Commission Regulation (EC) No 1190/2008 of 28 November 2008 amending for the 101st time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban

COMMISSION REGULATION (EC) No 1190/2008

of 28 November 2008

amending for the 101st time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan[(1)], and in particular the first indent of Article 7(1) thereof,

Whereas:

(1) Annex I to Regulation (EC) No 881/2002 lists the persons, groups and entities covered by the freezing of funds and economic resources under that Regulation.

(2) The Court of Justice decided on 3 September 2008[(2)] to annul Regulation (EC) No 881/2002, insofar as it concerns Yassin Abdullah Kadi and the Al Barakaat International Foundation. At the same time the Court ordered the effects of Regulation (EC) No 881/2002 to be maintained, so far as concerns Mr Kadi and the Al Barakaat International Foundation, for a period that may not exceed three months running from the date of delivery of the judgment. This period was granted to allow a possibility to remedy the infringements found.

(3) In order to comply with the judgment of the Court of Justice, the Commission has communicated the narrative summaries of reasons provided by the UN Al-Qaida and Taliban Sanctions Committee, to Mr Kadi and to Al Barakaat International Foundation and given them the opportunity to comment on these grounds in order to make their point of view known.

(4) The Commission has received comments by Mr Kadi and by Al Barakaat International Foundation and examined these comments.

(5) The list of persons, groups and entities to whom the freezing of funds and economic resources should apply, drawn up by the UN Al-Qaida and Taliban Sanctions Committee, includes Mr Kadi and Al Barakaat International Foundation.

(6) After having carefully considered the comments received from Mr Kadi in a letter dated 10 November 2008, and given the preventive nature of the freezing of funds and economic resources, the Commission considers that the listing of Mr Kadi is justified for reasons of his association with the Al-Qaida network.

(7) After having carefully considered the comments received from Al Barakaat International Foundation in a letter dated 9 November 2008, and given the preventive nature of the freezing of funds and economic resources, the Commission considers the listing of Al Barakaat International Foundation is justified for reasons of its association with the Al-Qaida network.

(8) In view of this, Mr Kadi and the Al Barakaat International Foundation should be added to Annex I.

(9) This Regulation should apply from 30 May 2002, given the preventive nature and objectives of the freezing of funds and economic resources under Regulation (EC) No 881/2002 and the need to protect legitimate interests of the economic operators, who have been relying on the legality of the annulled Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 881/2002 is hereby amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 3 December 2008. It shall be published in the *Official Journal of the European Union*.

It shall apply from 30 May 2002.

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

Done at Brussels, 28 November 2008.

For the Commission

Benita FERRERO-WALDNER

Member of the Commission