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 14 July 2010

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 ⁽¹⁾	41,21	0,00
1701 11 90 ⁽¹⁾	41,21	2,54
1701 12 10 ⁽¹⁾	41,21	0,00
1701 12 90 ⁽¹⁾	41,21	2,24
1701 91 00 ⁽²⁾	48,79	2,83
1701 99 10 ⁽²⁾	48,79	0,00
1701 99 90 ⁽²⁾	48,79	0,00
1702 90 95 ⁽³⁾	0,49	0,22

⁽¹⁾ For the standard quality defined in point III of Annex IV to Regulation (EC) No 1234/2007.⁽²⁾ For the standard quality defined in point II of Annex IV to Regulation (EC) No 1234/2007.⁽³⁾ Per 1 % sucrose content.

DECISIONS

COMMISSION DECISION

of 13 July 2010

repealing Decision 2006/109/EC accepting an undertaking offered in connection with the anti-dumping proceeding concerning imports of certain castings originating in the People's Republic of China

(2010/389/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ (the 'basic Regulation'), and in particular Articles 8 and 9 thereof,

After consulting the Advisory Committee,

Whereas:

EXISTING MEASURES

- (1) The Council, by Regulation (EC) No 1212/2005 ⁽²⁾, imposed definitive anti-dumping duties on imports into the Union of certain castings originating in the People's Republic of China ('the product concerned'). This Regulation was last amended by Council Regulation (EC) No 500/2009 ⁽³⁾.
- (2) The Commission, by Decision 2006/109/EC ⁽⁴⁾ accepted a joint price undertaking ('the undertaking') from the China Chamber of Commerce for Import and Export of Machinery and Electronics Products ('CCCME') together with 20 cooperating Chinese companies or cooperating groups of companies ('the companies'). This Decision was last amended by Commission Decision 2010/177/EU ⁽⁵⁾.

BREACHES OF THE UNDERTAKING

The undertaking

Obligations of the companies under the undertaking

- (3) In the framework of the undertaking, the companies agreed, inter alia, not to sell the product concerned to

the first independent customer in the European Union ('EU') below a certain minimum import price ('MIP') laid down in the undertaking.

- (4) The companies also agreed not to circumvent the undertaking by, inter alia, making compensatory arrangements with their customers and by making misleading declarations regarding the origin of the product concerned or the identity of the exporter.
- (5) The terms of the undertaking also oblige the companies to provide the European Commission ('the Commission') with regular and detailed information, in the form of a quarterly report of all their export sales of the product concerned to the EU. Unless otherwise indicated, it is assumed that the data submitted in these sales reports are complete, exhaustive and correct in all particulars and that the transactions fully comply with the terms of the undertaking.
- (6) For the purpose of ensuring compliance with the undertaking, the companies also undertook to allow on-spot verification visits at their premises in order to verify the accuracy and veracity of data submitted in the said quarterly reports and to provide all information considered necessary by the Commission.
- (7) Furthermore, and as further stipulated in the undertaking, the acceptance of the undertaking by the Commission is based on trust and any action which would harm the relationship of trust established with the Commission shall justify the immediate withdrawal of the undertaking.

Specific provisions of this price undertaking

- (8) In addition, Decision 2006/109/EC stipulates that a breach by any of the companies or the CCCME shall be considered as a breach of the undertaking by all signatories. The undertaking further stipulates that any breach or suspected breach of any provision of the undertaking shall lead to acceptance of the undertaking being withdrawn for all companies, regardless of the level of materiality of the breach.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ L 199, 29.7.2005, p. 1.

⁽³⁾ OJ L 151, 16.6.2009, p. 6.

⁽⁴⁾ OJ L 47, 17.2.2006, p. 59.

⁽⁵⁾ OJ L 77, 24.3.2010, p. 55.

Verification visit at the premises of one co-signatory

- (9) A verification visit was carried out in 2010 at the premises of one of the co-signatories of the undertaking, Hebei Jize Xian Ma Gang Cast Factory ('Ma Gang') in the People's Republic of China.
- (10) During the verification visit Ma Gang declared neither to be related to any other producer of the product concerned nor to sell the product concerned from any other producer under the terms of the undertaking.

