

**Aide Memoire of the Fourth Negotiation Session between
the Republic of Liberia and European Union
October 21-22, 2010**

INTRODUCTION

The fourth Republic of Liberia-European Union negotiation session on a Forest Law Enforcement, Governance, and Trade Voluntary Partnership Agreement (FLEGT VPA) was held from 21st -22nd October, 2010 in Brussels.

The session was co-chaired by Luis Riera, Director of the Directorate General Development of the European Commission and the Honorable Florence Chenoweth, Minister of Agriculture, Liberia. This Aide Memoire captures the key points discussed and action points agreed upon to support the completion of negotiations. A list of delegates is presented in Annex 1.

OPENING STATEMENTS BY THE EU AND LIBERIA

1. Director Riera welcomed the Liberian delegation and expressed satisfaction at the significant progress that Liberia had made since the last round of negotiations. He acknowledged the apparent breadth of stakeholder support both within the VPA structures and the negotiation processes. He noted that the illegal timber regulation had been adopted by both Parliament and Council and that this sent strong signals to all producers of the EU's commitment to eliminating the trade in illegal timber.
2. Filiberto Sebregondi emphasized the EU's commitment to Liberia's development. He noted the recent transfer of powers to Liberia for the National Authorizing Officer for the European Development Funds. Furthermore, he commented that the recent move to budget support signified a maturity in the relations between EU and Liberia.
3. Minister Chenoweth expressed her pleasure to be back in Brussels for the fourth round of negotiations and reinforced Liberia's commitment to a holistic approach to natural resources management. She also underscored the need to ensure that the development of the agriculture sector does not negatively impact the development of the forest sector. She reaffirmed the government's commitment to the VPA process whilst underscoring the importance of ensuring capacity building to implement the VPA.

UPDATES

4. The EU presented a briefing on the illegal timber regulation, the newly passed EU legislation which prohibits placing illegally harvested timber products on the EU markets and requires operators to implement due diligence to minimize risk. Once the regulation is officially published by the end of 2010, it will enter into application twenty seven months later, estimated to be early 2013. The regulation includes three primary requirements: 1) it establishes a prohibition on placing illegally harvested timber and timber products on the EU market; 2) operators/commercial entities must exercise due diligence and take reasonable

steps to ensure that their supply chain is from legal timber; and 3) after placing timber on the market, records must be kept to ensure that timber is duly tracked through the market place. Member states will set penalties for non compliance. Timber accompanied by a FLEGT license is considered to be automatically compliant with the illegal timber regulation.

5. Liberia provided an update on its forestry sector. On commercial forestry, information on the number of forest management contracts, timber sale contracts, private use permits, and forest use permits at different stages of implementation was provided.
6. On community forestry, Liberia confirmed that the first draft of the regulations to implement the Community Rights Law is currently being vetted. With respect to chain saw logging, it was confirmed that a consultant has been hired to draft a regulation to reflect ongoing consultations. With respect to benefit sharing, the FDA recently passed the Benefit Sharing Trust Mechanism Regulation and is in the process of constituting a Trust Board.
7. With respect to conservation, Liberia has committed itself to set aside 1.5 million hectares for conservation. To date, the Government has gazetted the East Nimba Reserve and Sapou National Park and there had been considerable progress with the removal of illegal occupants from Sapou National Park.
8. In relation to the status of the Reduced Emissions from Deforestation and Forest Degradation (REDD) process, the Government will submit its REDD Plan Proposal (RPP) in November. The EU noted the importance of integrating the linkages between REDD and FLEGT processes.
9. In response to industries concerns that taxes are too high, the Legislature, in September of this year, passed the Act to Abolish the annual Payment of a Bid Premium and is awaiting the President's signature. The Act, if passed, will abolish the annual bid premium and establish a one-time bid premium "signing" fee to be paid within one year of the effective date of each subsequent contract to be signed, ratified, approved, and published by the Government of Liberia. Liberia stated that a working group had been established to benchmark forest related fiscal regimes in neighboring countries and make recommendations to the President and Legislature. The Ministry of Finance and the Ministry of Agriculture have recommended that the Executive postpone a decision on signing the Act until the recommendations have been fully considered. In addition the NGO coalition for Liberia has voiced similar concerns regarding this matter.
10. In response to a question from the EU, Liberia informed the Parties that the President had constituted an investigative committee to review the Carbon Harvesting Corporation contract. A report will be published synthesizing the results of the investigation.

