

Commission Notice
Customs and FLEGT Implementation Guidelines — Public Summary
(2014/C 389/02)

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1. INTRODUCTION

Illegal logging is a global problem with significant negative economic, environmental and social impact. Based on the Forest Law Enforcement Governance and Trade (FLEGT) Action Plan⁽¹⁾ the European Union (EU) has adopted subsequent FLEGT legislation⁽²⁾ that establishes a FLEGT licensing scheme for imports of timber into the EU. This legal framework establishes a control system for certain timber products exported from countries that have concluded a Voluntary Partnership Agreement (VPA) with the EU. Timber products exported from those countries must be covered by a FLEGT licence issued at the Partner Country assuring the legality of the timber (i.e. produced from domestic timber that was legally harvested or from timber that was legally harvested in a third country and imported into the Partner Country in accordance with national laws in the country of harvest). In order to ensure the effectiveness of the FLEGT licensing scheme, customs authorities in Member States shall not release for free circulation timber products subject to this scheme unless a FLEGT licence is presented and accepted by the Competent Authority in the Member State.

The main objective of the Guidelines is to support Customs in effectively carrying out their tasks in accordance with the FLEGT legislation⁽²⁾, setting out the FLEGT licensing scheme for imports of timber into the EU and the detailed measures for its implementation. In particular the Guidelines aim at providing a common approach towards harmonising the implementation by:

- creating an appropriate, recommended and, where possible, comprehensive approach for Customs implementation of the FLEGT legislation,
- establishing recommendations for enhanced cooperation between Customs and Competent Authorities.

Consequently the document is structured as follows:

- (1) Introduction, where the document is presented;
- (2) Import of FLEGT timber — basic principles, where the import process is described;

⁽¹⁾ Communication from the Commission to the Council and the European Parliament on an EU Forest Action Plan.

⁽²⁾ 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) and Commission Regulation (EC) No 1024/2008 of 17 October 2008 laying down detailed measures for the implementation of Council Regulation (EC) No 2173/2005 on the establishment of a FLEGT licencing scheme for imports of timber into the European Community (OJ L 277, 18.10.2008, p. 23).

- (3) Recommendation for cooperation between authorities, where national agreements are suggested, specific issues are analysed and examples are given;
- (4) Annexes I, II and III, where the terminology and legal provisions are included for reference.

These Guidelines have been drafted in due time before the first VPA becomes operational in order to give the necessary guidance for this new task for customs authorities from the outset. It will be necessary to review the Guidelines on the basis of practical experience and changes in the legal framework. The Guidelines have been drafted in cooperation with the Members States' experts from customs and competent authorities and should not be considered mandatory.

2. IMPORT OF FLEGT TIMBER — BASIC PRINCIPLES

FLEGT is based on bilateral trade agreements (VPAs) between the EU and Partner Countries including the necessary arrangements to ensure that timber exported from a Partner Country to the EU is legally harvested. Each timber shipment will need a FLEGT licence issued by the Licensing Authority in the Partner Country to certify its legality. The import into the EU is only allowed with a FLEGT licence and the main role of the EU Customs is to ensure that a valid FLEGT licence is presented. Afterwards, once on the European internal market, FLEGT timber benefits from presumption of compliance with the EU Timber Regulation ⁽¹⁾.

The product scope is different depending on what has been agreed in the VPA with the Partner Country. Annexes I, II and III of the FLEGT Regulation include the list of countries and products for which a FLEGT licence is required at import. Non-commercial goods, products covered by CITES ⁽²⁾ documents and timber transiting through a Partner Country are exempted from the presentation of a FLEGT licence.

When bringing goods into the customs Territory of the Community, the importer has to lodge a customs declaration and the declarant can choose between different customs procedures which are designed to address specific economic needs. According to the FLEGT legislation importing is defined as the customs procedure 'release for free circulation' and this includes paying the customs duties, excise duties if applicable and VAT for the goods. The declarant also has to comply with specific restrictions that may apply to the goods declared, for example the requirement to present a FLEGT licence for timber or timber products. As soon as the duties are charged and evidence is given that all other conditions for the importation of the goods are fulfilled the customs authorities release the goods. The goods change their status from Non-Community-Goods into Community-Goods and they can be placed in the internal market without prejudice to any other applicable legislation.