Further information received by the Commission's services

- (11) Subsequent to the verification visit and in cooperation with the Italian customs authorities, the Commission's services received information showing clearly that Ma Gang's has been circumventing the terms of the undertaking in several ways since the acceptance of the undertaking.
- (12) It was found that Ma Gang set up a compensatory arrangement with at least one customer in the EU whereby an official invoice price at or above the MIP and a 'real' sales price below the MIP were agreed and the difference was re-transferred to the customer in the EU as 'refund'.
- (13) Several e-mail exchanges from 2007 and 2008 between Ma Gang and a customer in the EU detail the compensatory arrangement, including calculation of the amount to be refunded and means to avoid traceability in the accounts of Ma Gang. Furthermore, a note of 2008 refers to the refund relating to two specific invoices (A714/TPL07002 and A714/TPL070921).
- (14) It was also found that Ma Gang offered to compensate the invoice price for product concerned by artificially lowering the sales price of a product not covered by anti-dumping measures.
- (15) There is evidence that Ma Gang provided misleading information during the verification visit in several regards.
- (16) Firstly, it was found that there is a relationship between Ma Gang and another Chinese producer of the product concerned ('other company') since in a number of e-mails reference is made to the fact that the owner of Ma Gang is the father of the owner of the other company. In addition, a high ranking manager of Ma Gang was at

least until the end of 2008 working for the other company since the correspondence between the customer in the EU and Ma Gang was frequently made under the e-mail address and the fax number of the other company.

- (17) Secondly, there is evidence that Ma Gang breached its undertaking obligations by selling the product concerned produced by the other company under the terms of the undertaking, therefore making misleading declarations regarding the identity of the exporter. This practice allowed at least one customer in the EU to avoid payment of the residual anti-dumping duty rate of 47,8 % applicable to the other company.

- (18) Moreover, in 2006, Ma Gang has offered via an e-mail to tranship the product concerned via Korea. A contract issued by a company in Korea was attached to the offer.

Reasons to withdraw the acceptance of the undertaking

- (19) From the facts set out in recitals 12 to 18 it is concluded that Ma Gang breached the undertaking in several regards.
- (20) Ma Gang continuously breached the MIP by means of a compensatory arrangement with at least one customer in the EU. Ma Gang has also made misleading declarations regarding the identity of the exporter by issuing undertaking invoices for sales of the product concerned produced by the other company not subject to the undertaking. Furthermore, Ma Gang has offered to issue misleading declarations regarding the origin of the product concerned. Moreover, giving incorrect information during the verification visit in January 2010 is considered as another breach of the undertaking.
- (21) Finally, the continuous and numerous breaches of the undertaking harmed the relationship of trust which formed the basis for the acceptance of the undertaking.
- (22) The company and CCCME were informed in writing of the essential facts and considerations on the basis of which the acceptance of the joint undertaking should be withdrawn and the definitive anti-dumping duties should apply.

Written submissions and hearings

- (23) Written submissions were made by CCCME within the time limits and a hearing was also requested and granted.

- (24) Ma Gang confirmed that a high ranking manager indeed violated the obligations of the undertaking as described above, but pointed out that this person acted without the knowledge of Ma Gang and was dismissed immediately. Ma Gang has also confirmed that they were related to the other company (the owners were father and son), albeit they operated independently. Finally, Ma Gang confirmed that they offered to tranship the product concerned via Korea but that this transhipment has never actually taken place.
- (25) CCCME did not contest that one co-signatory breached the undertaking. However, it submitted that a withdrawal for all co-signatories could be regarded as undue punishment for all other companies strictly abiding by the terms of the undertaking since its entry into force in 2006, in particular since numerous verification visits and intense monitoring activities had not brought to light any major implementation problem. CCCME also stressed that it had continuously worked on improving the implementation together with the companies concerned and that the indexed MIP had provided for an effective anti-dumping measure.
- (26) Moreover, CCCME submitted a draft agreement signed shortly after disclosure of the findings between CCCME and the all co-signatories except Ma Gang, in order to strengthen the monitoring responsibilities of CCCME even further, notably strengthening CCCME's rights vis-à-vis every co-signatory.
- (27) In response to these submissions it should be stressed that the joint liability which was accepted by all co-signatories of the undertaking was an indispensable

condition for the acceptance of the undertaking by the Commission. Therefore, and in view of the serious and continued breaches of the undertaking, the Commission has a duty to withdraw its acceptance immediately.

