VOLUNTARY PARTNERSHIP AGREEMENT
BETWEEN THE SOCIALIST REPUBLIC OF VIET NAM
AND THE EUROPEAN UNION
ON FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE

THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIET NAM, hereinafter referred to as "Viet Nam",

and

THE EUROPEAN UNION, hereinafter referred to as "the Union",

hereinafter jointly referred to as "the Parties",

CONSIDERING the Communication from the European Commission to the Council of the European Union and to the European Parliament on an EU Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT) as a first step towards tackling the urgent issue of illegal logging and associated trade;

REAFFIRMING the importance of the principles and commitments set out in the Declaration on the United Nations 2030 Agenda for Sustainable Development of 2015, in particular the commitment to achieve sustainable development in its three dimensions – economic, social and environmental – in a balanced and integrated manner;

RECALLING in this respect the Sustainable Development Goals and targets, in particular the target (15.2) to promote, by 2020, the implementation of sustainable management of all types of forests, halt deforestation, restore degraded forests and substantially increase afforestation and reforestation globally;

AWARE of the importance of the principles set out in the 1992 Rio Declaration on Environment and Development in the context of securing sustainable forest management and, in particular, of Principle 10 concerning the importance of public awareness and participation in environmental issues and of Principle 22 concerning the vital role of indigenous people and other local communities in environmental management and development;

REAFFIRMING the importance attached by the Parties to the principles and rules which govern the multilateral trading systems, in particular the rights and obligations laid down in the General Agreement on Tariffs and Trade (GATT) 1994 and in other multilateral agreements listed in Annex IA to the Marrakesh Agreement of 15 April 1994 establishing the World Trade Organization (WTO), and the need to apply them in a transparent and non-discriminatory manner;

HAVING REGARD to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and, in particular, the requirement that CITES export permits issued by the Parties to CITES for specimens of species listed in Appendix I, II or III to CITES be granted only under certain conditions, including that such specimens were not obtained in breach of the relevant laws for the protection of fauna and flora;

RECALLING the Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Socialist Republic of Viet Nam, of the other part, signed in Brussels on 27 June 2012;

RECALLING the recent conclusion of negotiations for a Free Trade Agreement between the Union and the Socialist Republic of Viet Nam, and in particular the commitments therein related to sustainable forest management and trade in forest products;

RECOGNISING efforts by the Government of Viet Nam to promote good forestry governance, law enforcement and the trade in legal timber, including through the Viet Nam Timber Legality Assurance System ("VNTLAS"), which will be developed through a multi-stakeholder process in accordance with the principles of good governance, credibility and representativeness;

RECOGNISING that the implementation of this Agreement will reinforce sustainable forest management and contribute to combating climate change through reduced emissions from deforestation and forest degradation and the role of conservation, sustainable management of forest and enhancement of forest carbon stocks (REDD+);

RECOGNISING that stakeholders have a crucial role to play in the implementation of this Agreement and that it is therefore essential that effective mechanisms for their contribution to the enforcement of the VNTLAS are in place;

RECOGNISING that the publication of information is essential to improve governance and that the provision of information to stakeholders should therefore be central to this Agreement in order to facilitate the implementation and monitoring of systems, increase transparency, and thus improve stakeholder and consumer confidence, as well as to ensure accountability of the Parties;

RESOLVED that the Parties shall seek to minimise any adverse impacts on local communities and poor people which may arise as a direct consequence of implementing this Agreement;

REAFFIRMING the principles of mutual respect, sovereignty, equality and non-discrimination and recognising the benefits to the Parties arising from this Agreement;

AFFIRMING that, in accordance with the Law on Treaties No. 108/2016/QH13 dated 9 April 2016 of Viet Nam, this Agreement shall be approved by the Government of the Socialist Republic of Viet Nam, thereby expressing the consent of the Socialist Republic of Viet Nam to be bound by this Agreement;

PURSUANT to the respective laws and regulations of the Parties,

HEREBY AGREE AS FOLLOWS:

ARTICLE 1

Objective

1. 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 Union from Viet Nam of timber and timber products covered by this Agreement have been legally produced and, in doing so, to promote trade in timber products that are from sustainably managed forests and harvested in accordance with the domestic legislation in the country of harvest.

