



Further information and details can be found on the FLEGT VPA

website at: [www.apv-flegtcongo.org](http://www.apv-flegtcongo.org)

## Important facts about the Voluntary Partnership Agreement Forest Law Enforcement, Governance and Trade

### Information Brochure for Forest Companies

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Between the Republic of Congo  
and the European Union



April 2013

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## Times are changing for the timber market

In order to tackle illegal logging, the main world timber markets are responding to new policies and legislative instruments.

In 2003, the European Commission published its Action Plan on Forest Law Enforcement, Governance and Trade (FLEGT). The Action Plan, which affects producing as well as exporting countries, includes measures to promote legal timber trade and discourage illegal trade.

It is based on two main components:

➡ **Developing a guaranteed legal timber supply from producing countries** that enter into a Voluntary Partnership Agreement (VPA) with the EU. These agreements establish a legality assurance system in producing countries and an export licensing system for issuing FLEGT licences.

➡ **Eliminating illegal timber** throughout the European market with the coming into force in March 2013 of a new regulation called the EU Timber Regulation.

The Regulation requires all operators who are placing timber on the European market to confirm its legality, by having to undertake what is known as due diligence.

Other countries are also committed to combating illegal logging and the associated timber trade.

In 2008, the United States passed a new law banning US importers from buying illegally sourced timber. With the 2012 Illegal Logging Prohibition Act, Australia also joined international efforts to promote trade in legal timber.

Timber processed in Asia is often exported to Europe. Since 2011, China has thus been investigating common measures which could be

part of the bilateral coordination mechanism between the European Union and China.

All these initiatives are likely to encourage buyers in these markets to seek legality assurance when sourcing timber, so that they can demonstrate that they have done everything in their power to ensure the legal origin of the timber they are selling.



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## Congo's response: the FLEGT VPA

On 17 May 2010, Congo signed a FLEGT Voluntary Partnership Agreement (VPA) with the European Union in order to respond to the laws passed by importing countries. This agreement is central to the EU FLEGT Action Plan.

By signing the agreement, the government of Congo is committed to ensuring that all of the country's forestry businesses comply with the legality and traceability requirements of the

legality assurance system. This covers all timber and timber products produced, imported or in transit in Congo. All timber and timber product flows in Congo must meet the requirements of the legality assurance system.



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The legality assurance system is based on:

### ➡ A timber legality definition:

The definition summarises the requirements that must be systematically verified for timber to be called legal. The definition is expressed in a legality table for natural forests and another legality table for plantation forests. These two tables are the basis of legality verification.

### ➡ Forestry company legality verification:

This part verifies compliance by the forestry businesses with applicable laws and standards including articles of association, logging permits and documentation on sustainable forest management, labour and taxation laws, the rights of local and indigenous people. These are described in the legality tables. Successful verification results in the issuance of a legality certificate for a company. This certificate is valid for one year, but it may be suspended at any moment following a monitoring visit to the company and its operations.

➡ **Timber and timber product legality verification** through the monitoring of the supply chain from forest (tree stump) to port of export.

➡ **FLEGT licensing** for timber exported to the European market. The combination of a company legality certificate and traceability of the timber concerned, including production reports and marking of compliant products, determines whether a FLEGT licence can be issued for a particular shipment.

Each shipment must have a separate FLEGT permit.

A shipment refers to timber or timber product load intended for export to a single EU port.



## Congo's response: the FLEGT VPA

Once the system is operational\*, all timber and timber products exported to Europe will need a FLEGT export licence.

The same requirements of company legality plus traceability of the timber concerned will apply for obtaining Export Verification Certificates (AVE, for Attestation de Vérification des Exportations) for all shipments, including those not bound for the European market).

➔ **Establishing an independent audit** to check the performance and reliability of the FLEGT licensing system. This is a system rather than a forestry company audit.

The independent system audit will be carried out by an independent organisation with proven auditing skills and in-depth knowledge of the forestry sector in the Congo Basin, but not causing any conflict of interest.

Note that the independent auditor and independent observatory are not the same.

The independent auditor focuses during assignments on analysing the system via documentation and field controls, whereas the independent observatory lead by civil society is concerned with monitoring the compliance of forestry practices and operation controls by the government. The information communicated by the independent observatory will of course be very relevant to the independent auditor.

## Links between VPAs and the EU Timber Regulation

The new Regulation requires operators placing timber on the EU market to undertake due diligence. They must be able to prove that they have taken measures to ensure that the timber products they place on the market have been legally sourced. They should thus be granted access by their suppliers to information on their timber purchases.

**For forestry businesses in Congo, this means that they may well want to supply information and documentation requested by the operators.**

**FLEGT licences are recognised by the EU Timber Regulation as guaranteeing legality.** Operators placing timber with a FLEGT licence on the EU market must carry out only the first step of due diligence documenting the relevant licensing documents. The Regulation will thus encourage European operators to seek legally verified products first, in particular those with a FLEGT licence sourced from countries that have signed a VPA with the EU.



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**\*Implementation of the FLEGT licensing regime** is regulated by VPA Article 13, which stipulates that: As recommended by the joint agreement implementation committee, both parties agree on a date at which the FLEGT licensing regime should be fully enforced.

## Roles and responsibilities

**All forestry companies must comply with the legal requirements applicable in Congo as described in the VPA legality table. When the legality assurance system is implemented, enforcement of these laws will be strengthened.**

The forestry companies must comply with the following requirements, listed with examples of measures taken or documentation.

