

Liberia – EU FLEGT Voluntary Partnership Agreement
AIDE MEMOIRE
FIRST MEETING OF THE JOINT IMPLEMENTATION COMMITTEE
Monrovia May 27-29th, 2014

Introduction

1. Following the entry into force of the VPA December 1st, 2013, the first joint Implementation Committee (JIC) to oversee the implementation of the FLEGT Voluntary Partnership Agreement (VPA) between Liberia and the EU, took place in Monrovia on May 27-29th, 2014. The meeting was co-chaired by Honorable Florence Chenoweth, Minister of Agriculture, Republic of Liberia and Ambassador Attilio Pacifici, Head of EU Delegation to Liberia.
2. The Liberian team included representation from the Ministry of Agriculture, Forestry Development Authority (FDA), Ministry of Justice, Ministry of Commerce and Industry, National Bureau of Concessions, Environmental protection agency (EPA), civil society and the private sector. The EU team included representation from the EU Delegation, the UK Department for International Development (DFID) and experts from the EU FLEGT Facility. A participant list is attached as an annex to this aide memoire.

VPA oversight and management structures

3. Draft rules of procedure for the functioning of the JIC and arbitration procedures for the VPA, shared by the EU prior to the meeting, were discussed. The Government of Liberia (GoL) would wish to be more precise on certain aspects of the arbitration procedures and will send their comments on both documents for the consideration of the EU. It is expected that the rules of procedure and the arbitration procedures will be formally adopted in the second meeting of the JIC.
4. A draft structure for the JIC annual report was presented by the EU. It will be sent to LIC for further comments and approval. It was agreed that the FLEGT Facilitator and the VPA Support Unit will be in charge of drafting the report in collaboration with the stakeholders and the EU. European Forest Institute (EFI) will provide support to editing, layout and printing. The first formal report will cover the year 2014 and will be finalized in the first quarter of 2015.
5. To oversee the implementation of the agreement on the Liberian side, the Liberia Implementation Committee (LIC) has been established comprising of representatives of different government ministries and agencies, civil society and industry. In addition to the LIC, a broader National Multi-Stakeholder Monitoring Committee (NMSMC), including community representatives, has been established and is meeting monthly. Terms of Reference and operating procedures for the NMSMC have been approved and are annexed to this aide memoire. The exact number of representatives for each participant group remains to be agreed.
6. To strengthen coordination between Ministries and the government agencies involved an Inter-agency coordination committee has been inaugurated.

Legality Assurance System Development

7. The UK and the GoL have recruited SGS to build, operate and transfer the Legality Verification Department (LVD). Contract negotiations are on-going between SGS and GoL to specify the roles and responsibilities for operating the Chain of Custody and the LVD system aiming at concluding the agreement by September 2014.
8. SGS has been working since October 2013 to establish the Liberia Verification Department (LVD) within the FDA and to develop the legality verification procedures for the Legality Assurance System (LAS). SGS has been contracted for 5 years: the 2 first years are dedicated to the development of the system, to be followed by 3 years to transfer the operations of the system to the FDA. A plan for the transfer will be presented by October 2014. LVD will be staffed by individuals from both SGS and FDA departments.
9. First field testing of legality verification procedures was organized in April. Important milestones in 2014 include further development of the legality verification procedures with the participation of concerned stakeholders, collection and up-loading of data declared by the companies into the new system (June - August 2014), series of mock audits of the companies (June - December 2014) and tests for verification of legal compliance in the beginning of 2015. The new legality verification system, including the software, is expected to be ready for deployment by March 2015. This date provides a milestone to plan other aspects of the LAS (licensing and independent audit) and the needed capacity building for the implementing partners.
10. Until March 2015, in addition to building the new system, SGS will continue to operate the existing Chain of Custody (CoC) system which ensures traceability from a standing tree to a point of export and provides the evidence for the issuance of export permits. LVD will provide a description of the current controls by end of May 2014 to be shared with the JIC.
11. A LVD Project Board has been established to provide oversight of the contract and meets monthly. It includes SGS, Government of Liberia (FDA and Ministry of Finance) and DFID. In addition, the development of the technical requirements for the LAS and institutional developments are discussed and agreed in the Technical Advisory Committee (TAC). SGS has invited all stakeholders to join the monthly TAC meetings. Also, the LVD recognizes the need for more proactive communication with stakeholders and strong coordination with the VPA SU and other FLEGT related projects.