The declaration for release for free circulation does not necessarily have to be lodged at the customs office where the timber arrives in the EU. There are also procedures available that allow for the storage, processing or transport of goods under customs supervision. When goods are transported to another place in the EU, even another Member State, the customs declaration for release for free circulation can be lodged with the customs authorities at the point of destination. During the customs treatments or procedures that precede the release for free circulation the FLEGT licence is not required.

When FLEGT timber is declared for release for free circulation, Customs must ensure that the FLEGT licence has been approved ⁽³⁾ by the Competent Authority in the same Member State. Otherwise the customs authorities shall not release the timber. National procedures may define how this is done in practice, whilst the FLEGT legislation provides for the following grounds:

- EU Customs can identify FLEGT Timber by the country of dispatch and the Harmonized System code up to 6 digits. This will be reflected in the Annexes I, II and III of the FLEGT Regulation, duly updated, and subsequently integrated in TARIC ⁽⁴⁾.
- Products included in Annexes A, B and C of the EU Wildlife Trade Regulation ⁽⁵⁾ (CITES) are exempted from the FLEGT formalities at import. Other relevant exceptions are non-commercial goods and products that transited the Partner Country under customs supervision. VPAs may include an Annex IB listing products that may not be exported from the Partner Country and therefore may not be FLEGT licensed.

⁽¹⁾ Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (OJ L 295, 12.11.2010, p. 23).

⁽²⁾ Convention on international trade in endangered species of wild fauna and flora.

⁽³⁾ The term used in the FLEGT legislation is 'accept'; however, in this document it is replaced by 'approve' to better describe the role of Competent Authorities when verifying the FLEGT licences.

⁽⁴⁾ The online integrated Community Tariff based on Council Regulation (EEC) No 2658/87 on packing materials which transposes the same interpretation rule from the Harmonized System (OJ L 256, 7.9.1987, p. 1).

⁽⁵⁾ Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein (OJ L 61, 3.3.1997, p. 1).

- The FLEGT licence has to be presented to the Competent Authority in the same Member State where the customs declaration for release for free circulation will be lodged. The FLEGT licence can be presented in advance but not later than the moment when the customs declaration is lodged. At a later stage, Competent Authorities shall be informed on the customs declaration that corresponds to each FLEGT licence.
- The Competent Authority verifies the licence and informs Customs on its decision to approve it.
- For verification purposes, the European Commission will provide Customs and Competent Authorities with specimens and other details of the Licensing Authorities.
- Further verifications of the licence and the shipment are possible; Customs and Competent Authorities should closely cooperate and agree on the tasks to be performed by each service.
- Competent Authorities may request additional information from the Licensing Authority following procedures described in each VPA.
- Given the nature of timber products, weight or volume at import may deviate up to 10 % from those declared in the FLEGT licence.
- Costs incurred while verification is completed shall be at the expense of the importer, except where the Member State determines otherwise.
- In Box 44 of the Single Administrative Document (SAD) on which the customs declaration for release for free circulation is made, reference shall be made to the FLEGT licence. The certificate code number C690 for FLEGT licences has to be selected and the number of the licence covering the shipment has to be declared.
- FLEGT licences can be paper based or electronic licences, and when necessary authorities can request a translation, with the costs borne by the importer. When licences are paper based, the FLEGT implementing Regulation and the VPAs foresee a copy for EU Customs; this copy is conceived as an extra instrument to facilitate communication with or between authorities but it is not mandatory to present it to Customs.
- Customs can suspend the release for free circulation in case they suspect the licence may not be valid. Then, the Competent Authority shall act in accordance with national legislation in force when provisions set in the FLEGT legislation are infringed (and the applicable provisions in the VPA, which may require prompt communication to the Partner Country).
- Records of FLEGT licences and related customs declaration received, and relevant data on non-compliant shipments, have to be kept in order to fulfil reporting obligations. The European Commission shall provide a format for the annual reports.
- Competent Authorities shall grant the appointed independent auditor⁽¹⁾ access to relevant documents and data, within the limits of relevant national law, to cross check information from the Licensing Authority and to review EU verification procedures.