### 1. Requirements for establishing a forestry company

*Ex. company registration with the relevant authorities*

### 2. Legal access rights to forest resources

*Ex. observing the steps required to obtain logging permits and periodic authorisations to operate*

### 3. Adherence to legislation on sustainable forest management and forestry planning

*Ex. logging inventory, forest management plan*

### 4. Observing a number of logging and processing rules

*Ex. logging operations are carried out inside the concession and within the boundaries of the annual cutting area, allowable harvested species and volumes are adhered to, processing quotas established by regulation are complied with*

### 5. Compliance of tax returns, tax payments and social security contributions

*Ex. business returns, customs and export declarations, timely payment of stumpage and forestry taxes*

### 6. Compliance with environmental regulations

*Ex. procedures for carrying out environmental impact assessments: biodiversity, health aspects and sanitation of site accommodation and industrial sites, waste treatment, wildlife protection*

### 7. Information and engagement of civil society and local and indigenous communities in forest concession management

*Ex. community meetings, conflict monitoring and resolution*

### 8. Safeguarding the rights of local and indigenous communities and workers

*Ex. respecting traditions and use rights, fulfilling commitments towards communities, compensation of communities in case of damage to their property, registration of workers with the CNSS, work contracts, payslips*

### 9. Compliance with regulations on timber transport and marketing

*Ex. vehicle registration databases and documents, insurance, transport permits*



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## Roles and responsibilities

The legal requirements that legality control and verification authorities must verify on site at forestry companies by legality control and verification authorities are set out in the VPA legality tables.

The FLEGT VPA is available at the following address:

<http://www.apvflegtcongo.org/images/stories/telechargements/apv-congo.pdf>

### Forestry companies must also fulfil timber and timber product traceability requirements

by systematically reporting production data at each stage in the supply chain using existing forms (field and transport documents) and during field controls carried out by the relevant authorities.



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## What will change

In the current system, controls are carried out and lead to the issuance of an export verification certificate (AVE for Attestation de Vérification à l'Exportation) by the Forest Products Export Control Service (SCPFE for Service de Contrôle des Produits Forestiers à l'Exportation). However, current verification focuses only on some legality aspects, such as forest management and taxation, and concerns mainly exports.

### The legality assurance system which is part of the FLEGT agreement will be reinforced.

Systematic regular controls will be carried out in forestry companies using standardised procedures, covering all aspects of legality mentioned above.

Forestry company legality verification will be based on documentary and field controls carried out by the departmental directorates of all relevant ministries: Forest Economics, Labour, Health, Customs, Taxation, Justice, Environment and Trade.

These controls are carried out at company headquarters and at forest and industrial sites.

Controls already exist, and they will become clearer, more effective and transparent, and thus more reliable.

Implementation of these controls at the national level will be overseen by the General Inspectorate for Forest Economics (Inspection Générale de l'Économie Forestière) through its Forest Legality and Traceability Unit (CLFT for Cellule de Légalité Forestière et de Traçabilité).



## What will change

Forest product traceability monitoring will also be reinforced through the eventual development of monitoring software, which will include traceability monitoring, to collect and analyse the data provided by companies.

This tool to improve timber traceability and production monitoring will be very helpful to forestry companies who will be better equipped to manage and plan their daily operations.

**By observing forest product legality and traceability requirements, companies can obtain AVEs and FLEGT licences for their EU shipments.**

The LAS software will enable the authorities, before issuing a FLEGT licence, to verify in real time that the timber concerned comes from a forest concession recognised and managed according to applicable legislation, that the chain of custody is ensured and that the company has fulfilled all its social and administrative obligations.

FLEGT licences will be delivered by the SCPFE on instruction from the General Inspectorate for Forest Economics.



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## Benefits of the FLEGT VPA for forestry companies

**The FLEGT VPA strengthens the positive image of Congolese timber** because FLEGT licences provide timber buyers with the assurance that forestry companies' operations are conducted legally in a manner that guarantees timber product traceability.

**The FLEGT VPA enables companies to maintain access to European** and other markets concerned about timber legality, since they are able to supply timber with FLEGT licences.

The entry into force of the EU Timber Regulation will motivate European buyers to avoid illegal timber risks and source by preference FLEGT licensed timber, as this will be systematically and automatically considered legal and in compliance with the Regulation.

Moreover, in order to get reassurance on timber legality, buyers in other countries, the US and Australia in particular, may also be interested in FLEGT licensed timber.



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## Benefits of the FLEGT VPA for forestry companies

**The FLEGT VPA is also an opportunity for companies that cannot afford private certification** to demonstrate legality and maintain access to European and other markets.

The implementation of the FLEGT VPA and its legality assurance system in particular, will help eliminate unfair competition from illegal opera-

tors and boost efforts by operators who are investing to comply with sustainable forest management standards and prescriptions supporting socio-economic contributions.

In addition, using forest resources rationally and reasonably helps to secure the long-term future of the forest sector.



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## Where to get more information

**Inspection Générale des Services de l'Économie Forestière et du Développement Durable (IGSEFDD, General Inspectorate for Forest Economics and Sustainable Development) through the Cellule de Légalité Forestière et de Traçabilité (CLFT, Forest Legality and Traceability Cell)**

The Inspectorate supervises company legality and the chain of custody and directs the issuance of FLEGT export permits.

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**Système National de Traçabilité (National Traceability System) Project**

The project focuses on writing traceability procedures, improving the logistical and operational aspects of the relevant administrative bodies (including DDEF, control points) and developing traceability software.

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**Service des Produits Forestiers à l'Exportation (SCPFE, Forest Product Export Service)**

The SCPFE is responsible for supply chain control. It conducts the last physical product verification before export and crosschecks data collected with data provided by companies.

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