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Legislation

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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION 2011/640/CFSP

of 12 July 2011

on the signing and conclusion of the Agreement between the European Union and the Republic of Mauritius on the conditions of transfer of suspected pirates and associated seized property from the European Union-led naval force to the Republic of Mauritius and on the conditions of suspected pirates after transfer

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 37 thereof, and the Treaty on the Functioning of the European Union, and in particular Article 218(5) and (6) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy ('HR'),

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 successor UNSC Resolutions.
- (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 suspected of intending to commit, committing or 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 is subjected to the death penalty, to torture or to any cruel, inhuman or degrading treatment.

- (4) Following the adoption of a Decision by the Council on 22 March 2010 authorising the opening of negotiations, the HR in accordance with Article 37 TEU negotiated an Agreement between the European Union and the Republic of Mauritius on the conditions of transfer of suspected pirates and associated seized property from the European Union-led naval force to the Republic of Mauritius and on the conditions of suspected pirates after transfer ('the Agreement').
- (5) The Agreement should be approved,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement between the European Union and the Republic of Mauritius on the conditions of transfer of suspected pirates and associated seized property from the European Union-led naval force to the Republic of Mauritius and on the conditions of suspected pirates after transfer ('the Agreement') is hereby approved on behalf of the Union.

The text of the Agreement is attached to this Decision.

⁽¹⁾ OJ L 301, 12.11.2008, p. 33.

Article 2

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

Article 3

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 11(1) of the Agreement ⁽¹⁾.

Article 4

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

Done at Brussels, 12 July 2011.

For the Council

The President

J. VINCENT-ROSTOWSKI

⁽¹⁾ The date of the entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

AGREEMENT**between the European Union and the Republic of Mauritius on the conditions of transfer of suspected pirates and associated seized property from the European Union-led naval force to the Republic of Mauritius and on the conditions of suspected pirates after transfer**

THE EUROPEAN UNION (EU),

of the one part, and

THE REPUBLIC OF MAURITIUS,

hereinafter referred to as 'Mauritius',

of the other part,

together hereinafter referred to as the 'Parties',

TAKING INTO ACCOUNT:

- United Nations (UN) Security Council Resolutions (UNSCR) 1814 (2008), 1838 (2008), 1846 (2008), 1851 (2008) and successor UNSCRs,
- the 1982 UN Convention on the Law of the Sea (UNCLOS), in particular Articles 100 to 107 and Article 110 thereof,
- EU Council Joint Action 2008/851/CFSP of 10 November 2008 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 EUNAVFOR Atalanta), as amended by Council Decision 2009/907/CFSP of 8 December 2009 ⁽²⁾,
- International Human Rights Law, including the 1966 International Covenant on Civil and Political Rights, and the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,
- that this Agreement will not affect the Parties' rights and obligations under international agreements and other instruments establishing international courts and tribunals, including the Statute of the International Criminal Court,

HAVE AGREED AS FOLLOWS:

*Article 1***Aim**

This Agreement defines the conditions and modalities for

- (a) the transfer of persons suspected of attempting to commit, committing or having committed acts of piracy within the area of operation of EUNAVFOR, on the high seas off the territorial seas of Mauritius, Madagascar, the Comoros Islands, Seychelles and Réunion Island, and detained by EUNAVFOR;
- (b) the transfer of associated property seized by EUNAVFOR from EUNAVFOR to Mauritius; and
- (c) the treatment of transferred persons.

*Article 2***Definitions**

For the purposes of this Agreement:

- (a) 'European Union-led naval force (EUNAVFOR)' shall mean EU military headquarters and national contingents contributing to the EU operation 'Atalanta', their ships, aircrafts and assets;
- (b) 'Operation' shall mean the preparation, establishment, execution and support of the military mission established by EU Council Joint Action 2008/851/CFSP and/or its successors;
- (c) 'national contingents' shall mean units and ships belonging to the Member States of the European Union and, as indicated by the EU, to other States participating in the operation;
- (d) 'Sending State' shall mean a State providing a national contingent for EUNAVFOR;

⁽¹⁾ OJ L 301, 12.11.2008, p. 33, as corrected in OJ L 253, 25.9.2009, p. 18.

⁽²⁾ OJ L 322, 9.12.2009, p. 27.

(e) 'piracy' shall mean piracy as defined in Article 101 of UNCLOS;

(f) 'transferred person' shall mean any person suspected of attempting to commit, committing or having committed acts of piracy, transferred by EUNAVFOR to Mauritius under this Agreement.