Dealing with complaints about Community Forestry Management Agreements

12. Since 2013, civil society raised concerns that the due process for the establishment of existing Community Forestry Management Agreements (CFMAs) had not been followed and introduced complaints with the FDA. FDA conducted its own investigations and subsequently the Board of FDA issued a resolution April 10th 2014. The resolution recognizes that all ten CFMAs granted contained some procedural flaws. The Board also decided that all the CFMAs be sustained and allowed to operate, and requested that all deficiencies and missteps be cured within 90 days. A multi-stakeholder committee, co-chaired by the civil society and the private sector, will be set up to recommend solutions for the existing CFMAs. The EU part noted the need to ensure, in that context, that forest management and community benefits are addressed.
13. The FDA Board resolution on CFMAs also lifted the moratorium on the issuance of new CFMAs that had been in place since February 2012. Consequently, the process to consider new CFMA applications has resumed. The FDA stressed that this was a long, multi-step process involving vetting at communities, various studies, demarcation, etc. The whole process is expected to take about a year for any CFMA application. The FDA clarified that no new CFMAs will be signed until identified

inconsistencies with the underlying Community Rights Law and its regulations are harmonized (see point 17 below on reinforcement of the legal framework for details on this).

14. In order to improve future management of complaints by stakeholders, the FDA recognized (1) that the participation of civil society organizations and support projects could serve to strengthen future investigations, and (2) that procedures to handle grievances and complaints should be improved, including those foreseen in the VPA and being developed by the LVD.

Improvement of regulatory framework and law enforcement

15. Regional vetting for draft regulations on abandoned timber, confiscated timber, timber in transit, imported timber and third party access in concession areas is planned to start in June 2014 with the support of the VPA SU. It was agreed that the draft regulations on timber in transit and imported timber be shared with the EU before finalization.
16. A draft PUP regulation will need to go through consultations at the county level. This process will be carried out after the vetting of the regulations mentioned above.
17. In investigating the concerns related to the existing Community Forest Management Agreements, GoL and civil society have identified inconsistencies between the Community Rights Law pertaining to the Forest Lands of 2009 (CRL) and its regulations. In the meeting, it was agreed to carry out the harmonization of the CRL and regulations as a matter of urgency. The FDA invited the civil society to chair a committee to take this issue forward with the aim of having the CRL and regulations harmonized within the next 6 months.
18. Draft Guidelines for social agreements have already been discussed with stakeholders. An up-dated draft will be circulated again for further inputs in order to prepare a final validation workshop.
19. A number of other draft regulations, guidelines and procedures have been developed by the FDA and are pending further consultations, including: regulation for timber processing, regulations on revised fiscal policy and bid premium payments, guidelines for plantation forests, guidelines for timber from agricultural and mining concessions and complaints mechanism procedures.

VPA impact monitoring

20. Under the terms of the VPA, the parties need to put in place an impact monitoring system to assess both intended and unintended impacts of VPA implementation on various stakeholder groups. Considering that monitoring impacts is one of the core tasks of the JIC, it was decided to organize informal meetings with stakeholders in the course of 2014 in order to start the development of an impact monitoring framework. The issue will be further discussed in the context of the 2nd JIC.
21. As part of the VPA impact monitoring, the VPA foresees monitoring of FLEGT licensed timber on the European market. To provide reliable data, an independent market monitor (IMM) has been established in March 2014 by International Tropical Timber Organisation (ITTO), financed by the EU. The IMM lead consultant presented the main objectives of the IMM, the oversight and guidance mechanisms, as well as an overview of the methodology and indicators to be monitored. Close working relationship with JIC is foreseen and IMM will provide trade data for the JIC annual reporting. Main outputs include a baseline report before end of 2014, annual reports from 2015 onwards and a website with quarterly e-news and an on-line trade database. JIC committed to facilitate linkages between IMM and entities in Liberia that already gather trade data and access to relevant data.

