

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION DOCUMENTS

COM(2020) 340 final+ ANNEX

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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

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 HONDURAS ON FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE IN TIMBER PRODUCTS TO THE EUROPEAN UNION

Submitted by the Department for Environment, Food and Rural Affairs

11th August 2020

SUBJECT MATTER

1. In 2005 the European Council authorised the Commission to negotiate partnership agreements with timber producing countries in order to implement the EU Forest Law Enforcement, Governance and Trade Action Plan. The Action plan encourages trade in timber in the EU that is harvested legally and verified as such by the partner country. Once a timber producing country has agreed a Voluntary Partnership Agreement (VPA) with the EU and has subsequently met sufficient standards, they can issue FLEGT licences to verify legality of timber harvest.
2. The FLEGT licensing scheme is being built up through the establishment of a number of Voluntary Partnership Agreements (VPAs) governing the trade in specified timber and timber products between the EU and timber exporting countries. The VPA sets out the legality-verification systems and other measures putting in place FLEGT licence legality and assurance in the partnership country, and corresponding obligations of the European Union for receiving FLEGT licensed timber products at Member States' borders.
3. The EU / Republic of Honduras VPA is the eighth VPA to be concluded. The first VPA was concluded with Ghana in late 2009, subsequent VPAs have been concluded with Cameroon (2011), Central African Republic (2012), Republic of Congo (2013), Liberia (2013), Indonesia (2014) and Vietnam (2019). A further seven VPAs are currently under negotiation.

4. Currently only Indonesia has an approved licencing scheme and can issue FLEGT Licences. There is no date suggested by which Honduras could be able to issue Licences. It can take years from the signing of a VPA for a country to put in place the measures and systems required in the VPA to allow licences to be issued. The UK will not be party to this EU Honduras VPA post transition period.

SCRUTINY HISTORY

5. The Parliamentary scrutiny history relevant to this Explanatory Memorandum is contained in the attached Annex A.

MINISTERIAL RESPONSIBILITY

6. Responsibility lies with the Secretary of State for Environment, Food and Rural Affairs.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

7. The implementation of the FLEGT licensing scheme under EU law is a reserved matter under the UK's devolution settlements. In the case of these documents, no devolved administration interests arise, although the FLEGT Regulation is enforced UK wide. The Devolved Administrations were consulted in the preparation of this Explanatory Memorandum.

LEGAL AND PROCEDURAL ISSUES

8.

i. Legal basis

The proposed Decisions are based on Article 207(3) and the first paragraph of Article 207(4) of the Treaty on the Functioning of the European Union (TFEU), in conjunction with:

- Article 218(5) TFEU, in the case of the Council Decision on signing the VPA;
- Article 218(6)(a)(v) and 218(7), in the case of the Council Decision on concluding the VPA.

ii. European Parliament Procedure

In accordance with Article 218(10) TFEU, the European Parliament shall be immediately and fully informed at all stages of the procedure.

iii. Voting procedure

Article 218(8) TFEU requires the Council to act by a qualified majority.

iv. Impact on United Kingdom Law (including the impact on retained law, application of EU law during the transition period and under the Northern Ireland protocol)

The conclusion and signing of this VPA will have no impact on the United Kingdom during the transition period or under the Northern Ireland Protocol. As stated it could be years before Honduras is capable of issuing FLEGT licences.

The EU regulations that establish the FLEGT licensing system will apply directly in NI after the transition period. The UK position (not yet expressly accepted by the EU) is that the UK partnership agreements with partner countries will extend to NI. Therefore, in due course, UK will need to negotiate with Honduras to replicate that country's partnership agreement with the EU.

iv. Application to Gibraltar

The proposed Decisions does not apply to Gibraltar.

vi. Fundamental rights analysis

The report has no impact on fundamental rights.

