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INFORMATION NOTE

From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

Subject: Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2173/2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community
- Outcome of the European Parliament's first reading
(Brussels, 2 to 3 April 2014)

I. INTRODUCTION

The Rapporteur, Mr Iuliu WINKLER (EPP, RO), presented a report on the abovementioned proposal on behalf of the Committee on International Trade. The report contained 3 amendments (amendments 1 - 3) to the proposal.

Subsequently, in accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts took place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

In this context, the Committee presented one compromise amendment (amendment 4) to the proposal for a Regulation. This amendment had been agreed during the informal contacts referred to above and was consequently intended to replace the three amendments previously voted by the Committee.

In addition, the Committee tabled amendment 5 (concerning a statement by the Commission) to the legislative resolution.

II. VOTE

When it voted on 2 April 2014, the plenary adopted the compromise amendment (amendment 4) to the proposal for a Regulation. It also adopted amendment 5 to the legislative resolution.

The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

¹ OJ C 145, 30.6.2007, p.5

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

Imports of timber *I**

European Parliament legislative resolution of 2 April 2014 on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2173/2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community (COM(2013)0015 – C7-0021/2013 – 2013/0010(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0015),
 - having regard to Article 294(2) and Article 207(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0021/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the undertaking given by the Council representative by letter of 19 February 2014 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade and the opinion of the Committee on Development (A7-0429/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Takes note of the Commission statement annexed to this resolution;
 3. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P7_TC1-COD(2013)0010

Position of the European Parliament adopted at first reading on 2 April 2014 with a view to the adoption of Regulation (EU) No .../2014 of the European Parliament and of the Council amending Council Regulation (EC) No 2173/2005 as regards the delegated and implementing powers to be conferred on the Commission

I

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure¹,

¹ Position of the European Parliament of 2 April 2014.

Whereas:

- (1) Council Regulation (EC) No 2173/2005¹ confers powers upon the Commission in order to implement some of the provisions of that Regulation.
- (2) As a consequence of the entry into force of the Treaty of Lisbon, the powers conferred on the Commission under Regulation (EC) No 2173/2005 should be aligned to Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU).
- (3) In order to apply some of the provisions of Regulation (EC) No 2173/2005, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amendments to Annexes I, II and III to that Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

¹ 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).

- (4) In order to ensure uniform conditions for the implementation of Regulation (EC) No 2173/2005, implementing powers should be conferred on the Commission to assess and approve existing schemes that guarantee the legality and reliable tracking of timber products exported from partner countries with a view to becoming the basis of a Forest Law Enforcement, Governance and Trade (FLEGT) licence, ***and to adopt modalities of a practical nature and documents of a standard format, including their possible means (electronic or paper format) in relation to the FLEGT licensing scheme.*** Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹.
- (5) Regulation (EC) No 2173/2005 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Article 1

Regulation (EC) No 2173/2005 is amended as follows:

(1) In Article 4, paragraphs 2 and 3 are replaced by the following:

"2. In order to provide the necessary assurance as to the legality of the timber products concerned, the Commission shall assess existing schemes that guarantee the legality and reliable tracking of timber products exported from partner countries, and adopt implementing acts to approve them. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(3).

The schemes approved by the Commission may form the basis of a FLEGT licence.

3. Timber products of species listed in Annexes A, B and C to Council Regulation (EC) No 338/97* shall be exempt from the requirement laid down in paragraph 1 of this Article.

The Commission shall *review that exemption, taking into account market developments and the experience gained in the implementation of this Regulation, shall report on its findings to the European Parliament and to the Council and, if necessary, shall come forward with appropriate legislative proposals.*

* Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade (OJ L 61, 3.3.1997, p. 1).";

(2) In Article 5, paragraph 9 is replaced by the following:

"9. *In order to ensure uniform conditions for the implementation of this Article, the Commission shall, by means of implementing acts, adopt the procedural modalities and the documents of a standard format, including their possible means. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11 (3).*";

(3) Article 10 is replaced by the following:

"Article 10

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 11a to amend the list of partner countries and their designated licensing authorities as set out in Annex I.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 11a to amend the list of timber products as set out in Annex II to which the FLEGT licensing scheme applies. In adopting those amendments, the Commission shall take into account the implementation of the FLEGT Partnership Agreements. Such amendments shall comprise commodity codes, at four-digit heading level or six-digit subheading level of the current version of Annex I to the Harmonised Commodity Description and Coding System.
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 11a to amend the list of timber products as set out in Annex III to which the FLEGT licensing scheme applies. In adopting those amendments, the Commission shall take into account the implementation of the FLEGT Partnership Agreements. Such amendments shall comprise commodity codes, at four-digit heading level or six-digit subheading level of the current version of Annex I to the Harmonised Commodity Description and Coding System and shall only apply in relation to the corresponding partner countries as set out in Annex III.";

(4) Article 11 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. The Commission shall be assisted by the Forest Law Enforcement Governance and Trade (FLEGT) Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council*.

* Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).";

(b) paragraph 2 is deleted;

(c) paragraph 3 is replaced by the following:

"3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.";

(d) paragraph 4 is deleted;

(5) The following Article is inserted:

"Article 11a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 10(1), (2) and (3) shall be conferred on the Commission for *a period of five years from ...*⁺. *The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*

⁺ OJ: Please insert the date of entry into force of this Regulation.

3. The delegation of power referred to █ in Article 10(1), (2) and (3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to █ Article 10(1),(2) and (3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by █ **four** months at the initiative of the European Parliament or of the Council."

Article 2

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

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

Done at ...,

For the European Parliament

For the Council

The President

The President

ANNEX TO THE LEGISLATIVE RESOLUTION

Commission Statement on delegated acts

In the context of this Regulation, the Commission recalls the commitment it has taken in paragraph 15 of the Framework Agreement on relations between the European Parliament and the European Commission to provide to the Parliament full information and documentation on its meetings with national experts within the framework of its work on the preparation of delegated acts.