Communication and transparency measures

22. The VPA SU recently recruited a communications coordinator who will work with a short-term communications expert in the coming months to develop comprehensive communications strategy and plan. Objective is to build communication capacity within FDA to help them implement Annex IX and communicate effectively on the VPA process. The website of the FDA and the Executive Mansion will provide important platforms to disseminate information, but other means of communication (e.g. the 72 existing rural radio stations) will also be used to reach stakeholders especially in the rural areas. The importance of public information and communication was stressed by both the EU and GoL who asked for a clear communication plan to be presented in the next JIC meeting.

Capacity building

23. VPA Support Unit (VPA SU) has invited different stakeholder groups (FDA and other involved government agencies: NBOC, MOCI, MOF/BOR, MOF/Custom, MOJ, EPA, NASSCORP, MOL; NGO Coalition and the Union of the Community Forest Development Committees; Liberia Timber Association and LICSATDUN) to develop strategic plans to inform the capacity building plan. The VPA SU is currently recruiting a Forestry Advisor who will dedicate half of their time to coordinate the capacity building within the FDA.
24. Under the new LVD contract, building capacity is central. Four key FDA counterpart managerial positions have been staffed and training has started. Discussions are on-going for transfer of FDA staff from other departments to the LVD. A capacity building plan has been developed that outlines trainings for the new staff and implementing partners.
25. The GoL welcomed the support to build capacities at every level but emphasized the need for both projects to speed up their capacity building efforts. It is also essential to ensure coordination of capacity building of the VPA SU and the LVD.
26. The Minister of Agriculture emphasized the need for the FDA to develop its own capacity gap analysis and capacity development plan. The capacity building efforts by LVD and other support projects need to fit into the FDA plan.

Financial and technical support to VPA implementation

27. The parties stressed the importance of developing a mid- and long-term plan to secure resources for effective implementation of the VPA in the future beyond the donor assistance.

Priorities and joint workplan for 2014

28. Major milestones outlined in the annex VII of the VPA were reviewed. Key achievements were identified and key priorities were outlined (see a table annexed to this aide memoire for details).
29. For the 2nd JIC, an up-dated implementation schedule (annex VII of the VPA) will be developed by the VPA Support Unit, in consultation with stakeholders, to enable an effective monitoring of the progress.

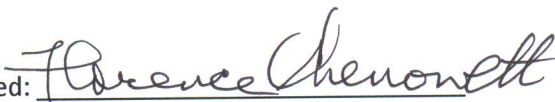
Issues raised during the stakeholder session

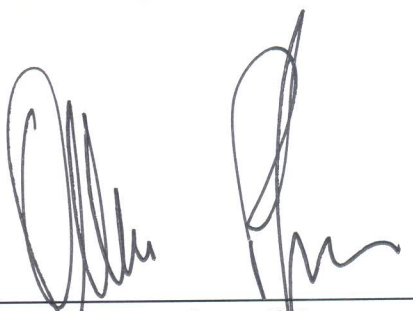
30. FDA informed that it has launched a vigorous tax collection campaign for all contract types. Non-payment of taxes will render their timber illegal.

31. The GoL informed the meeting about the state of play with the Private Use Permits, which were extensively discussed in the interim pre-JIC meetings in 2012 and 2013. To date, 29 PUPs have been revoked. A hearing officer, financed by the GoL, will commence his work next month. FDA will start to take action on the remaining 34 PUPs as soon as the hearing officer has arrived. The FDA clarified that the PUP remains a legitimate contract type under the National Forestry Reform law if the applicant holds a legitimate deed. However, a PUP regulation must be completed before issuance of any PUP.
32. Following up from concerns expressed regarding the transfer of funds from central government to the communities in the previous pre-JIC meetings, the FDA informed that an agreement has been reached between the Minister of Finance and the Union of Community Forest Development Committees agreeing on how the funds owed to the communities would be remitted. The agreement is to be signed June 5th 2014. This means that the GoL will start to remit 30% of land rental fees and other administrative fees. The Board of the National Benefit Sharing Trust, chaired by the NGO Coalition, needs to be revived.
33. Civil society emphasized the need to finalize the social agreement guidelines as required by the VPA. New agreements need to be negotiated and communities are anxious to move forward. Development of the guidelines is clearly identified as a priority by the FDA and they welcome further stakeholder input.
34. Since 2010, EU has been supporting a number of civil society organizations. Currently four local CSOs continue to receive support for their activities in the forest sector: SAMFU, Green Advocates, VOSIEDA and FCI. The Managing Director of the FDA welcomed the role that Liberian NGOs were playing in actively supporting the monitoring of forestry operations and in reporting any identified irregularities to the FDA. He also used the occasion to thank the EU, UK and USAID for their support to the local CSOs "empowering Liberians to solve Liberian problems".