2. This Agreement also 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 apply:

(a) "import into the Union" means the release for free circulation into the Union, within the meaning of Article 201 of Regulation (EU) No 952/2013 of the European Parliament and of the Council[1], of timber products which cannot be classified as "goods of a non-commercial nature" as defined in point 21 of Article 1 of Commission Delegated Regulation (EU) 2015/2446[2];

(b) "export" means the physical leaving or taking out of timber products from any part of the geographical territory of Viet Nam, except for timber products in transit through Viet Nam;

---

1 Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ EU L 269, 10.10.2013, p. 1).

2 Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ EU L 343, 29.12.2015, p.1).

(c) "timber products in transit" means any timber products originating from a third country which enter the territory of Viet Nam under customs control and leave it in the same form whilst retaining their country of origin;

(d) "timber products" means the products listed in Annex I;

(e) "HS code" means a four- or six-digit code as set out in the nomenclature of the Harmonized Commodity Description and Coding System established by the International Convention on the Harmonized Commodity Description and Coding System of the World Customs Organization;

(f) "FLEGT licence" means a Vietnamese legal document which confirms that a shipment of timber products intended for export to the Union has been legally produced and verified in accordance with the criteria laid down in this Agreement. A FLEGT licence may be in paper or electronic form;

(g) "Licensing Authority" means the authority designated by Viet Nam to issue and validate FLEGT licences;

(h) "competent authorities" means the authorities designated by the Member States of the Union to receive, accept and verify FLEGT licences;

(i) "shipment" means a quantity of timber products covered by a FLEGT licence that is sent by a consignor or a shipper from Viet Nam and is presented for release for free circulation at a customs office in the Union;

(j) "legally produced timber" (hereinafter also referred to as "legal timber") means timber products harvested or imported and produced in accordance with the legislation of Viet Nam set out in Annex II and other relevant provisions of this Agreement; and, in the case of imported timber, it means timber products harvested, produced and exported in accordance with the relevant legislation of the country of harvest and the procedures described in Annex V;

(k) "release for free circulation" means a Union customs procedure which confers the customs status of Union goods on goods which are not from the Union (in accordance with Regulation (EU) No 952/2013), entailing the collection of any import duties due; the collection, as appropriate, of other charges; the application of commercial policy measures and prohibitions and restrictions; and the completion of other formalities laid down in respect of the importation of goods;

(l) "verification of verifiers" means the process of checking the legality, validity and conformity of verifiers on the basis of documentary and/or physical checks by the verification entities in accordance with the regulations set out in the Legality Definition in Annex II.

ARTICLE 3

FLEGT licensing scheme

1. A forest law enforcement, governance and trade (FLEGT) licensing scheme is hereby established between the Parties. It establishes a set of procedures and requirements aimed at verifying and attesting, by means of FLEGT licences, that timber products shipped to the Union were legally produced. In accordance with Council Regulation (EC) No 2173/2005[1] and this Agreement, the Union shall accept such shipments from Viet Nam for import into the Union only if they are covered by FLEGT licences.

2. The FLEGT licensing scheme shall apply to the timber products listed in Annex I.

3. The Parties agree to take all measures necessary to implement the FLEGT licensing scheme.

---

1 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 EU L 347, 30.12.2005, p. 1).

ARTICLE 4

Licensing Authority

1. Viet Nam shall designate the Licensing Authority and notify its contact details to the European Commission. Both Parties shall make that 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 shall issue FLEGT licences covering shipments of timber products that are legally produced in Viet Nam for export to the Union.

3. The Licensing Authority shall not issue FLEGT licences for any shipment of timber products that has not been legally produced in accordance with the Vietnamese legislation specified in Annex II or, in the case of imported timber, timber products that have not been harvested, produced or exported in accordance with the legislation of the country of harvest and of the country of production.

4. The Licensing Authority shall maintain and make publicly available its procedures for issuing FLEGT licences. It shall also maintain records of all shipments covered by FLEGT licences, consistent with national legislation concerning data protection, and shall provide such records for the purposes of the independent evaluation referred to in Article 10, while respecting the confidentiality of exporters' proprietary information.

ARTICLE 5

Competent authorities

1. The European Commission shall inform Viet Nam of the contact details of the competent authorities designated by the Member States of the Union. Both Parties shall make that information available to the public.

2. The competent authorities shall verify that each shipment is covered by a valid FLEGT licence before releasing that shipment for free circulation in the Union. The release of the shipment may be suspended and the shipment may be held if there are doubts regarding the validity of the FLEGT licence.