3. RECOMMENDATIONS FOR COOPERATION BETWEEN AUTHORITIES

In those cases where Competent Authorities are different from the customs authorities, the cooperation and communication between authorities is a key element of the implementation process of border controls under the FLEGT legislation.

The legislation foresees different ways of cooperation: communication on accepted licences⁽²⁾, delegation of functions to Customs⁽³⁾, coordination of verifications procedures⁽⁴⁾ or data exchange by electronic means⁽⁵⁾, inter alia.

In order to ensure proper implementation and a common approach, **it is recommended that cooperation between Customs and Competent Authorities**, and when they are involved other authorities with competencies in related fields, **is based on formal national agreements**.

⁽¹⁾ Third party monitoring as per Article 5(3) of the FLEGT Regulation.

⁽²⁾ Article 6(2) of the FLEGT Implementing Regulation — Regulation (EC) No 1024/2008.

⁽³⁾ Article 12 of the FLEGT Implementing Regulation — Regulation (EC) No 1024/2008.

⁽⁴⁾ Article 13 of the FLEGT Implementing Regulation — Regulation (EC) No 1024/2008.

⁽⁵⁾ Article 14(2) of the FLEGT Implementing Regulation — Regulation (EC) No 1024/2008.

For the establishment of national agreements and the development of operational procedures, **the following steps should be ideally taken:**

- Establishment of contacts between Customs and Competent Authorities ⁽¹⁾ — at strategic, management and operational expert level.
- Finding of an appropriate approach and formal layout to ensure that agreements will be established in a proper way.
- Determination of the elements of the agreements (national terms of reference) on which further common cooperation between Customs and Competent Authorities will be based. These national terms of reference should be based on the recommendations in these Guidelines, and should take account of the specific provisions in the national legislations and/or administrative structure.
- Implementation of the agreements into practical operational procedures to be carried out during the control process.

It is **recommended to include the following elements into national cooperation agreements:**

- **Enhanced cooperation** including terms for an efficient and effective long-term cooperation:
 - regular meetings between Customs and Competent Authorities at appropriate strategic, management and operational level with agreed terms of reference;
 - early communication between Customs and Competent Authorities concerning upcoming policy and legislative proposals with impact on both authorities;
 - rapid response cooperation system for dealing with emerging situations, new types of infringements or high risk economic operators;
 - means for technical assistance for officers and services in charge of verifications.
- **Distributions of tasks:** agreed roles, tasks and responsibilities on controls to be undertaken by Customs and/or Competent Authorities, taking account of the national structures and local situations. Tasks that should be agreed upon are at least the following:
 - additional verifications of the licence;
 - additional verifications of the shipment;
 - storing and gathering data for recording ⁽²⁾ and reporting ⁽³⁾ obligations.
- **Communication between authorities:**
 - list of contact points of both authorities — Customs and Competent Authority, including a revision clause to ensure regular updates;
 - means and procedures for communication between Customs and Competent Authorities related to the acceptance of the licence, the control process and the results of any further verifications;
 - terms for intelligence exchange related to the risk management, including bidirectional feedback and reliable intelligence network;
 - clear provisions on what information (including nominal data) can be exchanged between Customs and Competent Authorities and under which conditions;
- **Implementation and enforcement:**
 - joint development and distribution of **operational procedures** with clear instructions for officers, in particular for the control and verification activities;
 - common interpretation or implementation agreements for particular cases, such as FLEGT shipments that are also CITES, that are imported under simplified procedures, that have been split in several customs declarations, that have a country of origin different from the country of export, that are non-commercial goods, or that show inconsistencies with the licence (see further explanations below);

⁽¹⁾ List of Competent Authorities: <http://ec.europa.eu/environment/forests/pdf/LIST%20of%20CAs.pdf>

⁽²⁾ Article 5(1) of the FLEGT Regulation — Regulation (EC) No 2173/2005.

⁽³⁾ Article 8(1) of the FLEGT Regulation — Regulation (EC) No 2173/2005.