Article 3

General principles

1. Mauritius may accept, upon request by EUNAVFOR, the transfer of persons detained by EUNAVFOR in connection with piracy and associated property seized by EUNAVFOR and submit such persons and property to its competent authorities for the purpose of investigation and prosecution. Agreement on acceptance of a proposed handover will be made on a case to case basis by Mauritius, taking into account all relevant circumstances including the location of the incident.

2. EUNAVFOR shall only transfer persons to the competent law enforcement authorities of Mauritius.

3. Transfer shall not be carried out before the competent law enforcement authorities of Mauritius decide within 5 working days as of the date of receipt of evidence as forwarded by EUNAVFOR that there are reasonable prospects of securing a conviction of persons detained by EUNAVFOR.

4. The decision as to whether there are reasonable prospects of securing a conviction shall be taken by the competent law enforcement authorities of Mauritius on the basis of evidence forwarded by EUNAVFOR through relevant communication channels.

5. Any transferred person shall be treated humanely and in accordance with international human rights obligations, embodied in the Constitution of Mauritius, including the prohibition of torture and cruel, inhuman and degrading treatment or punishment, the prohibition of arbitrary detention and in accordance with the requirement to have a fair trial.

Article 4

Treatment, prosecution and trial of transferred persons

1. In accordance with international human rights obligations, embodied in the Constitution of Mauritius, any transferred person shall be treated humanely and shall not be subjected to torture or cruel, inhuman or degrading treatment or punishment, shall receive adequate accommodation, nourishment and access to medical treatment and shall be able to carry out religious observance.

2. Any transferred person shall be brought promptly before a judge or other officer authorised by law to exercise judicial power, who shall decide without delay on the lawfulness of his detention and shall order his release if the detention is not justified.

3. Any transferred person shall be entitled to trial within a reasonable time or to release.

4. In the determination of any criminal charge against him, any transferred person shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

5. Any transferred person charged with a criminal offence shall be presumed innocent until proved guilty according to law.

6. In the determination of any criminal charge against him, every transferred person shall be entitled to the following minimum guarantees, in full equality:

(a) to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choice;

(c) to be tried without undue delay;

(d) to be tried in his presence, and to defend himself in person or through legal assistance of his own choice; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) to examine, or have examined, all evidence against him, including affidavits of witnesses who conducted the arrest, and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) to have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) not to be compelled to testify against himself or to confess guilt.

7. Any transferred person convicted of a crime shall be permitted to have the right to his conviction and sentence reviewed by, or appealed to, a higher tribunal in accordance with the law of Mauritius.

8. Mauritius may, after consultation with the EU, transfer such persons convicted and serving sentence in Mauritius to another State guaranteeing the respect of the above mentioned human rights standards, with a view to serving the remainder of the sentence in that other State. In case of serious

concerns about the human rights situation in that other State, no transfer shall take place before a satisfactory solution will have been found through consultations between the Parties to address the concerns expressed.

Article 5

Death penalty

No transferred person shall, in accordance with Mauritius Abolition of Death Penalty Act, be charged with an offence that carries the death penalty, be sentenced to death or be the subject of an application of the death penalty.

Article 6

Records and notifications

1. Any transfer shall be the subject of an appropriate document signed by a representative of EUNAVFOR and a representative of the competent Mauritius law enforcement authorities.

2. EUNAVFOR shall provide detention records to Mauritius with regard to any transferred person. These records shall include, so far as possible, the physical condition of the transferred person while in detention, the time of transfer to Mauritius authorities, the reason for his detention, the time and place of the commencement of his detention, and any decisions taken with regard to his detention.

3. Mauritius shall be responsible for keeping an accurate account of all transferred persons, including but not limited to keeping records of any seized property, the persons' physical condition, the location of their places of detention, any charges against them and any significant decisions taken in the course of their prosecution and trial.

4. These records shall be available to representatives of the EU and EUNAVFOR upon request in writing to the Mauritius Ministry of Foreign Affairs.

5. In addition, Mauritius shall notify the EU and EUNAVFOR of the place of detention of any person transferred under this Agreement, of any deterioration of his physical condition and of any allegations of alleged improper treatment. Representatives of the EU and EUNAVFOR shall have access to any persons transferred under this Agreement as long as such persons are in custody and shall be entitled to question them.

6. National and international humanitarian agencies shall, at their request, be allowed to visit persons transferred under this Agreement.

7. For the purposes of ensuring that EUNAVFOR is able to provide timely assistance to Mauritius with attendance of witnesses from EUNAVFOR and the provision of relevant evidence, Mauritius shall notify EUNAVFOR of its intention to initiate criminal trial proceedings against any transferred person and the timetable for provision of evidence, and the hearing of evidence.

Article 7

EU and EUNAVFOR assistance

1. EUNAVFOR, within its means and capabilities, shall provide all assistance to Mauritius with a view to the investigation and prosecution of transferred persons.