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

4. The competent authorities shall grant persons or bodies designated by Viet Nam as Independent Evaluator in accordance with Article 10 access to the relevant documents and data, in accordance with their national legislation on data protection.

5. The competent authorities shall not perform the action described in paragraph 2 in the case of a shipment of timber products derived from species listed in the Appendices to CITES, as these are covered by the provisions for verification set out in Council Regulation (EC) No 338/97[1].

[1] 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 EC L 61, 3.3.1997, p. 1).

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. FLEGT licences shall be provided on a form written in English and Vietnamese. The form shall be completed in English.

3. The Parties may, by agreement, establish electronic systems for issuing, sending and receiving FLEGT licences.

4. The technical specifications and the procedure for issuing FLEGT licences 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 given in point (j) of Article 2 and specified in Annex II. That Annex describes Vietnamese legislation that must be complied with in order for timber products to be covered by a FLEGT licence. That Annex also includes documentation containing the principles, criteria, indicators and verifiers serving to prove compliance with such legislation.

ARTICLE 8

Verification of legally produced timber

1. Viet Nam shall establish and implement a Viet Nam Timber Legality Assurance System ("VNTLAS") to verify that timber and timber products have been legally produced and to ensure that only shipments verified as such are exported to the Union. The VNTLAS shall include compliance checks and procedures to ensure that timber of illegal or unknown origin does not enter the supply chain.

2. The system for verifying that shipments of timber products have been legally produced is set out in Annex V.

ARTICLE 9

Release of shipments covered by a FLEGT licence

1. The procedures governing the release for free circulation in the Union of shipments covered by a FLEGT licence are described in Annex III.

2. Where the competent authorities have reasonable grounds to suspect that a licence is not valid or authentic or does not conform to the shipment it purports to cover, the competent authority concerned may apply the procedures described in Annex III.

3. Where persistent disagreements or difficulties arise in consultations concerning FLEGT licences, the matter may be referred to the Joint Implementation Committee established pursuant to Article 18.

ARTICLE 10

Independent evaluation

1. The purpose of the independent evaluation is to assess the implementation, effectiveness and credibility of the VNTLAS and the FLEGT licensing scheme, as set out in Annex VI.

2. Viet Nam, in consultation with the Union, shall engage the services of the Independent Evaluator to implement the tasks set out in Annex VI.

3. The Independent Evaluator shall be a body with no conflict of interest resulting from an organisational or commercial relationship with:

(a) the Union or with the Vietnamese forestry sector regulatory authorities;

(b) the Licensing Authority, or anybody given the responsibility of verifying the legality of timber production; or

(c) any operator exercising a commercial activity in its forestry sector.

4. The Independent Evaluator shall operate in accordance with a documented management structure, and with published policies, methods and procedures that correspond to internationally accepted best practices.

5. The Independent Evaluator shall refer complaints arising from its work to the Joint Implementation Committee established pursuant to Article 18.

6. The Independent Evaluator shall submit its observations to the Parties in reports in accordance with the procedure described in Annex VI. Reports by the Independent Evaluator shall be published in accordance with the procedure set out in Annex VIII.

7. The Parties shall facilitate the work of the Independent Evaluator, ensuring in particular that it has access to the territory of each Party and to the information necessary for the performance of its functions. In accordance with their respective national legislation on data protection, the Parties may nonetheless refuse to disclose information that they are not permitted to communicate.

ARTICLE 11

Irregularities

The Parties shall inform each other in accordance with Article 20 if they suspect or have found evidence of any circumvention or irregularity in the FLEGT licensing scheme, including in relation to the following:

(a) circumvention of trade, including by redirection of trade from Viet Nam to the Union via a third country, where there is reason to believe that this is done with the intention of avoiding licensing;

(b) FLEGT licences covering timber products which contain timber from third countries that is suspected of being illegally produced; or

(c) fraud in obtaining or using FLEGT licences.

ARTICLE 12

Date of operation of the FLEGT licensing scheme

1. The Parties shall notify each other through the Joint Implementation Committee established pursuant to Article 18 when they consider that they have made the necessary preparations for the FLEGT licensing scheme to become fully operational.

2. The Parties shall, through the Joint Implementation Committee, commission an independent assessment of the FLEGT licensing scheme on the basis of the criteria set out in Annex VII. The assessment shall determine whether the VNTLAS underpinning the FLEGT licensing scheme as described in Annex V adequately fulfils its functions.