Date of the next JIC

35. The 2nd meeting of the JIC is scheduled for the 2nd or 3rd week of November 2014 in Monrovia. It was decided that the GoL will take the lead in organizing the next meeting.

Signed: 
 Hon. Florence Chenoweth
 Minister of Agriculture, R.L.

Signed: 
 Ambassador Attilio Pacifici
 EU Delegation to Liberia

Date: 29 May 2014

Date: 29. V. 2014

Annex: VPA Key Achievements since Last Implementation Meeting and Key Priorities for 2014

Key outputs	Key achievements	Key priorities & Estimated Delivery
1. VPA implementation	<ul style="list-style-type: none"> JIC implementation. National Multi-Stakeholder Monitoring Committee operating. Inter-agency coordination. Template for Annual Report approved. 	<ul style="list-style-type: none"> LLD is not a priority (second half 2015) Start working on First Annual Report to be ready by beginning 2015. Agree strategy for updating Implementation Schedule for presentation at next JIC.
2. Capacity improved	<ul style="list-style-type: none"> Strategic plans on capacity development for government, private sector and civil society. 	<ul style="list-style-type: none"> Development of support plans and commencement of implementation (until next JIC). Implementation of Chainsaw sector sub-sector study will take place in next 6 months.
3. Financial mechanism established and resources secured for effective implementation of the VPA	N/A	N/A
4. Legality assurance system: legality verification established	<ul style="list-style-type: none"> Under development (15%) – status details in aide memoire. 	<ul style="list-style-type: none"> LAS system to be fully developed by April 2015.
5. Legality assurance: licencing		2015
6. Legality assurance		2015
7. FLEGT Licences		2015
8. Civil society monitoring established	<ul style="list-style-type: none"> Civil society independent forest monitoring (CS-IFM) already established. 	<ul style="list-style-type: none"> Increased capacity building of CS-IFM to enable national coverage
9. Law enforcement and regulatory framework improved	<ul style="list-style-type: none"> Draft regulation on third-party access, timber in transit, abandoned logs, confiscated timber, imported timber, PUP. Chainsaw regulation passed in 2011 (following extensive vetting). Regulation for processing timber passed. Legality Assurance Matrix. Draft social agreement guidelines. Agreement between CFDC Union and GoL concerning transfer of funds to f National Benefit Sharing Trust near finalisation. Complaints mechanism procedures drafted Guidelines for plantation forests drafted. Guidelines for timber from agricultural and mining concessions drafted. Regulations on revised fiscal policy and bid premium payments drafted. 	<ul style="list-style-type: none"> Six regulations to be vetted by June 2014. National validation of six regulations (by September 2014). PUP regulation to be postponed until after next JIC. Harmonise Community Forestry Law and Regulation before next JIC. Updating of Legality Assurance Matrix with respect to community forestry aspects and other aspects (plantation, agricultural and mining concessions). Social agreement guidelines to be finalised. Revive Board of the National Benefit Sharing Trust. Disbursement of funds to CFDC. Resolve remittance of funds to county-level. Draft complaints mechanism procedures to be reviewed by stakeholders.
10. Regulation and monitoring of domestic market established	<ul style="list-style-type: none"> Procedures for regulation of domestic market drafted for future implementation. 	<ul style="list-style-type: none"> To be postponed until after FDA is able to implement the chainsaw regulation.
11. Monitoring the impact of the VPA.		<ul style="list-style-type: none"> Strategy to be prepared for discussion at next JIC November 2014.
12. Communication	<ul style="list-style-type: none"> Upgrading of FDA website. Recruitment of communication advisor by VPA Support Unit. 	<ul style="list-style-type: none"> Further development of FDA website. Preparation of VPA Communications Plan in second half of 2014. Annex IX on public information and transparency measures to be addressed (see also capacity building). LAS compliance training to commence July-August 2014 (see also capacity building).

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