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COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT
AND THE COUNCIL on the exercise of the power to adopt delegated acts
conferred on the Commission pursuant to 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
(FLEGT Regulation)

Delegations will find attached document COM(2018) 778 final.

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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**on the exercise of the power to adopt delegated acts conferred on the Commission
pursuant to 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 (FLEGT Regulation)**

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

On the exercise of the power to adopt delegated acts conferred on the Commission pursuant to Council Regulation (EC) 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community (FLEGT Regulation)

1. INTRODUCTION

In 2005, the European Union (EU) adopted Regulation (EC) No 2173/2005¹ of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community (hereinafter the FLEGT Regulation), as part of the implementation of the 2003 EU Action Plan on Forest Law Enforcement, Governance and Trade (FLEGT).

The FLEGT Regulation lays down rules for the implementation of the FLEGT licensing scheme by setting out requirements for imports into the EU of timber products originating in FLEGT partner countries and covered by a FLEGT licence. The conditions for issuing of FLEGT licences are set out in bilateral FLEGT Voluntary Partnership Agreements (VPAs) between the EU and partner countries.

To date 6 VPAs have been concluded with: Cameroon, the Central African Republic, Ghana, Indonesia, Liberia and the Republic of the Congo. Negotiations have been recently concluded with Vietnam² and Honduras³, while they are ongoing with 7 additional partner countries, notably Côte d'Ivoire, the Democratic Republic of the Congo, Gabon, Guyana, Laos, Malaysia and Thailand.

A period of time is generally required after conclusion of a FLEGT Agreement for the partner country to finalise practical arrangements for full operation of the FLEGT licensing scheme. The FLEGT licensing scheme became operational for the first time on 15 November 2016 with the start of the FLEGT licensing from Indonesia.

Indonesia is the only VPA country up to present that issues FLEGT Licences.

The FLEGT VPA between the EU and Indonesia entered into force on 1 May 2014⁴. In line with Articles 10(1) and 10(3) of the FLEGT Regulation, as amended by

¹ OJ L 347, 30.12.2005, p. 1

² [Council decision 2018/1528](#) on the signing of a FLEGT Voluntary Partnership Agreement between the EU and the Socialist Republic of Vietnam was adopted on 11 October 2018 (OJ L 257, 15.10.2018, p. 1). The FLEGT VPA was signed on 19 October 2018.

³ The EU and Honduras initialled a FLEGT VPA on 14 June 2018

⁴ Further information on the EU-Indonesia VPA is available at: [OJ L 150, 20.5.2014, p. 252](#) and [OJ L 213, 12.08.2015 p. 11](#).

Regulation (EU) No 657/2014⁵ of the European Parliament and of the Council of 15 May 2014 amending Council Regulation (EC) No 2173/2005 as regards the delegated and implementing powers to be conferred on the Commission, the decision to start the operation of the FLEGT licensing scheme in Indonesia involved the amendment, through a Commission Delegated Regulation⁶, of Annexes I and III to the FLEGT Regulation. With this amendment Indonesia and its Licensing Information Unit (LIU) were included in the list of "Partner countries and their designated licensing authorities" contained in Annex I. In addition, the list of products covered by the FLEGT licensing scheme in Indonesia were included in Annex III "Timber products to which the FLEGT licensing scheme applies only in relation to the corresponding partner countries".

2. LEGAL BASIS

The present report is required by Article 11(a)(2) of the FLEGT Regulation as amended by Regulation (EU) 657/2014. Pursuant to this provision, the power to adopt delegated acts referred to in Article 10(1), (2) and (3) is conferred on the Commission for a period of five years from 30 June 2014 and the Commission is required to make a report in respect of the delegation of power not later than nine months before the end of the five-year period, i.e. before 30 September 2018.

3. EXERCISE OF THE DELEGATION

Council Regulation (EC) No 2173/2005 confers powers upon the Commission in order to implement some of the provisions of that Regulation in particular as regards the amendment of its annexes I "Partner Countries and their Designated Licensing Authorities", II "Timber products to which the FLEGT licensing scheme applies irrespective of the partner country" and III "Timber products to which the FLEGT licensing scheme applies only in relation to the corresponding partner countries".

The Commission adopted one delegated act, the *Commission Delegated Regulation (EU) 2016/1387 of 9 June 2016, amending Annexes I and III to Council Regulation (EC) No 2173/2005 following a Voluntary Partnership Agreement with Indonesia for a FLEGT licensing scheme for imports of timber into the European Union*. The exercise of this empowerment responds to the need to amend Annex I and Annex III of the Regulation 2173/2005 in order to start the operations of the FLEGT Licensing scheme between the EU and Indonesia by adding Indonesia and its designated licensing authorities to the list of "Partner countries and their designated licensing authorities" contained in Annex I and the list of timber products to which the FLEGT licensing scheme applies in Annex III "Timber products to which the FLEGT licensing scheme applies only in relation to the corresponding partner countries".

⁵ OJ L 189, 27.6.2014, p. 108

⁶ OJ L 223, 18.8.2016, p. 1.

The Commission Expert Group on Forest Law Enforcement, Governance and Trade was consulted in meetings held on 18 May and 15 June 2015, and subsequently kept informed about progress in addressing remaining issues that were required before start of the FLEGT licensing scheme from Indonesia. The delegated act was adopted on 9 June 2016 and was notified to the European Parliament and to the Council. Neither the European Parliament nor the Council issued any objection to the delegated act within the period of 2 months as provided for in Article 11(a)(5) of the FLEGT Regulation as amended by Regulation (EU) [657/2014](#) . None of the institutions initiated an extension of the 2 months period by additional two months in accordance with the same provision.

On the expiry of the 2 months period, the delegated act was published in the Official Journal of the EU and its application started on 15 November 2016.

4. CONCLUSION

The Commission properly exercised its delegated powers and invites the European Parliament and the Council to take note of this report.

As it is likely that further FLEGT partner countries will start FLEGT licensing in the forthcoming period the Commission sees the need to extend the delegation of powers for a period of five years. The Commission will further exercise its delegated powers when other VPA partner countries are ready to start implementation of the FLEGT licensing scheme.