3. On the basis of the recommendations of the Joint Implementation Committee, the Parties shall agree on a date on which the FLEGT licensing scheme will start operating.

4. The Parties shall notify each other in writing of this date.

ARTICLE 13

Application of the VNTLAS and other measures

1. Using the VNTLAS, Viet Nam shall verify the legality of timber products exported to non-Union markets and timber products sold on domestic markets, and shall verify the legality of imported timber products using the system developed for implementing this Agreement.

2. In support of the application of the VNTLAS, the Union shall encourage the use of the system with respect to trade in other international markets and with third countries.

3. The Union shall implement measures to prevent the placing on the Union market of illegally harvested timber and products derived therefrom in accordance with its applicable legislation.

ARTICLE 14

Supporting measures

1. The provision of any resources necessary for measures to support the implementation of this Agreement shall be determined in the context of the programming exercises of the Union and its Member States for cooperation with Viet Nam.

2. Viet Nam shall ensure that its capacity to implement this Agreement is strengthened.

3. The Parties shall ensure that activities associated with the implementation of this Agreement are coordinated with existing and future development programmes and initiatives.

ARTICLE 15

Stakeholder involvement in the implementation of this Agreement

1. Viet Nam shall include relevant stakeholders in the implementation of this Agreement.

2. Viet Nam shall ensure that the implementation and monitoring of this Agreement are done in a transparent manner together with relevant stakeholders, including non-governmental organisations, forest associations, enterprises, trade unions, local communities and people living in forest areas.

3. Viet Nam shall ensure that a mechanism is in place to monitor the implementation of this Agreement, involving representatives of relevant Government agencies and other relevant stakeholders.

4. Viet Nam shall hold regular consultations with stakeholders on the implementation of this Agreement and in that regard promote appropriate consultation strategies, modalities and programmes.

5. The Union shall hold regular consultations with stakeholders on the implementation of this Agreement, taking into account its obligations under the United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters of 1998 ("the Aarhus Convention").

ARTICLE 16

Social safeguards

1. In order to minimise possible adverse effects of this Agreement, the Parties agree to assess the impacts on ethnic minorities and local communities concerned and on their way of life, as well as on households and the timber industry.

2. The Parties shall monitor the impacts of this Agreement as described in paragraph 1 while taking reasonable steps to mitigate any adverse effects. The Parties may agree on additional measures to address any adverse effects.

ARTICLE 17

Market incentives

Taking into account its international obligations, the Union shall promote a favourable position in the Union market for the timber products covered by this Agreement. Such efforts shall include in particular measures to support:

(a) public and private procurement policies that recognise a supply of and ensure a market for legally harvested timber products; and

(b) a more favourable perception of FLEGT-licensed products on the Union market.

ARTICLE 18

Joint Implementation Committee

1. The Parties shall establish a Joint Implementation Committee (JIC) to facilitate the management, monitoring and review of this Agreement. The JIC shall also facilitate dialogue and exchanges of information between the Parties.

2. The JIC shall be established within three months of the entry into force of this Agreement. Each Party shall designate its representatives to the JIC. The JIC shall make its decisions by consensus. The JIC shall be co-chaired by senior officials designated by each Party.

3. The JIC shall establish its rules of procedure.

4. The JIC shall meet at least twice a year in the first two years and once per year thereafter, on a date and with an agenda agreed in advance by the Parties. Additional meetings may be convened at the request of either of the Parties.

5. The JIC shall ensure that its work is transparent and that information about its work and decisions are made available to the public.

6. The JIC shall publish a joint annual report. The details and content to be included in that report are given in Annex VIII.

7. The specific functions and tasks of the JIC are described in Annex IX.

ARTICLE 19

Reporting and public disclosure of information

1. The Parties commit to regularly make available to the public information related to the implementation and monitoring of this Agreement.

2. The Parties shall make information listed in Annex VIII publicly available in accordance with the mechanisms described in that Annex. The Parties shall endeavour to provide the various stakeholders associated with the forestry sector with reliable, relevant and up-to-date information.

3. In accordance with their respective legislation, the Parties agree not to disclose confidential information exchanged under this Agreement. Neither Party shall disclose to the public, nor permit its authorities to disclose, information exchanged under this Agreement concerning trade secrets or confidential commercial information.