2. In particular, EUNAVFOR shall:

- (a) hand over detention records drawn up pursuant to Article 6(2) of this Agreement;
- (b) process any evidence in accordance with the requirements of the competent authorities of Mauritius as agreed in the implementing arrangements described in Article 10;
- (c) produce statements or affidavits by witnesses belonging to EUNAVFOR involved in any incident in relation to which persons have been transferred under this Agreement;
- (d) endeavour to produce statements of witnesses or affidavits by other witnesses who are not in Mauritius;
- (e) preserve or hand over all relevant seized property, exhibits, photographs and any article of evidential value in the possession of EUNAVFOR;
- (f) secure the attendance of witnesses belonging to EUNAVFOR, where necessary, for the purpose of giving evidence in Court (or by live TV link or any other approved technological means) during the trial;
- (g) facilitate the attendance of other witnesses, where necessary, for the purpose of giving evidence in Court (or by live TV link or any other approved technological means) during the trial;
- (h) facilitate the attendance of such interpreters as may be required by the Mauritius competent authorities for the purpose of assisting in investigations and trials involving transferred persons.

3. As far as such resources are not provided through other financial donors, the Parties shall develop, subject to the applicable procedures, implementing arrangements on financial, technical and other assistance to enable the transfer, detention, investigation, prosecution and trial of transferred persons. These implementing arrangements shall also aim at covering technical and logistical assistance to Mauritius in the fields of revision of legislation, training of investigators and prosecutors, investigative and judicial procedures, and particularly, arrangements for storage and handing-over of evidence and appeal procedures. In addition, these implementing arrangements shall aim at providing for the repatriation of transferred persons in case of acquittal or non-prosecution, their transfer for completion of sentence in another State or their repatriation after serving their prison sentence in Mauritius.

*Article 8***Relationship to other rights of transferred persons**

Nothing in this Agreement is intended to derogate, or may be construed as derogating, from any rights that a transferred person may have under applicable domestic or international law.

*Article 9***Liaison and disputes**

1. All issues arising in connection with the application of this Agreement shall be examined jointly by Mauritius and EU competent authorities.
2. Failing any prior settlement, disputes concerning the interpretation or application of this Agreement shall be settled exclusively by diplomatic means between Mauritius and EU representatives.

*Article 10***Implementing arrangements**

1. For the purposes of the application of this Agreement, operational, administrative and technical matters may be the subject of implementing arrangements to be concluded between competent Mauritius authorities on the one hand and the competent EU authorities, as well as the competent authorities of the Sending States, on the other hand.
2. Implementing arrangements may cover, inter alia:
 - (a) the identification of competent law enforcement authorities of Mauritius to whom EUNAVFOR may transfer persons;
 - (b) the detention facilities where transferred persons will be held;
 - (c) the handling of documents, including those related to the gathering of evidence, which will be handed over to the competent law enforcement authorities of Mauritius upon transfer of a person;
 - (d) points of contact for notifications;
 - (e) forms to be used for transfers;
 - (f) the provision of technical support, expertise, training and other assistance referred to in Article 7 upon request by Mauritius in order to achieve the objectives of this Agreement.

*Article 11***Entry into force and termination**

1. This Agreement shall be applied provisionally as from the date on which it is signed and it shall enter into force when each of the Parties has notified the other that it has completed its internal procedure for the ratification of the Agreement.
2. This Agreement shall remain in force until termination of the Operation as notified by EUNAVFOR. Nevertheless, either Party may, by written notification, denounce this Agreement. The denunciation shall take effect 6 months after the date of receipt of the notification. In the event that the EU consider that the immediate denunciation of this Agreement is justified on grounds of a modification of Mauritius' substantive criminal legislation as mentioned in this Agreement, the EU shall be entitled to denounce the Agreement with effect from the date of sending of the notification. Any change in Mauritius' substantive criminal legislation shall not adversely affect persons already transferred pursuant to this Agreement.
3. This Agreement may be amended by written agreement between the Parties.
4. Termination of this Agreement shall not affect any rights or obligations arising out of the execution of this Agreement before such termination, including the rights of any transferred persons as long as they are held in custody or are prosecuted by Mauritius.
5. After the termination of the Operation, all rights of EUNAVFOR under this Agreement may be exercised by any person or entity designated by the EU High Representative for Foreign Affairs and Security Policy. This designated person or entity may, inter alia, be the Head or staff member of the EU delegation to Mauritius or a diplomatic agent or consular official of an EU Member State accredited to Mauritius. After the termination of the Operation, all notifications that were to be made to EUNAVFOR under this Agreement shall be made to the EU High Representative for Foreign Affairs and Security Policy.