APPLICATION TO THE EUROPEAN ECONOMIC AREA

9. Neither the FLEGT Regulation nor the proposed VPA apply to the EEA

SUBSIDIARITY

10. This Council Decision has Article 207 TFEU as its substantive legal base (common commercial policy). The EU has exclusive competence for the common commercial policy, so the principle of subsidiarity does not apply.

POLICY IMPLICATIONS (including implications for the application of EU law during the transition period and under the Northern Ireland Protocol)

11. The EU / Republic of Honduras VPA is a significant step towards Honduras being able to issue FLEGT licences as proof of legality for timber harvest once they have met the required standards. Although it could take some years for producer countries to meet the standards set out in the VPA.

12. The UK will no longer be party to EU VPAs post transition period and will then not be able to accept FLEGT licences from countries under the EU VPA. However, the UK is committed to FLEGT as a means of strengthening governance reform and tackling illegal logging in producer countries and has committed to replicating VPAs with producer countries as they become able to issue FLEGT licences to ensure

that UK timber traders can still import FLEGT licenced timber. To date we have agreed and ratified a VPA with Indonesia (the only country currently capable of issuing FLEGT licences), we are in the process of agreeing a VPA with Ghana and will shortly be beginning work on a VPA with Vietnam. Minister Coffey wrote to 7 remaining VPA countries including Honduras last year to express our continued commitment to FLEGT.

13. The conclusion and signing of this VPA will have no impact on the United Kingdom during the transition period or under the Northern Ireland Protocol. As stated it could be years before Honduras is capable of issuing FLEGT licences.
14. Due to the Northern Ireland Protocol, the EU regulations that establish the FLEGT licensing system will apply directly in NI after the transition period. The UK position (not yet expressly accepted by the EU) is that the UK partnership agreements with partner countries will extend to NI. Therefore, in due course, UK will need to negotiate with Honduras to replicate that country's partnership agreement with the EU.

CONSULTATION

15. We are not consulting UK stakeholders on the specific content of the FLEGT VPA with the Republic of Honduras. The operation of the FLEGT licensing scheme within the UK was consulted on in 2009 with broad support from stakeholders.
16. The VPA itself confirms that the Republic of Honduras will ensure that the implementation and monitoring of the agreement is done in a transparent manner. This will be achieved by working together with relevant stakeholders, including NGOs, relevant forest associations, enterprises, trade unions, local communities and people living in forest areas.

IMPACT ASSESSMENT

17. There are no likely impacts on UK businesses as a direct result of the conclusion and signing of the EU / Republic of Honduras VPA. This VPA will only start to affect UK businesses once Honduras is able to issue licences. As stated, however, the UK will no longer be a party to this VPA once the transition period ends.

FINANCIAL IMPLICATIONS

18. There are no cost implications expected for the UK.
19. The direct financial benefits of this Council proposal accrue to the Republic of Honduras as a result of the support the VPA will provide. Benefits include avoided loss of Government revenue in Honduras as a contribution to the costs and benefits associated with the wider FLEGT process.

20. Once a producer country has met the required standards set out in the VPA it can issue FLEGT licences to verify the legality of the timber in question. A FLEGT licence removes the need for importers to fulfil the due diligence requirement of the Timber Regulations and offers some cost and administrative benefits to the importer. However, as per para 4 it can take years from the signing of a VPA for a country to put in place the measures and systems required in the VPA to allow licences to be issued.

TIMETABLE FOR ADOPTION AND IMPLEMENTATION IN THE UK (WHERE APPROPRIATE)

21. There are no requirements for the UK to adopt or implement this Voluntary Partnership Agreement.

A handwritten signature in blue ink, consisting of a stylized 'A' followed by a long horizontal stroke that curves upwards at the end.