REPEAL OF DECISION 2006/109/EC

- (28) In view of the above, the acceptance of the undertaking should be withdrawn and Decision 2006/109/EC should be repealed. Accordingly, the definitive anti-dumping duties imposed by Article 1(2) of Regulation (EC) No 1212/2005 on imports of the product concerned produced by the companies should apply,

HAS DECIDED AS FOLLOWS:

Article 1

Decision 2006/109/EC is hereby repealed.

Article 2

This Decision shall enter into force on the day following its publication in the *Official Journal of the European Union*.

Done at Brussels, 13 July 2010.

For the Commission

The President

José Manuel BARROSO

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION No 1/2010 OF THE EU-MONTENEGRO STABILISATION AND ASSOCIATION COUNCIL

of 14 June 2010

adopting its rules of procedure

(2010/390/EU)

THE STABILISATION AND ASSOCIATION COUNCIL,

Having regard to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, (hereinafter referred to as 'Agreement') and in particular Articles 119 and 120 thereof,

Whereas the Agreement entered into force on 1 May 2010,

HAS DECIDED AS FOLLOWS:

Article 1

Chairmanship

The Stabilisation and Association Council shall be presided over alternately for periods of 12 months by the President of the Foreign Affairs Council of the European Union, on behalf of the European Union and its Member States and the European Atomic Energy Community, and by a representative of the Government of Montenegro. The first period shall begin on the date of the first Stabilisation and Association Council meeting and end on 31 December 2010.

Article 2

Meetings

The Stabilisation and Association Council shall meet at ministerial level once a year. Special sessions of the Stabilisation and Association Council may be held at the request of either Party, if the Parties so agree. Unless otherwise agreed by the Parties, each session of the Stabilisation and Association Council shall be held at the usual venue for meetings of the Council of the European Union at a date agreed by both Parties. Meetings of the Stabilisation and Association Council shall be jointly convened by the Secretaries of the Stabilisation and Association Council in agreement with the President.

Article 3

Representation

The members of the Stabilisation and Association Council may be represented if unable to attend. If a member wishes to be so represented, he must notify the President of the name of his representative before the meeting at which he is to be so repre-

sented. The representative of a member of the Stabilisation and Association Council shall exercise all the rights of that member.

Article 4

Delegations

The members of the Stabilisation and Association Council may be accompanied by officials. Before each meeting, the President shall be informed of the intended composition of the delegation of each Party. A representative of the European Investment Bank shall attend the meetings of the Stabilisation and Association Council, as an observer, when matters which concern the Bank appear on the agenda. The Stabilisation and Association Council may invite non-members to attend its meetings in order to provide information on particular subjects.

Article 5

Secretariat

An official of the General Secretariat of the Council of the European Union and an official of the Mission of Montenegro to the European Union shall act jointly as Secretaries of the Stabilisation and Association Council.

Article 6

Correspondence

Correspondence addressed to the Stabilisation and Association Council shall be sent to the President of the Stabilisation and Association Council at the address of the General Secretariat of the Council of the European Union.

The two Secretaries shall ensure that correspondence is forwarded to the President of the Stabilisation and Association Council and, where appropriate, circulated to other members of the Stabilisation and Association Council. Correspondence circulated shall be sent to the Secretariat-General of the Commission, the Permanent Representations of the Member States and the Mission of Montenegro to the European Union.

Communications from the President of the Stabilisation and Association Council shall be sent to the addressees by the two Secretaries and circulated, where appropriate, to the other members of the Stabilisation and Association Council at the addresses indicated in the second paragraph.

*Article 7***Publicity**

Unless otherwise decided, the meetings of the Stabilisation and Association Council shall not be public.

*Article 8***Agendas for meetings**

1. The President shall draw up a provisional agenda for each meeting. It shall be forwarded by the Secretaries of the Stabilisation and Association Council to the addressees referred to in Article 6 not later than 15 days before the beginning of the meeting. The provisional agenda shall include the items in respect of which the President has received a request for inclusion on the agenda not later than 21 days before the beginning of the meeting, although items shall not be written into the provisional agenda unless the supporting documentation has been forwarded to the Secretaries not later than the date of despatch of the agenda. The agenda shall be adopted by the Stabilisation and Association Council at the beginning of each meeting. An item other than those appearing on the provisional agenda may be placed on the agenda if the two Parties so agree.