ARTICLE 20

Communication on implementation

1. The representatives of the Parties responsible for official communications concerning the implementation of this Agreement shall be:

(a) for Viet Nam: the Vice Minister, Ministry of Agriculture and Rural Development;

(b) for the Union: the Head of the Delegation of the Union in Viet Nam.

2. The Parties shall communicate to each other in a timely manner the information necessary for implementing this Agreement, including changes as regards the representatives mentioned in paragraph 1.

ARTICLE 21

Territorial application

This Agreement shall apply to the territory in which the Treaty on the Functioning of the European Union is applied under the conditions laid down in that Treaty, on the one hand, and to the territory of Viet Nam, on the other.

ARTICLE 22

Settlement of disputes

1. The Parties shall seek to resolve any dispute concerning the application or interpretation of this Agreement through prompt consultations.

2. If a dispute has not been settled by means of consultations within 120 days of the date of the initial request for consultations, the dispute may be referred to the JIC, which shall endeavour to settle it. The JIC shall be provided with all relevant information for an in-depth examination of the situation with a view to finding an acceptable solution. To that end, the JIC shall be required to examine all possibilities for maintaining the effective implementation of this Agreement.

3. In the event that the JIC is unable to settle the dispute, the Parties shall jointly seek the good offices of, or request mediation by, a third party.

4. If it is not possible to settle the dispute in accordance with paragraph 3, either Party may notify the other of the appointment of an arbitrator; the other Party shall then appoint a second arbitrator within 30 calendar days of the appointment of the first arbitrator. The Parties shall jointly appoint a third arbitrator within 60 days of the appointment of the second arbitrator.

5. The arbitrators' decisions shall be taken by majority vote within six months of the third arbitrator being appointed.

6. The award shall be binding on the Parties and shall be without appeal.

7. The JIC shall establish the working procedures for arbitration.

ARTICLE 23

Suspension

1. A Party wishing to suspend this Agreement shall notify the other Party in writing of its intention to do so. The matter shall subsequently be discussed between the Parties, taking into consideration relevant stakeholders' views.

2. Either Party may suspend the application of this Agreement in the event that the other Party:

(a) fails to fulfil its obligations under this Agreement;

(b) fails to maintain the regulatory and administrative measures and means required to implement this Agreement; or

(c) acts in a way that poses significant risks to the environment, health, safety or security of the people of the Union or of Viet Nam.

The decision on suspension and the reasons for that decision shall be notified and sent to the other Party in writing.

3. The conditions of this Agreement shall cease to apply 30 calendar days after the notice referred to in the second subparagraph of paragraph 2 has been given.

4. Application of this Agreement shall resume 30 calendar days after the Party that has suspended its application informs the other Party that the reasons for the suspension no longer apply.

ARTICLE 24

Amendments

1. A Party wishing to amend this Agreement shall submit a proposal at least three months before the next meeting of the JIC. The JIC shall discuss the proposal and, if consensus is reached, shall make a recommendation. If the Parties agree with the recommendation, they shall approve it in accordance with their respective internal procedures.

2. Any amendment approved by the Parties in accordance with paragraph 1 shall enter into force on the first day of the month following the date on which the Parties notify each other of the completion of the procedures necessary for that purpose.

3. The JIC may adopt amendments to the Annexes to this Agreement.

4. Notification of any amendment shall be made to the Secretary-General of the Council of the European Union and to the Minister for Foreign Affairs of the Socialist Republic of Viet Nam through diplomatic channels.

ARTICLE 25

Entry into force, duration and termination

1. This Agreement shall enter into force on the first day of the month following the date on which the Parties notify each other in writing of the completion of their respective procedures necessary for that purpose.

2. Notifications referred to in this Article shall be made to the Secretary-General of the Council of the European Union and to the Minister for Foreign Affairs of the Socialist Republic of Viet Nam through diplomatic channels.

3. This Agreement shall remain in force for a period of five years. It shall be automatically extended for consecutive periods of five years, unless a Party renounces the extension by notifying the other Party in writing at least 12 months before this Agreement expires.

4. Either Party may terminate this Agreement by notifying the other Party in writing. This Agreement shall cease to apply 12 months after the date of receipt of such notification.

ARTICLE 26

Annexes

The Annexes to this Agreement shall form an integral part of this Agreement.

ARTICLE 27

Authentic texts

This Agreement shall be drawn up in duplicate in the Vietnamese Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each text being equally authentic.

In the case of divergence of interpretation, the English text shall prevail.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto, have signed this Agreement.