- shared instructions and information to economic operators and declarants;
- reciprocal training of responsible officers and common training sessions;
- periodical exchange of import data in order to detect discrepancies;
- enforcement projects or joint operations, with agreed terms of reference;
- clear procedures for disposal of detained goods including the handling of costs arising from storage;
- arrangements for handling paper licences and avoiding fraudulent reuse of a licence.

Further recommendations and examples are given in the following pages for the elements underlined in the text above.

3.1. **Technical assistance for officers and services in charge of verifications**

When Customs are tasked with the verification of the shipment it is recommended that the national agreement includes terms for the Competent Authorities to provide technical assistance at different levels:

- Training and guidance in technical aspects (e.g. measurements and identification of species)
- Technical input in the development of operational procedures for inspections (instructions, checklists, forms, correlation tables, etc.)
- Technical assistance on the spot during controls
- Laboratory services if available, or information on reliable services
- Providing connection for technical assistance from the Partner Country

It is advisable to include the exchange of information, training and resources between authorities in a Member State or in different Member States, making available expertise and laboratory services. It is recommended to involve Partner Countries in this process, providing knowledge of their own products, expertise and samples of wood for laboratory analysis.

3.2. **Communication between Authorities during controls**

It is necessary that the Member States arrange for adequate communication channels between Competent Authorities and Customs. Those arrangements must ensure that Customs know without delay that the FLEGT licence is approved by the Competent Authority, but also that other information related to the control process is exchanged. It is recommended that national authorities put in place communication tools and procedures according to their national structure, and that they foresee at least the following:

- as soon as reasonably possible after the FLEGT licence is approved by the Competent Authority the information must be available for Customs;
- this information can be accompanied by additional elements according to the distribution of tasks agreed at national level, such as the request to perform further verifications of the licence or the shipment, specific details that Customs should look at, or relevant information for the risk profile;
- a negative decision could also be made available to Customs, hence the communication system could include the cases where the Competent Authorities do not accept a FLEGT licence;
- during the customs controls, Customs may need to inform or consult the Competent Authority when they suspect that the FLEGT licence is not valid or does not correspond to the shipment;
- records on customs declarations related to FLEGT timber, and relevant data on non-compliant shipments, have to be shared in order to fulfil reporting obligations;
- communication channels should be robust and secured;
- when communication is based on paper licences, including the possible use of the paper copy for Customs, there should be clear procedures to avoid fraudulent re-use of FLEGT licences.

3.3. CITES and FLEGT timber

The FLEGT Regulation and the existing VPAs state that timber products subject to the EU Wildlife Trade Regulation (annexes A, B and C) will not undergo the procedure described for the FLEGT licenced products at the EU border. Nevertheless, existing VPAs apply their FLEGT legality assurance system also to CITES species and therefore it could be the case that in practice some CITES timber shipments are accompanied by both a CITES import permit (annexes A and B) or a CITES import notification (annex C) and a FLEGT licence as well.

It is recommended that for those cases where a FLEGT licence is declared for CITES timber, the relevant Competent Authorities are informed. Customs may also report irregularities regarding CITES requirements in timber from Partner Countries to the Competent Authority, aiming at facilitating the review of the provisions on CITES as indicated in Article 4(3) of the FLEGT Regulation.

If the FLEGT licence is available for Customs or Competent Authorities, irregularities in the FLEGT licence should lead to further verifications pursuing CITES compliance.

3.4. Commercial and non-commercial goods

Goods of non-commercial nature are exempted from FLEGT controls at import. The distinction between commercial and non-commercial goods is gaining importance in a context of growing mobility of persons and goods at all levels. Travellers, professionals providing services, persons changing residence or consumers buying via distance commerce that entail direct supply via postal and courier services, are all examples of situations where customs may be confronted with timber products coming from VPA countries.

The FLEGT Regulation makes reference to the definition of non-commercial goods laid down in Regulation (EEC) No 2454/93⁽¹⁾. Accordingly, non-commercial goods in the FLEGT context are those timber products that fulfil the following conditions:

- whose entry for **release for free circulation** is on an **occasional** basis
- **and:**
 - whose **nature and quantity** indicate that they are intended for **private, personal or family use** of the consignees or persons carrying them,
 - **or** which are clearly intended as **gifts**.

