

CONSIDERING the importance attached by the Parties to development objectives agreed at international level and to the Millennium Development Goals of the United Nations;

CONSIDERING the importance attached by the Parties to the principles and rules which govern the multilateral trading systems, in particular the rights and obligations in GATT 1994 and in other multilateral agreements establishing the World Trade Organisation (WTO) and to the need to apply them in a transparent and non-discriminatory manner;

HAVING REGARD 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 ⁽¹⁾;

RECOGNISING that Ghana's legality assurance system is designed to ensure the legality of all timber exports;

HEREBY AGREE AS FOLLOWS:

Article 1

Objective

The objective of this Agreement, consistent with the Parties' common commitment to the sustainable management of all types of forest, is to provide a legal framework aimed at ensuring that all imports into the Community from Ghana of timber products covered by this Agreement have been legally produced and in doing so to promote trade in timber products. In addition, this Agreement provides a basis for dialogue and cooperation between the Parties to facilitate and promote the full implementation of this Agreement and enhance forest law enforcement and governance.

Article 2

Definitions

For the purposes of this Agreement, the following definitions shall apply:

(a) 'import into the Community' means the release for free circulation of timber products into the Community within the meaning of Article 79 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽²⁾ and which cannot be qualified as 'goods of a non-commercial nature' as defined in point 6 of Article 1 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽³⁾;

(b) 'export' means the physical leaving or taking out of timber products from any part of the geographical territory of Ghana;

(c) 'timber products' means the products listed in Annex I;

(d) 'HS Code' means a six digit code as set out in the Harmonised Commodity Description and Coding System

established by the International Convention on the Harmonised Commodity Description and Coding System of the World Customs Organisation;

(e) 'FLEGT licence' means a licence which refers to a shipment as being legally produced. A FLEGT licence may be paper-based or based on electronic means;

(f) 'licensing authority' means the authority designated by Ghana to issue and validate FLEGT licences;

(g) 'competent authorities' means the authorities designated by the EU Member States to receive, accept and verify FLEGT licences;

(h) 'shipment' means a quantity of timber products covered by a FLEGT licence that is sent by a consignor or a shipper from Ghana and is presented for release for free circulation at a customs office in the Community;

(i) 'legally-produced timber' means timber products harvested or imported and produced in accordance with the legislation as set out in Annex II.

FLEGT LICENSING SCHEME

Article 3

FLEGT Licensing Scheme

1. A 'Forest Law Enforcement, Governance and Trade licensing scheme' (hereinafter FLEGT licensing scheme) is hereby established between the Parties to this Agreement. It establishes a set of procedures and requirements aiming at verifying and attesting, by means of FLEGT licences, that timber products shipped to the Community were legally produced. In accordance with Council Regulation (EC) No 2173/2005, the Community shall only accept such shipments from Ghana for import into the Community if they are covered by FLEGT licences.

⁽¹⁾ OJ L 347, 30.12.2005, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

⁽³⁾ OJ L 253, 11.10.1993, p. 1.

2. The FLEGT licensing scheme shall apply to the timber products listed in Annex IA. The timber products in Annex IB may not be exported from Ghana.

3. The Parties agree to take all measures necessary to implement the FLEGT licensing scheme and in accordance with Article 12.

Article 4

Licensing Authority

1. Ghana shall designate its licensing authority. Ghana shall notify the contact details of its licensing authority to the European Commission. Both Parties shall make this information available to the public.

2. The licensing authority shall verify that timber products have been legally produced in accordance with the legislation identified in Annex II. The licensing authority will issue FLEGT licences covering shipments of legally-produced timber products for export to the Community.

3. The licensing authority shall not issue FLEGT licences for any timber products that are composed of, or include, timber products imported into Ghana from a third country in a form in which the laws of that third country forbid export, or for which there is evidence that those timber products were produced in contravention of the laws of the country where the trees were harvested.

4. The licensing authority will maintain and make publicly available its procedures for issuing FLEGT Licences. The licensing authority will also maintain records of all shipments covered by FLEGT Licences and, consistent with national legislation concerning data protection, will make these records available for the purposes of independent monitoring, while respecting the confidentiality of exporters' proprietary information.

Article 5

EU Competent Authorities

1. The European Commission shall inform Ghana of the contact details of the competent authorities of the EU Member States.

2. The competent authorities shall verify that each shipment is covered by a valid FLEGT licence prior to releasing that shipment for free circulation in the Community. The release of the shipment may be suspended and the shipment detained where there are doubts regarding the validity of the FLEGT licence. The procedures governing release for free circu-

lation in the Community for shipments covered by a FLEGT licence are described in Annex III.

3. The competent authorities shall not permit any timber product listed in Annex IB to be released for free circulation.

4. The competent authorities shall maintain and publish annually a record of FLEGT licences received.

5. According to national legislation on data protection, the competent authorities shall grant persons or bodies designated by Ghana as independent monitors, access to the relevant documents and data.

6. The Community competent authorities will not perform the action described in paragraph 2 for shipments of timber products derived from species listed in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) as these are covered by the provisions for verification set out in Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein ⁽¹⁾. The FLEGT licence system will none the less provide assurance of legal harvest of these products.

Article 6

FLEGT Licences

1. FLEGT licences shall be issued by the licensing authority as a means of attesting that timber products have been legally produced.

2. The FLEGT licence shall be laid out and completed in English.

3. The Parties may, by agreement, establish electronic systems for the issue, transmission and receipt of FLEGT licences.

4. The procedure for issuing FLEGT licences and the technical specifications are set out in Annex IV.

Article 7

Definition of Legally Produced Timber

For the purposes of this Agreement, a definition of 'legally produced timber' is set out in Annex II. The definition sets out Ghana's national and sub-national legislation that must be complied with in order for timber products to be covered by FLEGT licences. It also sets out the documentation including criteria and indicators that shall serve as proof of compliance with such legislation.

⁽¹⁾ OJ L 61, 3.3.1997, p. 1.