Done at Port Louis on 14 July 2011 in two originals, each in the English language.



For the European Union



For Mauritius

REGULATIONS

COMMISSION REGULATION (EU) No 969/2011

of 29 September 2011

initiating a review of Implementing Regulation of the Council (EU) No 400/2010 (extending the definitive anti-dumping duty imposed by Regulation (EC) No 1858/2005 on imports of steel ropes and cables originating, inter alia, in the People's Republic of China to imports of steel ropes and cables consigned from the Republic of Korea, whether declared as originating in the Republic of Korea or not) for the purposes of determining the possibility of granting an exemption from those measures to one Korean exporter, repealing the anti-dumping duty with regard to imports from that exporter and making imports from that exporter subject to registration

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 anti-dumping Regulation), and in particular Articles 11(4), 13(4) and 14(5) thereof,

After consulting the Advisory Committee,

Whereas:

A. EXISTING MEASURES

- (1) The Council, by Regulation (EC) No 1858/2005⁽²⁾ imposed anti-dumping measures on steel ropes and cables originating, inter alia, in the People's Republic of China (the original measures). By Regulation (EC) No 400/2010⁽³⁾, the Council extended these measures to steel ropes and cables consigned from the Republic of Korea (the extended measures) with the exception of imports consigned by certain companies specifically mentioned
- (2) In November 2010, the Commission published a notice of initiation⁽⁴⁾ of an expiry review of the anti-dumping measures applicable to imports of steel ropes and cables originating, inter alia, in the People's Republic of China. Pending the completion of the expiry review investigation, the measures continue to be in force.

B. REQUEST FOR A REVIEW

- (3) The Commission has received a request for an exemption pursuant to Articles 11(4) and 13(4) of the basic anti-dumping Regulation from the anti-dumping measures extended to imports of steel ropes and cables

consigned from the Republic of Korea. The application was lodged by SEIL Wire and Cable (the applicant), a producer in the Republic of Korea (the country concerned).

C. PRODUCT

- (4) The product under examination is steel ropes and cables including locked coil ropes, excluding ropes and cables of stainless steel, with a maximum cross-sectional dimension exceeding 3 mm, consigned from the Republic of Korea (the product concerned) currently falling within CN codes ex 7312 10 81, ex 7312 10 83, ex 7312 10 85, ex 7312 10 89 and ex 7312 10 98.

D. GROUNDS FOR THE REVIEW

- (5) The applicant alleges that it did not export the product concerned to the European Union during the investigation period used in the investigation that led to the extended measures, i.e. 1 July 2008 to 30 June 2009.
- (6) Furthermore, the applicant alleges that it is not related to exporting producers subject to measures, and that it has not circumvented the measures applicable to steel ropes and cables of Chinese origin.
- (7) The applicant further alleges that it has begun exporting the product concerned to the Union after the end of the investigation period used in the investigation that led to the extended measures.

E. PROCEDURE

- (8) Union producers known to be concerned have been informed of the above application and have been given an opportunity to comment.
- (9) Having examined the evidence available, the Commission concludes that there is sufficient evidence to justify the initiation of an investigation pursuant to Articles 11(4) and 13(4) of the basic anti-dumping Regulation for the purposes of determining the possibility of granting the applicant an exemption from the extended measures.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ L 299, 16.11.2005, p. 1.

⁽³⁾ OJ L 117, 11.5.2010, p. 1.

⁽⁴⁾ OJ C 309, 13.11.2010, p. 6.

(a) Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send a questionnaire to the applicant.

(b) Collection of information and holding of hearings

All interested parties are hereby invited to make their views known in writing and to provide supporting evidence. Furthermore, the Commission may hear interested parties, provided that they make a request in writing showing that there are particular reasons why they should be heard.

F. REPEAL OF THE ANTI-DUMPING DUTY IN FORCE AND REGISTRATION OF IMPORTS

- (10) Pursuant to Article 11(4) of the basic anti-dumping Regulation, the anti-dumping duty in force should be repealed with regard to imports of the product concerned which are produced and sold for export to the European Union by the applicant.
- (11) At the same time, such imports should be made subject to registration in accordance with Article 14(5) of the basic anti-dumping Regulation, in order to ensure that, should the examination result in a finding of circumvention in respect of the applicant, anti-dumping duties can be levied retroactively from the date of the initiation of this examination. The amount of the applicant's possible future liabilities cannot be estimated at this stage of the proceeding.

G. TIME LIMITS

- (12) In the interest of sound administration, time limits should be stated within which:

- interested parties may make themselves known to the Commission, present their views in writing and submit the replies to the questionnaire mentioned in recital 9(a) of this Regulation or provide any other information to be taken into account during the investigation,
- interested parties may make a written request to be heard by the Commission.