It is recommended that Customs inform Competent Authorities in the Member State about criteria applied for assessing the commercial or non-commercial nature of timber shipments, and inform as well economic operators and other stakeholders in the limits of their means and competences.

Besides, VPAs may cover packing materials under Combined Nomenclature heading 4415. Nonetheless, when packing materials are exclusively used to support, protect or carry other goods they should not be subject to FLEGT controls at import. This interpretation is not inferred from the definition of non-commercial goods but from the provisions on the relevant VPAs. Furthermore, these VPAs make reference to the commodity codes of the International Convention on the Harmonized System and should be read together with the Harmonized System Interpretation Rule 5(a) and (b) on packing materials⁽²⁾.

3.5. Controls under Simplified Customs Procedures

Customs authorities may grant an economic operator — who applies for it and who fulfils certain conditions and criteria — with an authorisation for Simplified Procedures. This economic operator can then benefit from simplified formalities relating to its customs declarations and clearance whenever he imports or exports into/from the EU. The use of Simplified Procedures for importing FLEGT timber should not compromise the effectiveness of the enforcement of the FLEGT legislation. The following recommendation should be taken into account in the authorisation for simplified procedures for timber operators:

- When customs authorities receive an application for a Simplified Procedure that may cover FLEGT timber the Competent Authority may provide its opinion before the authorisation is granted.

⁽¹⁾ Commission Regulation (EEC) 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

⁽²⁾ See also the general interpretative rule 5(a) and (b) of the Combined Nomenclature, Regulation (EEC) No 2658/87 (OJ L 256, 7.9.1987, p. 1) on packing materials which transposes the same interpretation rule from the Harmonized System.

- The authorisation should foresee conditions assuring that FLEGT provisions are fully respected and that the necessary controls can be performed, by including clear terms on the following aspects:
 - Before FLEGT timber falling into the scope of the FLEGT Regulation can be released for free circulation a FLEGT licence must have been approved by the Competent Authority.
 - The customs authorities must have the possibility to carry out checks before the timber is released.
 - The release of FLEGT timber before the Competent Authority approves the FLEGT licence represents an infraction of the FLEGT legislation. The case has to be reported to the Competent Authority and they shall act in accordance with national legislation. The authorisation for the Simplified Procedure should be reviewed in order to verify whether the conditions for maintaining the authorisation are still fulfilled.
- Existing authorisations should be reviewed and aligned to the above recommendations where applicable.

3.6. Handling licences in split shipments

According to the definition of 'shipment' in the FLEGT Implementing Regulation, one single FLEGT licence should not be declared to more than one customs office in the EU. Moreover, for correct clearance at Customs, it is recommended that one single FLEGT licence should not correspond to more than one customs declaration.

In order to avoid goods covered by a single FLEGT licence being split into more than one customs declaration or more than one customs office in the EU, the issuance of the FLEGT licence should be linked to the quantity of timber products sent at the same time and presented for release for free circulation at the same time at a single customs office, as far as it is reasonable to foresee at the moment of issuance. It is recommended that Customs and Competent Authorities raise awareness on this issue among the economic operators and other stakeholders in the limits of their means and competences.

In the case a shipment covered by a single FLEGT licence happens to be split, Customs should notify the Competent Authority of the inconsistency between the goods presented to Customs and the FLEGT licence. Customs should not release the goods unless the Competent Authority confirms that a valid FLEGT licence (possibly a corrected duplicate) is presented in relation with the declared goods. Close cooperation between authorities and clear procedures are required.

3.7. Partner Country of export

Export is defined in the FLEGT legislation as the physical leaving of timber products from the territory of a Partner Country to bring them into the Union; therefore, the Partner Country of export is identified in the customs declaration as the country of dispatch (SAD Box 15).

