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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	29 July 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2020) 340 final
Subject:	Proposal for a COUNCIL DECISION on the conclusion of the Voluntary Partnership Agreement between the European Union and the Republic of Honduras on forest law enforcement, governance and trade in timber products to the European Union

Delegations will find attached document COM(2020) 340 final.

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Proposal for a

COUNCIL DECISION

on the conclusion of the Voluntary Partnership Agreement between the European Union and the Republic of Honduras on forest law enforcement, governance and trade in timber products to the European Union

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The Action Plan on Forest Law Enforcement, Governance and Trade (FLEGT)[1], endorsed by the Council in 2003[2], proposes a set of measures, including support for timber-producing countries, multilateral collaboration to tackle trade in illegal timber, support for private-sector initiatives, and measures to discourage investment in activities that encourage illegal logging. The cornerstone of the Action Plan is the establishment of FLEGT partnerships between the EU and timber-producing countries, aimed at stopping illegal logging. In 2005 the Council adopted Regulation (EC) No 2173/2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community[3], a mechanism that enables verification of the legality of timber imported into the EU under the FLEGT partnerships.

In 2005 the Council authorised the Commission to negotiate FLEGT partnership agreements with timber-producing countries[4].

The Commission entered into negotiations with Honduras in 2013. The Commission has regularly kept the Council updated on progress, with reports to the Working Party on Forests as well Member States' missions in Honduras. The Commission has also informed the European Parliament of the negotiation developments. The parties have regularly offered public meetings after negotiating sessions to keep the stakeholders informed of the process.

The Voluntary Partnership Agreement between the EU and Honduras (Agreement) addresses all elements of the Council negotiating directives. In particular, it establishes the framework, institutions and systems for the timber legality assurance system for the FLEGT licensing scheme. It also sets out the framework for monitoring compliance and for independent evaluation of the system. The Agreement includes a clear commitment by Honduras to develop legislation to ensure that timber imported in Honduras has been legally harvested in compliance with the applicable legislation in the country of harvest. These elements are set out in annexes to the Agreement, which provide a detailed description of the structures that will underpin the development and implementation of the Honduras timber legality assurance system, as well as criteria to assess the operationality of the system before a future decision on the start of the FLEGT licensing scheme.

The Agreement aims at strengthening forest governance and law enforcement and, by means of the FLEGT licensing scheme, will reassure the EU market that timber exported from Honduras comes from legally harvested timber. Once FLEGT licences are issued, the Agreement will facilitate compliance of EU importers with the requirements of Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market[5] which states that timber and timber products covered with a FLEGT licence is considered to have been legally harvested for the purposes of that Regulation.

The Agreement establishes a mechanism for dialogue and cooperation between the EU and Honduras on the FLEGT licensing scheme, via a Joint Implementation Committee. It also

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1 COM(2003) 251.
2 OJ C 268, 7.11.2003, p. 1.
3 OJ L 347, 30.12.2005, p. 1.
4 Restricted Council document 10229/2/05 (declassified on 24 September 2015).
5 OJ L 295, 12.11.2010, p.23

establishes principles of stakeholder participation, social safeguards, accountability and transparency, and mechanisms for complaints on, monitoring of and reporting on implementation of the Agreement.

The Agreement is not limited only to the product coverage proposed in Annex II to Regulation (EC) No 2173/2005 and covers a wide range of exported timber products.

The Agreement makes provision for import controls at the EU's borders, as provided for in Regulation (EC) No 2173/2005 on the FLEGT licensing scheme and Regulation (EC) No 1024/2008 laying down detailed measures for implementing it. The Agreement includes a description of Honduras' FLEGT licence, which uses the format prescribed in the above-mentioned Implementing Regulation.

- **Consistency with existing policy provisions in the policy area**

The initiative is consistent with Regulation (EU) No 995/2010 because the timber products that will be covered by FLEGT licences issued in Honduras in accordance with this Agreement will be deemed to have been legally harvested in accordance with Article 3 of that Regulation.