H. NON-COOPERATION

- (13) In cases in which any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, findings, affirmative or negative, may be made in accordance with Article 18 of the basic anti-dumping Regulation, on the basis of the facts available.
- (14) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made, in accordance with

Article 18 of the basic anti-dumping Regulation, of the facts available. If an interested party does not cooperate or cooperates only partially, and findings are therefore based on facts available in accordance with Article 18 of the basic anti-dumping Regulation, the result may be less favourable to that party than if it had cooperated,

I. PROCESSING OF PERSONAL DATA

- (15) It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽¹⁾.

J. HEARING OFFICER

- (16) It is also noted that if interested parties consider that they are encountering difficulties in the exercise of their rights of defence, they may request the intervention of the Hearing Officer of the Directorate-General for Trade. He acts as an interface between the interested parties and the Commission services, offering, where necessary, mediation on procedural matters affecting the protection of their interests in this proceeding, in particular with regard to issues concerning access to the file, confidentiality, extension of time limits and the treatment of written and/or oral submission of views.
- (17) For further information and contact details interested parties may consult the Hearing Officer's web pages on DG Trade's website: <http://ec.europa.eu/trade/tackling-unfair-trade/hearing-officer/>

HAS ADOPTED THIS REGULATION:

Article 1

A review of Implementing Regulation of the Council (EU) No 400/2010 is hereby initiated pursuant to Articles 11(4) and 13(4) of Council Regulation (EC) No 1225/2009 in order to establish whether the imports of steel ropes and cables including locked coil ropes, excluding ropes and cables of stainless steel, with a maximum cross-sectional dimension exceeding 3 mm, currently falling within CN codes ex 7312 10 81, ex 7312 10 83, ex 7312 10 85, ex 7312 10 89 and ex 7312 10 98 (TARIC codes 7312 10 81 13, 7312 10 83 13, 7312 10 85 13, 7312 10 89 13 and 7312 10 98 13) consigned from the Republic of Korea and produced by SEIL Wire and Cable (TARIC additional code A994), should be subject to the anti-dumping duty imposed by Implementing Regulation of the Council (EU) No 400/2010.

Article 2

The anti-dumping duty imposed by Implementing Regulation of the Council (EU) No 400/2010 is hereby repealed with regard to the imports identified in Article 1 of the present Regulation.

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.

Article 3

The customs authorities are hereby directed, pursuant to Article 14(5) of Council Regulation (EC) No 1225/2009, to take the appropriate steps to register the imports identified in Article 1 of this Regulation. Registration shall expire nine months following the date of entry into force of this Regulation.

Article 4

1. Interested parties, if their representations are to be taken into account during the investigation, must make themselves known to the Commission, present their views in writing and submit the replies to the questionnaire mentioned in recital 9(a) of this Regulation or any other information, unless otherwise specified, within 37 days of the entry into force of this Regulation. Attention is drawn to the fact that the exercise of most procedural rights set out in Council Regulation (EC) No 1225/2009 depends on the party's making itself known within the aforementioned period.

Interested parties may also apply in writing to be heard by the Commission within the same 37-day time limit.

2. All written submissions, including the information requested in this Regulation, questionnaire replies and correspondence provided by interested parties for which confidential treatment is requested shall be labelled *Limited* ⁽¹⁾.

Interested parties providing '*Limited*' information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of the basic Regulation, which will be labelled '*For inspection by interested parties*'. These summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence. If an interested party providing confidential information does not

furnish a non-confidential summary of it in the requested format and quality, such confidential information may be disregarded.

For this investigation, the Commission will use an electronic document management system. Interested parties are required to make all submissions and requests in electronic format (the non-confidential submissions via e-mail, the confidential ones on CD-R/DVD), and must indicate the name, address, e-mail address, telephone and fax numbers of the interested party. However, any Powers of Attorney, signed certifications, and any updates thereof, accompanying questionnaire replies shall be submitted on paper, i.e. by post or by hand, at the address below. Pursuant to Article 18(2) of the basic Regulation if an interested party cannot provide its submissions and requests in electronic format, it must immediately inform the Commission. For further information concerning correspondence with the Commission, interested parties may consult the relevant web page on the website of Directorate-General for Trade: <http://ec.europa.eu/trade/tackling-unfair-trade/trade-defence/>.

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate H
Office: N105 04/092
1049 Brussels
BELGIUM

Fax (+32 2) 295 65 05
E-mail: TRADE-STEEL-ROPE-DUMPING@EC.EUROPA.EU

Article 5

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

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

Done at Brussels, 29 September 2011.