2. The President may, in agreement with the two Parties, shorten the time limits specified in paragraph 1 in order to take account of the requirements of a particular case.

*Article 9***Minutes**

Draft minutes of each meeting shall be drawn up by the two Secretaries. The minutes shall, as a general rule, indicate in respect of each item on the agenda:

- the documentation submitted to the Stabilisation and Association Council,
- statements requested for entry by a member of the Stabilisation and Association Council,
- the decisions taken and recommendations made, the statements agreed upon and the conclusions adopted.

The draft minutes shall be submitted to the Stabilisation and Association Council for approval. When approved, the minutes shall be signed by the President and the two Secretaries. The minutes shall be filed in the archives of the General Secretariat of the Council of the European Union, which will act as depository of the documents of the Association. A certified copy shall be forwarded to each of the addressees referred to in Article 6.

*Article 10***Decisions and recommendations**

1. The Stabilisation and Association Council shall take its decisions and make recommendations by common agreement of the Parties. The Stabilisation and Association Council may take decisions or make recommendations by written procedure if both Parties so agree.

2. The decisions and recommendations of the Stabilisation and Association Council, within the meaning of Article 121 of the Stabilisation and Association Agreement, shall be entitled respectively 'Decision' and 'Recommendation' followed by a serial number, by the date of their adoption and by a description of their subject matter. The decisions and recommendations of the Stabilisation and Association Council shall be signed by the President and authenticated by the two Secretaries. Decisions and recommendations shall be forwarded to each of the addressees referred to in Article 6 above. Each Party may decide on the publication of decisions and recommendations of the Stabilisation and Association Council in its respective official publication.

*Article 11***Languages**

The official languages of the Stabilisation and Association Council shall be the official languages of the two Parties. Unless otherwise decided, the Stabilisation and Association Council shall base its deliberations on documentation drawn up in these languages.

*Article 12***Expenses**

The European Union and Montenegro shall each defray the expenses they incur by reason of their participation in the meetings of the Stabilisation and Association Council, both with regard to staff, travel and subsistence expenditure and to postal and telecommunications expenditure. Expenditure in connection with interpreting at meetings, translation and reproduction of documents shall be borne by the European Union, with the exception of expenditure in connection with interpreting or translation into or from the official language of Montenegro, which shall be borne by Montenegro. Other expenditure relating to the organisation of meetings shall be borne by the Party hosting the meetings.

*Article 13***Stabilisation and Association Committee**

1. A Stabilisation and Association Committee is hereby established in order to assist the Stabilisation and Association Council in carrying out its duties. It shall be composed of representatives of the Council of the European Union and of representatives of the European Commission, on the one hand, and of representatives of the Government of Montenegro, on the other, normally at senior civil servant level.

2. The Stabilisation and Association Committee shall prepare the meetings and the deliberations of the Stabilisation and Association Council, implement the decisions of the Stabilisation and Association Council where appropriate and, in general, ensure continuity of the association relationship and the proper functioning of the Stabilisation and Association Agreement. It shall consider any matter referred to it by the Stabilisation and Association Council as well as any other matter which may arise in the course of the day-to-day implementation of the Stabilisation and Association Agreement. It shall submit proposals or any draft decisions/recommendations for adoption to the Stabilisation and Association Council.

3. In cases where the Stabilisation and Association Agreement refers to an obligation to consult or a possibility of consultation, such consultation may take place within the

Stabilisation and Association Committee. The consultation may continue in the Stabilisation and Association Council if the two Parties so agree.

4. The rules of procedure of the Stabilisation and Association Committee are annexed to this Decision.

Done at Luxembourg, 14 June 2010.

For the Stabilisation and Association Council

The Chairman

D. LÓPEZ GARRIDO

ANNEX

Rules of Procedure of the Stabilisation and Association Committee*Article 1***Chairmanship**

The Stabilisation and Association Committee shall be presided over alternately for periods of 12 months by a representative of the European Commission, on behalf of the European Union and its Member States and the European Atomic Energy Community, and by a representative of the Government of Montenegro. The first period shall begin on the date of the first Stabilisation and Association Council meeting and end on 31 December 2010.