The definition of export would also entail that products transiting a Partner Country's territory would require a FLEGT licence from that country for the release for free circulation in the EU. However, in practice it is not feasible to properly assure the legality of a shipment that is transiting. Therefore VPAs exclude timber products in transit through their territory from the licensing scheme. In this context, VPAs define timber products in transit as those originating from another third country transiting the Partner Country under customs supervision and leaving it in the same way whilst retaining its country of origin.

Although the exemption for timber products in transit through Partner Countries is not foreseen in the FLEGT Regulation, from the purpose and structure of the VPAs it could be inferred that the transit cases defined above are exempted from the presentation of a FLEGT licence for the release for free circulation in the EU. Transit through the Partner Country must be proven to the customs authorities in the EU with valid documentary evidence. The European Commission will provide Customs and Competent Authorities with specimens and other details of the Partner Country customs documentation that confirms goods transited across their territory under their customs supervision. It is recommended that customs authorities in the Member States establish clear procedures for handling this exemption and raise awareness among the economic operators and other stakeholders in the limits of their means and competences.

3.8. Verification of FLEGT licences

Determining the validity of a FLEGT licence is the responsibility of the Competent Authority and Customs may be assigned or delegated with verification tasks according to national agreements and procedures. The validity of a licence is determined by three main aspects:

- its authenticity, meaning that it has been issued and validated by a Licencing Authority;
- its validity period, meaning that it is lodged with the Competent Authority before it expires;

- its correspondence to the shipment, meaning that the details in the licence match with other accompanying documents and with the shipment itself. This is where Customs may provide better support in the verification process.

It is recommended that authorities establish clear procedures and criteria for verifying the correspondence between the licence and the shipment, establishing which elements in the FLEGT licence are comparable to data in the customs declaration or in other relevant documents. It is also recommended to inform economic operators and other relevant stakeholders on these criteria to facilitate accomplishment.

3.9. Disposal of detained timber

According to the FLEGT legislation customs authorities may suspend the release of or detain timber products where they have reason to believe that the licence may not be valid. If Competent Authorities establish that this is the case, they shall act in accordance with national legislation in force.

In case of non-compliance authorities should follow applicable legislation and procedures, including the customs legislation since the goods have a non-Community status. However, it is recommended that, for those aspects that are not described in detail by the applicable legislation or existing procedures, national agreements include clear provisions on the follow-up actions after an infringement, in particular regarding the disposal of the goods.

ANNEX I

GLOSSARY

CITES

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, implemented in the Union by the Council Regulation (EC) No 338/97 (OJ L 61, 3.3.1997) (as amended) on the protection of species of wild fauna and flora by regulating trade therein — the so-called Wildlife Trade Regulation.

Competent Authority(ies)

Article 2(8) Regulation (EC) No 2173/2005

The authority(ies) designated by Member States to receive, accept and verify FLEGT licences. Customs could be designated Competent Authority or be delegated with tasks.

List of Competent Authorities:

<http://ec.europa.eu/environment/forests/pdf/LIST%20of%20CAs.pdf>

Country of dispatch

Annex 37 Regulation (EEC) No 2454/93

Article 7(1)(b) Regulation (EC) No 1917/2000

The country of dispatch linked to the definition of country of consignment. Both mean the country from which the goods were initially dispatched to the importing Member State, and it is to be filled in Box 15 of the Single Administrative Document (SAD) in which the declaration for release for free circulation is made.

Country of origin

Article 22-27 Regulation (EEC) No 2913/92

The country of origin is defined in Title II of the Community Customs Code (Articles 22-27) and it is to be filled in Box 34 of the Single Administrative Document (SAD) in which the declaration for release for free circulation is made.

Customs controls

Article 4(14) Regulation (EEC) No 2913/92

The specific acts performed by the customs authorities in order to ensure the correct application of customs legislation and other legislation governing entry into the Union market, such as the FLEGT legislation.

Customs Territory

Article 3 Regulation (EEC) No 2913/92

The Customs Territory shall comprise the territories listed in Article 3 of the Community Customs Code as amended by the Article 286(4) of Regulation (EU) No 952/2013 (OJ L 269, 10.10.2013).

