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EUROPEAN COMMISSION

Brussels, 30.3.2010
COM(2010)118 final

2010/0062 (NLE)

Proposal for a

COUNCIL DECISION

on the conclusion of a voluntary partnership agreement between the European Union and the Republic of the Congo on forest law enforcement, governance and trade in timber and derived products to the European Union (FLEGT)

EXPLANATORY MEMORANDUM

The Action Plan on Forest Law Enforcement, Governance and Trade (FLEGT)¹, endorsed by the Council in 2003², proposes a set of measures that include support for timber-producing countries, multilateral collaboration to tackle trade in illegal timber, support for private-sector initiatives and also 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 2173/2005³ which establishes a licensing scheme and a mechanism to verify the legality of timber imports into the EU.

In December 2005 the Council authorised the Commission to negotiate partnership agreements with timber-producing countries in order to implement the FLEGT Action Plan and, in particular, to encourage trade in verified legal timber imports into the EU from such partner countries⁴. The agreement with Congo is the second such agreement to be negotiated between a producer country and the EU, following the agreement with Ghana.

The Commission entered into negotiations with Congo in June 2008. Negotiations were held over 10 months and involved four face-to-face sessions and 14 technical working meetings by video conference. Throughout the negotiations the Commission has been assisted in this task by a number of Member States. The Commission has kept the Council updated on progress with regular reports to the Working Party on Forests, and to EU Heads of Mission and representatives in Congo. After each negotiating session, the parties held public meetings to keep stakeholders informed of progress. In addition, Congo adopted a participatory approach by involving civil society and the private sector in the drafting of the agreement.

The agreement addresses all elements of the Council negotiating directives. In particular, the agreement establishes the framework, institutions and systems of the FLEGT licensing scheme. It sets out the supply chain controls, legal compliance framework and independent audit requirements of the system. These points are set out in annexes to the agreement and provide a detailed description of the structures that will underpin the assurance of legality afforded by the issuing of a FLEGT licence. Congo has developed its applicable legislation through extensive stakeholder consultations. It includes laws and regulations on the granting of logging rights and the registration of undertakings, forest management, environmental and labour legislation, taxation, social obligations such as involvement of local communities, indigenous people and civil society, other obligations laid down in legislation concerning the transport and marketing of timber, and export requirements.

The agreement goes beyond the limited product coverage proposed in Annex II of Regulation (EC) No 2173/2005 on the FLEGT scheme and covers all exported timber products. Congo is thus committed to establishing a system that will provide assurance to the EU that all forest products from Congo are legally produced and so contribute positively and sustainably to Congo's growth.

¹ COM(2003) 251.

² OJ C 268, 7.11.2003.

³ OJ L 347, 30.12.2005.

⁴ Restricted Council document 15102/05.

The agreement makes provision for import controls at the EU's borders as provided for in Regulation (EC) No 2173/2005 on the FLEGT scheme and Regulation (EC) No 1024/2008 laying down detailed measures for its implementation. The agreement includes a description of Congo's FLEGT licence, which uses the format prescribed in the Implementing Regulation.

The agreement establishes a mechanism for dialogue and cooperation with the EU on the FLEGT scheme, the Joint Agreement Implementation Committee. It also establishes principles of stakeholder participation, social safeguards and transparency, and the monitoring of and reporting on the agreement's implementation.

The agreement sets out a timetable and procedures for its entry into force and the implementation of the licensing scheme. Since Congo will upgrade and redesign its regulatory and information management system, introduce more comprehensive supply chain controls, and establish independent verification of legal compliance, it will take two to three years to develop and test the new systems and to build capacity in the government, civil society and the private sector for the envisaged tasks. The FLEGT licensing scheme is expected to be fully operational by mid-2011. The licensing scheme will be assessed against the criteria laid down in the agreement before the EU begins accepting FLEGT licences.

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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 subparagraphs of Article 207(3) and (4), in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament⁵,

Whereas:

- (1) In May 2003 the European Commission published an EU Action Plan for Forest Law Enforcement Governance and Trade (FLEGT)⁶ which called for measures to address illegal logging through the development of voluntary partnership agreements with timber-producing countries. Council conclusions on this Action Plan were adopted in October 2003⁷ and Parliament adopted a resolution in July 2005⁸.
- (2) In accordance with Council Decision 2010/XXX of [...] ⁹, the voluntary partnership agreement between the European Union and the Republic of the Congo on forest law enforcement, governance and trade in timber and derived products to the European Union was signed by the Commission on [...], subject to its conclusion at a later date.
- (3) The agreement should be concluded,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Union and the Republic of Congo on forest law enforcement, governance and trade in timber and derived products to the European Union (FLEGT) is hereby concluded.

⁵ OJ C [...], [...], p. [...].

⁶ COM(2003) 251.

⁷ OJ C 268, 7.11.2003.

⁸ OJ C 157E, 6.7.2006, p. 482.

⁹ OJ L [...], [...], [...].

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person empowered on behalf of the European Union to make the notification provided for in Article 28 of the Agreement, in order to express the consent of the European Union to be bound.

Article 3

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

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

Article 4

For the purpose of amending the annexes of the Agreement in accordance with Article 26 of the Agreement, the Commission is authorised, in accordance with the procedure laid down in Article 11(3) of Regulation 2173/2005, to approve any such amendments on behalf of the European Union.

Article 5

This Decision shall enter into force on the day of its adoption. It shall be published in the Official Journal of the European Union.

The date of entry into force of the Agreement will be published in the Official Journal of the European Union.

Done at Brussels,

*For the Council
The President*