**THE RT HON THE LORD GOLDSMITH OF RICHMOND PARK
MINISTER OF STATE
DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS**

ANNEX A

PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO A:

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 (AND ANNEX)

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 HONDURAS ON FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE IN TIMBER PRODUCTS TO THE EUROPEAN UNION (AND ANNEX)

COM (2020) 307 final: REPORT FROM THE COMMISSION ANNUAL SYNTHESIS REPORT FOR THE YEAR 2018 ON THE IMPLEMENTATION OF THE FLEGT LICENSING SCHEME PROVIDED FOR IN REGULATION EC NO 2173/2005 OF 20 DECEMBER 2005 ON THE ESTABLISHMENT OF A FLEGT LICENSING SCHEME FOR THE IMPORTS OF TIMBER INTO THE EUROPEAN COMMUNITY (AND ANNEXES 1-2)

DATE EM SIGNED: 23/7/2020

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
NOT CLEARED	NOT CLEARED

EM 10085/19:REPORT FROM THE COMMISSION: ANNUAL SYNTHESIS REPORT FOR THE YEAR 2017 ON THE IMPLEMENTATION OF THE FLEGT LICENSING SCHEME PROVIDED FOR IN 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

DATE OF EM 19/06/2019

COMMONS	LORDS
NOT IMPORTANT CLEARED (AGENDA FOR REPORT NO 70; 03/07/2019)	CLEARED (ENERGY AND ENVIRONMENT) AT CHAIRMAN'S SIFT 1747 - 02/07/2019

EM 15157/18, COM(2018) 778 FINAL: 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)

DATE EM SIGNED: 20/12/2018

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
NOT IMPORTANT CLEARED (AGENDA FOR REPORT NO 50; 09/01/2019)	CLEARED (ENERGY AND ENVIRONMENT) AT CHAIRMAN'S SIFT 1721 - 08/01/2019

EM 9990/18, COM(2018) 448 FINAL: REPORT FROM THE COMMISSION 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 ANNUAL SYNTHESIS REPORT FOR THE YEAR 2016

DATE EM SIGNED: 21/06/2018

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
NOT IMPORTANT CLEARED (AGENDA FOR REPORT NO 39;10/10/2018)	CLEARED (ENERGY AND ENVIRONMENT) AT CHAIRMAN'S SIFT 1700 - 10/07/2018

EM 11648/16, SWD(2016) 275: COMMISSION STAFF WORKING DOCUMENT EVALUATION OF THE EU ACTION PLAN FOR FOREST LAW ENFORCEMENT GOVERNANCE AND TRADE (FLEGT)

11648/16 ADD 1, SWD(2016) 275:COMMISSION STAFF WORKING DOCUMENT EVALUATION OF THE EU ACTION PLAN FOR FOREST LAW ENFORCEMENT GOVERNANCE AND TRADE (FLEGT) EXECUTIVE SUMMARY

DATE EM SIGNED: 20/09/2016

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
POLITICALLY IMPORTANT, CLEARED (REPORT 13;11/10/16)	CLEARED (ENERGY AND ENVIRONMENT) AT CHAIRMAN'S SIFT 1631- 11/10/2016

EM 11760/13, COM (2013) 432 FINAL: 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 INDONESIA ON FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE IN TIMBER PRODUCTS TO THE EUROPEAN UNION

11761/13, COM (2013) 433 FINAL: PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION OF THE VOLUNTARY PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN UNION AND THE REPUBLIC OF INDONESIA ON FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE IN TIMBER PRODUCTS TO THE EUROPEAN UNION

DATE EM SIGNED: 18/07/2013

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
CLEARED AS NOT LEGALLY OR POLITICALLY IMPORTANT; CLEARED. REPORT NO 13 - 04/09/2013	CLEARED AT CHAIRMAN'S SIFT 1514 - 30/07/2013

EM 5984/13, COM(2013) 15 FINAL: 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

DATE EM SIGNED: 14/02/2013

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
CLEARED AS NOT LEGALLY OR POLITICALLY IMPORTANT - REPORT 33 - 27/02/2013	CLEARED AT CHAIRMAN'S SIFT 1497 - 26/02/2013

EM 10601/11, COM(2011) 282 FINAL: PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION OF A VOLUNTARY PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN UNION AND THE CENTRAL AFRICAN REPUBLIC ON FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE IN TIMBER AND DERIVED PRODUCTS TO THE EUROPEAN UNION (FLEGT)

