Implementing Regulation (EU) No 143/2010 of the Council of 15 February 2010 temporarily withdrawing the special incentive arrangement for sustainable development and good governance provided for under Regulation (EC) No 732/2008 with respect to the Democratic Socialist Republic of Sri Lanka

IMPLEMENTING REGULATION (EU) No 143/2010 OF THE COUNCIL

of 15 February 2010

temporarily withdrawing the special incentive arrangement for sustainable development and good governance provided for under Regulation (EC) No 732/2008 with respect to the Democratic Socialist Republic of Sri Lanka

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 732/2008 of 22 July 2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011[(1)], and in particular Article 19(4) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Pursuant to Regulation (EC) No 732/2008, in particular Articles 9 and 10(6) thereof, the Democratic Socialist Republic of Sri Lanka (hereinafter referred to as 'Sri Lanka') is a beneficiary country of the special incentive arrangement for sustainable development and good governance granted within the European Union's scheme of generalised tariff preferences.

(2) Commission Decision 2008/938/EC[(2)], which includes Sri Lanka in the list of countries beneficiary of the special incentive arrangement for sustainable development and good governance for the period from 1 January 2009 to 31 December 2011, noted that Sri Lanka's fulfillment of the qualifying criteria for the arrangement relating to the three human rights conventions was the subject of an investigation initiated under Council Regulation (EC) No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences[(3)].

(3) Reports, statements and information of the United Nations as well as other publicly available reports and information from other relevant sources, including non-governmental organisations, available to the European Commission (hereinafter referred to as 'the Commission') indicated that the national legislation of Sri Lanka incorporating the International Covenant on Civil and Political Rights, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child, was not being effectively implemented. The three conventions mentioned are listed as core human rights conventions respectively in points 1, 5 and 6 of Annex III, Part A, to Regulation (EC) No 732/2008.

(4) Article 15(2) of Regulation (EC) No 732/2008 provides for the temporary withdrawal of the special incentive arrangement for sustainable development and good governance granted pursuant to that Regulation, in particular if the national legislation incorporating the conventions referred to in Annex III to that Regulation, which have been ratified in fulfilment of the requirements of Article 8(1) and (2) of that Regulation, is not effectively implemented.

(5) By Commission Decision 2008/803/EC[(4)], an investigation was initiated in order to establish 'whether the national legislation of the Democratic Socialist Republic of Sri Lanka incorporating the International Covenant on Civil and Political Rights, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child is effectively implemented'.

(6) Throughout the course of the investigation the Commission provided Sri Lanka with every opportunity to cooperate in the investigation, including by providing Sri Lanka with the opportunity to comment on the comprehensive findings of experts entrusted by the Commission to provide an independent legal assessment of the matters under the investigation. Despite the fact that Sri Lanka decided not to cooperate with, or participate in, the investigation, the Commission maintained regular contact with Sri Lanka outside the framework of the investigation so as to enable Sri Lanka to bring to the Commission's attention any information relevant to the investigation. The information received in this context from Sri Lanka has been taken by the Commission fully into account and has contributed to inform its assessment.

(7) On 19 October 2009, the Commission approved a report containing its findings (hereinafter referred to as 'the Report'). The Report concludes that the national legislation of Sri Lanka incorporating international human rights conventions, specifically the International Covenant on Civil and Political Rights, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child, is not effectively implemented.

(8) Sri Lanka was provided with the Report containing the findings of the investigation and reminded that those findings constituted the basis on which the Commission intended to decide whether to recommend the temporary withdrawal of the special incentive arrangement for sustainable development and good governance. Sri Lanka was also granted a period within which it could make representations on this matter or specifically in relation to the Report.

(9) Sri Lanka provided the Commission with a number of observations in respect of the subject-matter of the Report and conduct of the investigation. These observations covered also facts and findings on which Sri Lanka was given the opportunity to comment during the investigation but did not do so. The Commission nevertheless considered Sri Lanka's observations carefully and in particular those relevant in the context of a decision on temporary withdrawal. The Commission's assessment, of which Sri Lanka was informed, led to the conclusion that none of Sri Lanka's arguments would substantively alter the findings of the investigation.