For the Commission
The President

José Manuel BARROSO

⁽¹⁾ A '*Limited*' document is a document which is considered confidential pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343 22.12.2009 p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement). It is also a document protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

COMMISSION IMPLEMENTING REGULATION (EU) No 970/2011**of 29 September 2011****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 Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

Implementing Regulation (EU) No 543/2011 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 XVI, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 30 September 2011.

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

Done at Brussels, 29 September 2011.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, 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	AR	25,3
	BR	31,9
	MK	26,7
	ZZ	28,0
0707 00 05	MK	44,0
	TR	111,6
	ZZ	77,8
0709 90 70	TR	107,9
	ZZ	107,9
0805 50 10	AR	65,8
	BR	41,3
	CL	65,2
	TR	71,3
	UY	61,2
	ZA	72,4
	ZZ	62,9
0806 10 10	CL	71,0
	MK	82,2
	TR	106,4
	ZA	58,9
	ZZ	79,6
0808 10 80	CL	73,3
	CN	82,6
	NZ	98,4
	US	83,3
	ZA	92,6
	ZZ	86,0
0808 20 50	CN	88,7
	TR	120,5
	ZZ	104,6
0809 30	TR	167,9
	ZZ	167,9

⁽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 IMPLEMENTING REGULATION (EU) No 971/2011**of 29 September 2011****fixing the representative prices and additional import duties for certain products in the sugar sector
for the 2011/12 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⁾, and in particular Article 143 in conjunction with Article 4 thereof,

Whereas:

(1) 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⁾, lays down that the cif import prices for white sugar and raw sugar are to be considered the representative prices. Those prices are fixed for the standard qualities defined in points II and III respectively of Annex IV to Regulation (EC) No 1234/2007.

(2) For the purposes of fixing those representative prices, account must be taken of all the information provided for in Article 23 of Regulation (EC) No 951/2006, except in the cases provided for in Article 24 of that Regulation.

(3) For the purposes of adjusting prices not relating to the standard quality, the price increases or reductions referred to in Article 26(1)(a) of Regulation (EC) No 951/2006

should be applied to the offers taken into consideration in the case of white sugar. In the case of raw sugar, the corrective factors provided for in point (b) of that paragraph should be applied.

(4) Where there is a difference between the trigger price for the product concerned and the representative price, additional import duties should be fixed under the terms laid down in Article 39 of Regulation (EC) No 951/2006.

(5) The representative prices and additional import duties for the products concerned should be fixed in accordance with Article 36 of Regulation (EC) No 951/2006.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and the additional duties applying to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 October 2011.

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

Done at Brussels, 29 September 2011.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
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.

ANNEX

Representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 99 from 1 October 2011

(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⁾	44,74	0,00
1701 11 90 ⁽¹⁾	44,74	1,48
1701 12 10 ⁽¹⁾	44,74	0,00
1701 12 90 ⁽¹⁾	44,74	1,19
1701 91 00 ⁽²⁾	47,22	3,30
1701 99 10 ⁽²⁾	47,22	0,17
1701 99 90 ⁽²⁾	47,22	0,17
1702 90 95 ⁽³⁾	0,47	0,23

⁽¹⁾ For the standard quality as defined in point III of Annex IV to Council Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1).

⁽²⁾ For the standard quality defined in point II of Annex IV to Regulation (EC) No 1234/2007.

⁽³⁾ Per 1 % sucrose content.

COMMISSION IMPLEMENTING REGULATION (EU) No 972/2011**of 29 September 2011****fixing the representative prices and additional import duties applicable to molasses in the sugar sector from 1 October 2011**

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⁾, and in particular Article 143, in conjunction with Article 4, thereof

Whereas:

- (1) 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⁾, lays down that the cif import price for molasses is to be considered the representative price. That price is fixed for the standard quality defined in Article 27 of Regulation (EC) No 951/2006.
- (2) For the purposes of fixing the representative prices, account must be taken of all the information provided for in Article 29 of Regulation (EC) No 951/2006, except in the cases provided for in Article 30 of that Regulation and those prices should be fixed, where appropriate, in accordance with the method provided for in Article 33 of Regulation (EC) No 951/2006.
- (3) Prices not relating to the standard quality should be adjusted upwards or downwards, according to the

quality of the molasses offered, in accordance with Article 32 of Regulation (EC) No 951/2006.