Economic operator

Article 5(5) Regulation (EU) No 952/2013

The natural or legal person who, in the course of his or her business, is involved in activities covered by the customs legislation. When his or her business is the forestry or transformation or trade of timber products, it is referred to as *timber operator* (see 'timber operator' entry).

Export

Article 2(13) Regulation (EC) No 2173/2005

The physical leaving or taking out of timber products from any part of the geographical territory of a Partner Country to bring them into the Union.

FLEGT — Forest Law Enforcement, Governance and Trade licensing scheme

Regulation (EC) No 2173/2005

The FLEGT licensing scheme, means the issuing of licences for legally produced timber or timber products covered under a Voluntary Partnership Agreement for export to the Union from Partner Countries and its implementation in the EU.

FLEGT licence

Article 2(5) Regulation (EC) No 2173/2005

Means a shipment-based document of a standard format which is to be forgery-resistant, tamper-proof, and verifiable, and which refers to a shipment as being in compliance with the requirements of the FLEGT licensing scheme, duly issued and validated by a Partner Country's licensing authority. Systems for issuing, recording and communicating licences may be paper-based or based on electronic means, as appropriate.

The FLEGT Regulation foresees the possibility of market participant-based FLEGT licences, but at the time of issuing these Guidelines all VPAs (ratified, signed or under negotiation) only consider shipment-based licences.

FLEGT shipment — FLEGT timber

See definitions for 'shipment' and 'timber products'.

Import

Article 2(11) Regulation (EC) No 2173/2005

The release for free circulation of timber products within the meaning of Article 79 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code.

Legally produced timber

Article 2(10) Regulation (EC) No 2173/2005

Timber products produced from domestic timber that was legally harvested or timber that was legally harvested in a third country and imported into a Partner Country in accordance with national laws determined by that Partner Country as set out in the Partnership Agreement.

Licensing authority(ies)

Article 2(7) Regulation (EC) No 2173/2005

The authority(ies) designated by a Partner Country to issue and validate FLEGT licences.

National agreements

The total of all formal arrangements in a Member State between Customs and Competent Authorities, including, inter alia, Memoranda of Understanding, practical arrangements, procedures, action plans, etc.

Partner Country

Article 2(2) Regulation (EC) No 2173/2005

Means any State that enters into a Voluntary Partnership Agreement.

Release for free circulation of goods

Article 79 Regulation (EEC) No 2913/92

Customs procedure that confers on non-Community goods the customs status of Community goods and allows their release into the Single Market. It entails the application of commercial policy measures, completion of the other formalities laid down in respect of the importation of goods and the charging of any duties legally due.

Release of goods

Article 4(20) Regulation (EEC) No 2913/92

The act whereby the customs authorities make goods available for the purposes specified for the customs procedure under which they are placed.

Shipment

Article 2(1) Regulation (EC) No 1024/2008

A quantity of timber products set out in Annexes II and III to Regulation (EC) No 2173/2005 covered by a FLEGT licence which is sent from a Partner Country by a consignor or a shipper and which is presented for release for free circulation at an EU customs office.

Simplified procedureArticle 76(1) Regulation (EEC) No 2913/92
Article 253(1-3) Regulation (EEC) No 2454/93

The local clearance procedure and the simplified declaration procedure as defined below:

Simplified declaration procedure: Customs authorities may authorize any person to have goods placed under a customs procedure on the basis of simplified declaration which may omit certain of the particulars and supporting documents required for standard customs declaration.

Local clearance procedure: The procedure enabling the entry of goods for the customs procedure at the premises of the person concerned or at other places designated or approved by the customs authorities. This procedure is described in Article 253 of Regulation (EEC) No 2454/93 and entitles economic operators authorised for this purpose not to notify to the Customs the arrival of the goods.

Timber operator

Article 2(6) Regulation (EC) No 2173/2005

Article 5(5) Regulation (EU) No 952/2013

The natural or legal person actor involved in forestry or transformation or trade of timber products; who, in the course of his or her business, is involved in activities covered by the customs legislation.

Timber products

Article 2(9) Regulation (EC) No 2173/2005

The products set out in Annexes II and III, to which the FLEGT licensing scheme applies, and which, when imported into the Community, 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.