*Article 2***Meetings**

The Stabilisation and Association Committee shall meet when circumstances require, with the agreement of both Parties. Each meeting of the Stabilisation and Association Committee shall be held at a time and place agreed by both Parties. Meetings of the Stabilisation and Association Committee shall be convened by the Chairman.

*Article 3***Delegations**

Before each meeting, the Chairman shall be informed of the intended composition of the delegation of each Party.

*Article 4***Secretariat**

An official of the European Commission and an official of the Montenegrin Government shall act jointly as Secretaries of the Stabilisation and Association Committee. All communications to and from the Chairman of the Stabilisation and Association Committee provided for in this Decision shall be forwarded to the Secretaries of the Stabilisation and Association Committee and to the Secretaries and the President of the Stabilisation and Association Council.

*Article 5***Publicity**

Unless otherwise decided, the meetings of the Stabilisation and Association Committee shall not be public.

*Article 6***Agendas for meetings**

1. The Chairman shall draw up a provisional agenda for each meeting. It shall be forwarded by the Secretaries of the Stabilisation and Association Committee to the addressees referred to in Article 4 not later than 15 days before the beginning of the meeting. The provisional agenda shall include the items in respect of which the Chairman has received a request for inclusion on the agenda not later than 21 days before the beginning of the meeting, although items shall not be written into the provisional agenda unless the supporting documentation has been forwarded to the Secretaries not later than the date of dispatch of the agenda. The Stabilisation and Association Committee may ask experts to attend its meetings in order to provide information on particular subjects. The agenda shall be adopted by the Stabilisation and Association Committee at the beginning of each meeting. An item other than those appearing on the provisional agenda may be placed on the agenda if the two Parties so agree.

2. The Chairman may, in agreement with the two Parties, shorten the time limits specified in paragraph 1 in order to take account of the requirements of a particular case.

*Article 7***Minutes**

Minutes shall be taken for each meeting and shall be based on a summing up by the Chairman of the conclusions arrived at by the Stabilisation and Association Committee. When approved by the Stabilisation and Association Committee, the minutes shall be signed by the Chairman and by the Secretaries and filed by each of the Parties. A copy of the minutes shall be forwarded to each of the addressees referred to in Article 4.

*Article 8***Decisions and recommendations**

In the specific cases where the Stabilisation and Association Committee is empowered by the Stabilisation and Association Council under Article 122 of the Stabilisation and Association Agreement to take decisions/make recommendations, these acts shall be entitled respectively 'Decision' and 'Recommendation', followed by a serial number, the date of their adoption and a description of their subject matter. Decisions and recommendations shall be made by common agreement between the Parties. The Stabilisation and Association Committee may take decisions or make recommendations by written procedure if both Parties so agree. The decisions and recommendations of the Stabilisation and Association Committee shall be signed by the President and authenticated by the two Secretaries and shall be forwarded to the addressees referred to in Article 4 of these rules of procedure. Each Party may decide on the publication of the decisions and recommendations of this Stabilisation and Association Committee in its respective official publication.

*Article 9***Expenses**

The European Union and Montenegro shall each defray the expenses they incur by reason of their participation in the meetings of the Stabilisation and Association Committee, both with regard to staff, travel and subsistence expenditure and to postal and telecommunications expenditure. Expenditure in connection with interpreting at meetings, translation and reproduction of documents shall be borne by the European Union, with the exception of expenditure in connection with interpreting or translation into or from the official language of Montenegro, which shall be borne by Montenegro. Other expenditure relating to the organisation of meetings shall be borne by the Party hosting the meetings.

*Article 10***Subcommittees and special groups**

The Stabilisation and Association Committee may create subcommittees or special groups to work under the authority of the Stabilisation and Association Committee, to which they shall report after each of their meetings. The Stabilisation and Association Committee may decide to abolish any existing subcommittees or groups, lay down or modify their terms of reference or set up further subcommittees or groups to assist it in carrying out its duties. These subcommittees and groups shall not have any decision-making powers.

CORRIGENDA

Corrigendum to Commission Directive 2010/42/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards certain provisions concerning fund mergers, master-feeder structures and notification procedure

(Official Journal of the European Union L 176 of 10 July 2010)

On the cover page and on page 28, the Directive number in the title:

for: 'Commission Directive 2010/42/EU ...',

read: 'Commission Directive 2010/44/EU ...'.

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