.• **Consistency with other Union policies**

As a part of the FLEGT Action Plan, the conclusion of this Agreement is relevant for the EU development cooperation policy because it does not only promote trade in legally harvested timber, but it also aims to strengthen forest governance in Honduras by improving transparency, accountability and stakeholder participation. Since the implementation of the Agreement will reinforce sustainable forest management this initiative will also contribute to combating climate change through reduced emissions from deforestation and forest degradation.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The proposed legal basis is the first subparagraph of Article 207(3) and the first subparagraph of Article 207(4) of the Treaty on the functioning of the European Union (TFEU), in conjunction with Article 218(6)(a)(v) and Article 218(7) thereof.

Having in mind the objective and content of the Agreement, which provides a legal framework aimed at ensuring that all imports into the Union from Honduras of timber and timber products covered by the Agreement have been legally produced, the Union has exclusive competence to conclude it in accordance with the first subparagraph of Article 207(3) and the first subparagraph of Article 207(4) TFEU. Article 218(6)(a)(v) TFEU foresees that the Council concludes such agreements while Article 218(7) empowers the Council to authorise the negotiator to approve on the Union's behalf modifications to the agreement, where the agreement provides for amendments to be adopted by a simplified procedure or by a body set up by the agreement.

- **Subsidiarity (for non-exclusive competence)**

Not applicable.

- **Proportionality**

The conclusion of this Agreement is in line with the FLEGT Action Plan and does not go beyond what is necessary to achieve its aims.

- **Choice of the instrument**

This proposal is in accordance with Article 218(6)(a)(v) TFEU, which envisages the adoption by the Council of decisions related to conclusions of international agreements.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

Not applicable.

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

Not applicable.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

4. BUDGETARY IMPLICATIONS

This initiative does not have budgetary implications.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

Not applicable.

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on the conclusion of the Voluntary Partnership Agreement between the European Union and the Republic of Honduras on forest law enforcement, governance and trade in timber products to the European Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(3) and the first subparagraph of Article 207(4), in conjunction with Article 218(6)(a)(v) and Article 218(7) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament[1],

Whereas:

(1) In May 2003 the Commission adopted a Communication to the European Parliament and to the Council entitled 'Forest Law Enforcement, Governance and Trade (FLEGT): Proposal for an EU Action Plan'[2] which called for measures to address illegal logging by developing voluntary partnership Agreements with timber-producing countries (hereinafter 'EU Action Plan'). Council conclusions on the Action Plan were adopted in October 2003[3] and a European Parliament resolution on the subject was adopted on 11 July 2005[4],

(2) In accordance with Council Decision (EU) 2018/XX[5], the Voluntary Partnership Agreement between the European Union and the Republic of Honduras on forest law enforcement, governance and trade in timber products to the European Union (hereinafter referred to as 'the Agreement') was signed on [ ] [6], subject to its conclusion at a later date.

(3) The Agreement should be approved on behalf of the European Union,

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1 OJ C , , p. .
2 COM(2003) 251.
3 OJ C 268, 7.11.2003, p. 1.
4 OJ C 157E, 6.7.2006, p. 482.
5 Council Decision (EU) 2018/XX on the signing, on behalf of the European Union, of the Voluntary Partnership Agreement between the European Union and the Republic of Honduras on forest law enforcement, governance and trade in timber products to the European Union (OJ L [...], […], p. […]). OJ: please insert the number, date and publication reference for the doc
6 OJ: please insert date of signature

HAS ADOPTED THIS DECISION:

Article 1

The Voluntary Partnership Agreement between the European Union and the Republic of Honduras on forest law enforcement, governance and trade in timber products to the European Union is hereby approved on behalf of the Union.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council shall designate the person empowered to proceed, on behalf of the Union, to the notification provided for in Article 31 of the Agreement, in order to express the consent of the European Union to be bound by the Agreement.

Article 3

The Union shall be represented by the Commission in the Joint Implementation Committee set up in accordance with Article 19 of the Agreement.

The Member States may participate in meetings of the Joint Implementation Committee as members of the Union delegation.

Article 4

For the purpose of amending the Annexes to the Agreement pursuant to Article 26 thereof, the Commission is authorised, in accordance with the procedure referred to in Article 11(3) of Council Regulation (EC) No 2173/2005[7], to approve any such amendments on behalf of the Union.

Article 5

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

Done at Brussels,

For the Council
The President

[7] Council Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community (OJ L 347, 30.12.2005, p. 1).