VPA — Voluntary Partnership Agreement

Article 2(3) Regulation (EC) No 2173/2005

Means a legally binding trade treaty between the EU and a Partner Country by which the Union and that Partner Country undertake to work together in support of the FLEGT Action Plan and to implement the FLEGT licensing scheme.

ANNEX II

LEGAL FRAMEWORK

Legal Act	Reference	Hyperlink
FLEGT Regulation	Council Regulation (EC) No 2173/2005	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX: 32005R2173:EN:NOT
FLEGT Implementing Regulation	Commission Regulation (EC) No 1024/2008	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX: 32008R1024:EN:NOT
FLEGT Action Plan	COM(2006) 302 final	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX: 52006DC0302:EN:NOT
Timber Regulation	Regulation (EU) No 995/2010	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX: 32010R0995:EN:NOT
Timber Delegated Regulation	Commission Delegated Regulation (EU) No 363/2012	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX: 32012R0363:EN:NOT
Timber Implementing Regulation	Commission Implementing Regulation (EU) No 607/2012	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX: 32012R0607:EN:NOT
CITES Convention (EU accession)	OJ L 384, 31.12.1982, pp. 7-54	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX: 21973A0303(01):EN:NOT
Wildlife Trade Regulation	Council Regulation (EC) No 338/1997	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX: 31997R0338R(03):EN:NOT
Wildlife Trade Implementing Regulation	Commission Regulation (EC) No 865/2006	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX: 32006R0865:EN:NOT
Wildlife Trade Permit Regulation	Commission Implementing Regulation (EU) No 792/2012	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX: 32012R0792:EN:NOT
Republic of Cameroon VPA	OJ L 92, 6.4.2011, pp. 4-125	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX: 22011A0406(02):EN:NOT
Republic of Ghana VPA	OJ L 70, 19.3.2010, pp. 3-75	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX: 22010A0319(01):EN:NOT
Liberia VPA	OJ L 191, 19.7.2012, pp. 3-90	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX: 22012A0719(01):EN:NOT
Indonesia VPA	OJ L 150, 20.5.2014, pp. 252-335.	http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv: OJ.L_.2014.150.01.0252.01.ENG
Central African Republic VPA	OJ L 191, 19.7.2012, pp. 103-256	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX: 22012A0719(02):EN:NOT

Legal Act	Reference	Hyperlink
Republic of the Congo VPA	OJ L 92, 6.4.2011, pp. 127-238	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX: 22011A0406(03):EN:NOT
Community Customs Code	Council Regulation (EEC) No 2913/92	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX: 31992R2913:EN:NOT
Implementing Provisions of the Customs Code	Commission Regulation (EEC) No 2454/93	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX: 31993R2454:EN:NOT

ANNEX III

COMMUNICATION

The table below contains communication provisions mentioned by the FLEGT Regulation (Council Regulation (EC) No 2173/2005) and its Implementing Regulation (Commission Regulation (EC) No 1024/2008) related to the general public or the economic operators.

Nr.	Source	Receiver	Message	Legislative reference
1	European Commission	Public	Annual synthesis report based on Member States reports	FLEGT R Article 8(3)
2	European Commission	Public	Amendment Annex I of FLEGT R.	FLEGT R Article 10(1)
3	European Commission	Public	Amendment Annex II of FLEGT R.	FLEGT R Article 10(2)
4	European Commission	Public	Amendment Annex III of FLEGT R.	FLEGT R Article 10(3)
5	Competent Authorities	Economic operator	Further verification of shipment	FLEGT R Article 5(4)
6	Economic operator	Competent Authorities/ Customs	Lodging original copy of FLEGT licence and Customs declaration for releasing the goods into free circulation	FLEGT R Article 5(1)
7	Economic operator	Competent Authorities/ Customs	The translation of the licence to the official language of the MS	Implementing R. Article 5.
8	Economic operator	Competent Authorities	Lodging of FLEGT licence	Implementing R. Article 6(1)
9	Economic operator	Customs	Lodging Customs declaration Box 44 of SAD: licence number	Implementing R. Article 11(1)