- (4) Where there is a difference between the trigger price for the product concerned and the representative price, additional import duties should be fixed under the terms laid down in Article 39 of Regulation (EC) No 951/2006. Should the import duties be suspended pursuant to Article 40 of Regulation (EC) No 951/2006, specific amounts for these duties should be fixed.
- (5) The representative prices and additional import duties for the products concerned should be fixed in accordance with Article 34 of Regulation (EC) No 951/2006.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and the additional duties applying to imports of the products referred to in Article 34 of Regulation (EC) No 951/2006 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 October 2011.

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

Done at Brussels, 29 September 2011.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
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.

ANNEX

Representative prices and additional import duties applicable to molasses in the sugar sector from 1 October 2011

(EUR)

CN code	Amount of the representative price in 100 kg net of the product in question	Amount of the additional duty in 100 kg net of the product in question	Duty to be applied to imports as a result of the suspension referred to in Article 40 of Regulation (EC) No 951/2006 per 100 kg net of the product concerned ⁽¹⁾
1703 10 00 ⁽²⁾	12,44	—	0
1703 90 00 ⁽²⁾	11,97	—	0

⁽¹⁾ This amount replaces, in accordance with Article 40 of Regulation (EC) No 951/2006, the rate of the Common Customs Tariff duty fixed for these products.

⁽²⁾ For the standard quality as defined in Article 27 of Regulation (EC) No 951/2006.

COMMISSION IMPLEMENTING REGULATION (EU) No 973/2011**of 29 September 2011****on the minimum customs duty to be fixed in response to the fifth partial invitation to tender within the tendering procedure opened by Implementing Regulation (EU) No 634/2011**

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⁾, and in particular Article 187, in conjunction with Article 4, thereof

Whereas:

- (1) Commission Implementing Regulation (EU) No 634/2011 ⁽²⁾ opened a standing invitation to tender for the 2010/11 marketing year for imports of sugar of CN code 1701 at a reduced customs duty.
- (2) In accordance with Article 6 of Implementing Regulation (EU) No 634/2011, the Commission is to decide, in the light of the tenders received in response to a partial invitation to tender, either to fix a minimum customs duty or not to fix a minimum customs duty per eight digit CN code.
- (3) On the basis of the tenders received for the fifth partial invitation to tender, a minimum customs duty should be fixed for certain eight digit codes for sugar falling within

CN code 1701 and no minimum customs duty should be fixed for the other eight digit codes for sugar falling within that CN code.

- (4) In order to give a rapid signal to the market and to ensure efficient management of the measure, this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*.
- (5) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

Article 1

For the fifth partial invitation to tender within the tendering procedure opened by Implementing Regulation (EU) No 634/2011, in respect of which the time limit for the submission of tenders expired on 28 September 2011, a minimum customs duty has been fixed, or has not been fixed, as set out in the Annex to this Regulation for the eight digit codes for sugar falling within CN code 1701.

Article 2

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

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

Done at Brussels, 29 September 2011.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 170, 30.6.2011, p. 21.

ANNEX

Minimum customs duties

(EUR/tonne)

Eight digit CN code	Minimum customs duty
1	2
1701 11 10	227
1701 11 90	300
1701 12 10	X
1701 12 90	—
1701 91 00	X
1701 99 10	308,80
1701 99 90	X

(—) no minimum customs duty fixed (all offers rejected)

(X) no offers

DECISIONS

COUNCIL DECISION 2011/641/CFSP

of 29 September 2011

amending Decision 2010/573/CFSP concerning restrictive measures against the leadership of the Transnistrian region of the Republic of Moldova

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Whereas:

- (1) On 27 September 2010, the Council adopted Decision 2010/573/CFSP ⁽¹⁾.
- (2) On the basis of a review of Decision 2010/573/CFSP, the restrictive measures should be extended until 30 September 2012.
- (3) However, in order to encourage progress in reaching a political settlement to the Transnistrian conflict, addressing the remaining problems regarding the Latin-script schools and restoring the free movement of persons, those restrictive measures should be suspended until 31 March 2012. At the end of that period, the Council will review the restrictive measures in the light of developments, notably in the areas mentioned above. The Council may decide to reapply or lift travel restrictions at any time.
- (4) The information relating to certain persons included in the lists in Annexes I and II to Decision 2010/573/CFSP should be updated.
- (5) Decision 2010/573/CFSP should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2010/573/CFSP is hereby amended as follows:

- (1) Article 4(2) is replaced by the following:

‘2. This Decision shall apply until 30 September 2012. It shall be kept under constant review. It may be renewed or

amended, as appropriate, if the Council deems that its objectives have not been met.’;

- (2) Article 4(3) is replaced by the following:

‘3. The restrictive measures provided for in this Decision shall be suspended until 31 March 2012. At the end of that period, the Council shall review the restrictive measures.’.