DATE EM SIGNED: 07/07/2011

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
NOT LEGALLY OR POLITICALLY IMPORTANT; CLEARED - 13/07/2011	CLEARED AT THE CHAIRMAN'S SIFT - 19/07/2011

EM 10598/11, COM (2011) 277 FINAL: PROPOSAL FOR A COUNCIL DECISION ON THE SIGNING OF A VOLUNTARY PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN UNION AND THE CENTRAL AFRICAN REPUBLIC ON FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE IN TIMBER AND DERIVED PRODUCTS TO THE EUROPEAN UNION (FLEGT)

DATE EM SIGNED: 11/08/2011

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS

NOT LEGALLY OR POLITICALLY IMPORTANT; CLEARED ON 07/09/2011	CLEARED AT THE CHAIRMAN'S SIFT 23/08/2011
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EM 11847/11, COM(2011) 369 FINAL: 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 LIBERIA ON FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE IN TIMBER PRODUCTS TO THE EUROPEAN UNION

EM 11848/11, COM(2011) 371 FINAL: PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION OF THE VOLUNTARY PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN UNION AND THE REPUBLIC OF LIBERIA ON FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE IN TIMBER PRODUCTS TO THE EUROPEAN UNION

DATE EM SIGNED: 04/07/2011

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
NOT LEGALLY OR POLITICALLY IMPORTANT; CLEARED - 06/07/2011	CLEARED AT THE CHAIRMAN'S SIFT - 12/07/2011

EM 10601/11, COM(2011) 282 FINAL: PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION OF A VOLUNTARY PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN UNION AND THE CENTRAL AFRICAN REPUBLIC ON FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE IN TIMBER AND DERIVED PRODUCTS TO THE EUROPEAN UNION (FLEGT)

DATE EM SIGNED: 07/07/2011

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
NOT LEGALLY OR POLITICALLY IMPORTANT; CLEARED - 13/07/2011	CLEARED AT THE CHAIRMAN'S SIFT - 19/07/2011

EM 12793/10, COM (2010) 405 FINAL: PROPOSAL FOR A COUNCIL DECISION ON SIGNATURE OF A VOLUNTARY PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN UNION AND THE REPUBLIC OF CAMEROON ON FOREST LAW

ENFORCEMENT, GOVERNANCE AND TRADE IN TIMBER AND DERIVED PRODUCTS TO THE EUROPEAN UNION (FLEGT)

EM 12794/10, COM (2010) 406 FINAL: PROPOSAL FOR A COUNCIL DECISION ON CONCLUSION OF A VOLUNTARY PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN UNION AND THE REPUBLIC OF CAMEROON ON FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE IN TIMBER AND DERIVED PRODUCTS TO THE EUROPEAN UNION (FLEGT)

DATE EM SIGNED: 26/08/2010

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
CLEARED - NOT LEGALLY OR POLITICALLY IMPORTANT 08/09/2010	CLEARED AT CHAIRMAN'S SIFT, 20/09/2010

EM 5406/10, COM (2009) 0180: PROPOSAL FOR A COUNCIL DECISION ON THE SIGNING 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)

DATE EM SIGNED: 02/02/2010

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
CLEARED 09/02/2010	SIFTED SUB COMMITTEE D 09/02/2010
	CLEARED 08/04/2010

EM 11656/04 PROPOSAL FOR COUNCIL REGULATION CONCERNING THE ESTABLISHMENT OF A VOLUNTARY FLEGT LICENSING SCHEME FOR IMPORTS OF TIMBER INTO THE EU

SUPPLEMENTARY - 08/02/2005

DATE EM SIGNED: 27/09/2004

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
CLEARED AS LEGALLY AND POLITICALLY IMPORTANT - 20/07/2005	SIFTED TO SUB COMMITTEE D 12/10/2004 CLEARED 17/03/2005

