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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 378 final
Subject:	Proposal for a COUNCIL DECISION on the signing, on behalf of the Union, of the Voluntary Partnership Agreement between the European Union and the Republic of Côte d'Ivoire on forest law enforcement, governance and trade in timber and timber products to the European Union (FLEGT)

Delegations will find attached document COM(2023) 378 final.

Encl.: COM(2023) 378 final

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Brussels, 13.7.2023
COM(2023) 378 final

2023/0219 (NLE)

Proposal for a

COUNCIL DECISION

on the signing, on behalf of the Union, of the Voluntary Partnership Agreement between the European Union and the Republic of Côte d'Ivoire on forest law enforcement, governance and trade in timber and timber products to the European Union (FLEGT)

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 to stop illegal logging. These measures include support to timber-producing countries, multilateral collaboration to tackle trade in illegal timber, support to private-sector initiatives, and action 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. 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]. This enables authorities to check the legality of timber imported into the EU under 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 Côte d'Ivoire in 2013. The Commission has kept the Council updated on progress regularly, with reports to the Working Party on Forests and the FLEGT/EU Timber Regulation Committee. The Commission has also kept the European Parliament and stakeholders informed about the negotiations.

The Voluntary Partnership Agreement between the EU and Côte d'Ivoire covers all aspects of the Council negotiating directives. In particular, it establishes a licensing scheme that checks and confirms the legality of timber products exported to EU and non-EU countries, as well as timber sold domestically. For imported timber, Côte d'Ivoire commits to ensure that the timber has been harvested according to the law of the country of origin. The definition of legality is based on a comprehensive set of national and international laws ratified by Côte d'Ivoire, reflecting the three strands of sustainable forest management.

Côte d'Ivoire also commits to continuing its regulatory reforms to complete and strengthen the legal framework where necessary. It has adopted a framework to monitor compliance and to carry out independent evaluations of the system. These details are set out in annexes to the Agreement, which provide a detailed description of the structures underpinning the timber legality assurance system of Côte d'Ivoire. They also set out the criteria to take a future decision to start the FLEGT licensing scheme.

The Agreement establishes a mechanism for dialogue and cooperation between the EU and Côte d'Ivoire on the licensing scheme, via a joint implementation committee (CCMO – *Comité conjoint de mise en oeuvre*). It sets out principles for involving stakeholders, social safeguards, and accountability and transparency. It also describes how complaints are handled and how monitoring and reporting will be carried out.

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

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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).

The Agreement is underpinned by the principle of non-discrimination, which means that stakeholders from both within and outside the forestry sector will be involved. These include stakeholders from the private sector, civil society, and local communities.

The Agreement provides for import controls at the EU's borders under Regulation (EC) No 2173/2005 on the FLEGT licensing scheme and Regulation (EC) No 1024/2008 laying down detailed measures for implementing the scheme. The Agreement describes Côte d'Ivoire's FLEGT licence, which uses the format prescribed in the Implementing Regulation.

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

The proposal is consistent with Regulation (EU) No 995/2010 because the timber products covered by FLEGT licences issued in Côte d'Ivoire under the Agreement will be deemed legally harvested as laid down in Article 3 of that Regulation.

- **Consistency with other Union policies**

This Agreement is relevant to EU development cooperation policy because it promotes trade in legally harvested timber and strengthens forest governance in Côte d'Ivoire by improving transparency, accountability and participation by stakeholders. The Agreement will also strengthen sustainable forest management and will help combat climate change by reducing the emissions caused by deforestation and forest degradation. The Agreement is relevant to the EU Biodiversity strategy 2030 because it combats illegal timber trade and promotes sustainable forest management and effective participation of local communities, which will help preserve biodiversity. To respect bilateral commitments the EU has entered into and to preserve the progress achieved with partner countries, the upcoming EU Regulation on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation[5] includes a provision declaring wood covered by a FLEGT license to have fulfilled the legality requirement. However, given that the upcoming Regulation covers not only legality but also requires products to be deforestation-free, operators will still need to exercise due diligence to ensure that the timber they place on the EU market is deforestation-free.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The 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), combined with Article 218(6)(a)(v) and Article 218(7).

The Agreement provides a legal framework to ensure all timber and timber product imports into the EU from Côte d'Ivoire have been legally produced. Therefore, the EU has exclusive competence to conclude it in line with the first subparagraph of Article 207(3) and the first subparagraph of Article 207(4) of the TFEU. Article 218(6)(a)(v) of the TFEU provides that it is for the Council to conclude such agreements. Article 218(7) of the TFEU empowers the Council to authorise the negotiator to approve amendments to the Agreement on the EU's behalf, if amendments can be adopted by simplified procedure or by a body set up by the Agreement.

[5] Based on the proposal COM(2021)706 final, the Parliament and the Council adopted the regulation on 19 April 2023 and on 16 May 2023 respectively, it will be published in the EU's Official Journal in June 2023 and enter into force 20 days after.

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

Not applicable.

- **Proportionality**

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

- **Choice of the instrument**

This proposal is in line with Article 218(6)(a)(v) of the TFEU, which provides that it is for the Council to adopt decisions on concluding 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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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(4), in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) In May 2003, the Commission adopted the Communication to the Council and the European Parliament Forest Law Enforcement, Governance and Trade (FLEGT): proposal for an EU action plan[6], which called for measures to address illegal logging by developing voluntary partnership agreements with timber-producing countries. Council conclusions on the action plan were adopted in October 2003[7] and a European Parliament resolution on the subject was adopted on 11 July 2005[8].

(2) On 5 December 2005, the Council authorised the Commission to open negotiations with timber-producing countries on partnership agreements to implement the EU Action Plan for Forest Law Enforcement, Governance and Trade.

(3) On 20 December 2005, the Council adopted Regulation (EC) No 2173/2005[9] which established a FLEGT licensing scheme for imports of timber into the Union from countries with which the Union has concluded voluntary partnership agreements.

(4) The negotiations with the Republic of Côte d'Ivoire in view of the conclusion of a Voluntary Partnership Agreement on forest law enforcement, governance and trade in timber and timber products (hereinafter referred to as 'the Agreement'), were successfully concluded by the initialling of the Agreement on 17 October 2022.

(5) Therefore, the Agreement should be signed on behalf of the European Union, subject to its conclusion at a later date,

HAS ADOPTED THIS DECISION:

Article 1

The signing of the Voluntary Partnership Agreement between the European Union and the Republic of Côte d'Ivoire on forest law enforcement, governance and trade in timber and

6 COM(2003) 251.
7 OJ C 268, 7.11.2003, p. 1.
8 OJ C 157E, 6.7.2006, p. 482.
9 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).

timber products is hereby approved on behalf of the Union, subject to the conclusion of the said Agreement.

The text of the Agreement to be signed is attached to this Decision.

Article 2

The Council Secretariat General shall establish the instrument of full powers to sign the Agreement, subject to its conclusion, for the person(s) indicated by the Commission.

Article 3

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

Done at Brussels,

For the Council
The President