Article 2

1. In Annex I to Decision 2010/573/CFSP, the entries for the following persons:

- (1) Oleg Igorevich SMIRNOV;
- (2) Oleg Andreyevich GUDYMO,

shall be replaced by the entries set out in Annex I to this Decision.

2. In Annex II to Decision 2010/573/CFSP, the entry for the following person:

- (1) Alla Viktorovna CHERBULENKO,

shall be replaced by the entry set out in Annex II to this Decision.

Article 3

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

Done at Brussels, 29 September 2011.

*For the Council**The President*

M. KOROLEC

⁽¹⁾ OJ L 253, 28.9.2010, p. 54.

ANNEX I**Entries referred to in Article 2(1)**

- '3. SMIRNOV, Oleg Igorevich, son of No 1 and former "Adviser to the State Customs Committee", former "Member of the Supreme Soviet", born on 8 August 1967 in Novaya Kakhovka, Khersonskaya oblast, Ukraine, Russian passport No 60No1907537.'
- '9. GUDYMO, Oleg Andreyevich, former "Member of the Supreme Soviet", former "Chairman of the Committee on Security, Defence and Peacekeeping of the Supreme Soviet", former "Deputy Minister of Security", born on 11 September 1944 in Alma-Ata, Kazakhstan, Russian passport No 51No0592094.'

ANNEX II**Entry referred to in Article 2(2)**

- '3. CHERBULENKO, Alla Viktorovna, former "Deputy Head of State Administration of Rybnitsa", responsible for education issues.'
-

COMMISSION DECISION

of 29 September 2011

**terminating the anti-dumping proceeding concerning imports of certain graphite electrode systems
originating in the People's Republic of China**

(2011/642/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 Article 9 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) On 5 November 2010, the European Commission (Commission) received a complaint concerning the alleged injurious dumping of certain graphite electrode systems (graphite electrodes) originating in the People's Republic of China (China), lodged pursuant to Article 5 of the basic Regulation by the European Carbon and Graphite Association (the complainant) on behalf of producers representing a major proportion, in this case more than 50 %, of the total Union production of certain graphite electrodes systems.
- (2) The complaint contained *prima facie* evidence of the existence of dumping, and of material injury resulting therefrom, which was considered sufficient to justify the initiation of an anti-dumping proceeding.
- (3) The Commission, after consultation of the Advisory Committee, by a notice published in the *Official Journal of the European Union* ⁽²⁾ initiated an anti-dumping proceeding concerning imports into the Union of certain graphite electrodes systems originating in China.
- (4) The Commission officially advised the exporting producers in China, importers, traders, users and associations known to be concerned, the authorities of China and all known Union producers of the initiation of the proceeding. Interested parties were given the oppor-

tunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

- (5) All interested parties who so requested and showed that there were particular reasons why they should be heard were granted a hearing.

B. WITHDRAWAL OF THE COMPLAINT AND TERMINATION OF THE PROCEEDING

- (6) By a letter dated 8 July 2011 and addressed to the Commission, the complainant formally withdrew its complaint.
- (7) In accordance with Article 9(1) of the basic Regulation, the proceeding may be terminated where the complaint is withdrawn, unless such termination would not be in the Union interest.
- (8) In this respect it is noted that Commission did not identify any reason to indicate that termination would not be in the Union interest, nor was any such reason raised by interested parties. Therefore, the Commission considered that the present proceeding should be terminated. Interested parties were informed accordingly and were given the opportunity to comment. No comments were received indicating that such termination would not be in the Union interest.
- (9) The Commission therefore concludes that the anti-dumping proceeding concerning imports into the Union of certain graphite electrode systems originating in the People's Republic of China should be terminated,

HAS ADOPTED THIS DECISION:

Article 1

The anti-dumping proceeding concerning imports of certain graphite electrodes of a kind used for electric furnaces, with an apparent density of 1,5 g/cm³ or more and an electrical resistance of 7 µΩ.m or less originating in the People's Republic of China, currently falling within CN code ex 8545 11 00 and nipples used for such electrodes currently falling within CN code ex 8545 90 90, is hereby terminated.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ C 343, 17.12.2010, p. 24.

Article 2

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

Done at Brussels, 29 September 2011.

For the Commission
The President
José Manuel BARROSO

CORRIGENDA**Corrigendum to Directive 2011/72/EU of the European Parliament and of the Council of 14 September 2011 amending Directive 2000/25/EC as regards the provisions for tractors placed on the market under the flexibility scheme**

(Official Journal of the European Union L 246 of 23 September 2011)

On page 2, Article 2(1), first sentence:

for: '1. Member States shall adopt and publish, by 24 September 2011 at the latest, ...',

read: '1. Member States shall adopt and publish, by 24 September 2012 at the latest, ...'.

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