Legality Assurance System

11. The EU indicated their appreciation of the quality of work evident in the preparation of the annex on the LAS, which paved the way for a fruitful discussion. Liberia will respond to comments provided by the EU by October 29th.

12. Liberia agreed to include principles demonstrating its commitment to integrate community rights, chain saw operations, and the domestic market within the LAS whilst awaiting the development of relevant legislation.
13. The EU suggested that Liberia include an opening paragraph to the Annex that provides an overview of the scope of the Legality Definition. This paragraph should make reference to the eleven principles upon which the definition is based and the types of legal title included in the Legality Definition.
14. Liberia agreed to revisit indicators and verifiers in the Legality Definition to ensure that they adequately reflect the object of the indicator.

Next Steps on Legality Definition

15. In order to ensure that the Legality Definition is practical to implement, the Parties agreed that a field testing mission would take place in Liberia in December or January. The details of how this mission would be conducted will be confirmed at the next technical session.

Verification Procedures

16. The EU reflected that there was a need to avoid duplication of verification procedures between LVD and LiberFor.
17. The EU confirmed that the LAS must be able to ensure compliance with all laws included in the legality definition.
18. The EU noted that there was requirement for larger FMCs to achieve forest certification within a 5-year timeframe and advised that Liberia consider how to ensure the integration of private certification schemes with their LAS so as to avoid duplication.

Chain of Custody Procedures

19. The EU sought clarification as to whether there were adequate funds available to ensure continued development of the chain of custody. Liberia responded that there had been no communication by the service provider, SGS, to either the Ministry of Finance or the FDA to indicate that they were experiencing any such financial constraints. Liberia sought confirmation from SGS, who confirmed that the current funding from the World Bank runs to January 2011.
20. It was agreed that timber from all contract types, including community contracts, confiscated and auctioned wood, imports and timber in transport should be included in CoC.
21. With regard to export permits and FLEGT Licenses, that there was a need for a technical discussion between the agencies concerned to decide how these licenses could be

harmonized. Liberia agreed in principle that all exports would be accompanied by FLEGT licenses.

Institutional Set up

22. Liberia indicated that there would be a Licensing Department responsible for licensing, chain of custody and legality verification. In the interim, the chain of custody verification will continue to be carried out by SGS, a service provider but over time will be mainstreamed into the licensing department. The Licensing Department would have a systemic role to ensure the credibility of the verification process. Liberia agreed to include a brief description and diagrammatic representation of the institutional structures and responsibilities in Annex 5 by mid November.
23. The EU noted that it would be important to ensure that operators would have responsibility for the provision of documentation and other information to support verification procedures.

Licensing Procedures

24. Liberia stated that its Licensing procedures were still in development and that a consultant was currently working on how to address non-compliance. The EU reflected that as there would be instances where the prevention of exports may not be justified and an administrative fine would suffice, it would be important to provide the licensing department with guidelines on how to deal with this issue.
25. Liberia confirmed its intention to include rubber wood and rubber wood chips in the product scope outlined in Annex I.

Independent Audit

26. The parties agreed that Liberia would recruit, hire, and contract the Independent Auditor in consultation with the Joint Implementation Committee (JIC). The EU agreed to finalise the draft of the Independent Audit Terms of Reference by October 29th and to send it to Liberia for further consideration.

Independent Forest Monitoring

27. The parties agreed that independent forest monitoring by Liberian civil society would be included in the VPA. The decision on where to include it in the VPA will be determined based on terms of reference to be elaborated by civil society.

EU Procedures

indicated that based on internal reflections, the detail of the Annex would be elaborated for the next negotiation session.

Needs Assessment

34. Liberia reported that it is moving forward with developing the Terms of Reference for the Needs Assessment. It was agreed that the outcome of internal discussions would provide a basis for external technical input. The Parties agreed that the external technical input would have the cost of VPA implementation as a key output and that this work would guide the development of the implementation schedule. The scope of the technical input is as follows: 1) quantification of capacity building needs for the LAS development and operations and collection of data to inform the costing, 2) develop a capacity building stock taking and strategy, and 3) cost implications of VPA implementation. EFI agreed to forward initial thoughts on the three terms of reference.


Next Steps

35. The Parties agreed to the attached modified roadmap which identifies actions to be taken and highlights the agreed milestones to enable the Parties to reach a conclusion before March 2011.
36. It was agreed that the Parties will meet via videoconference in late November/early December. The next negotiation session is scheduled for January 2011 in Monrovia.

October 22, 2010



Florence Chenoweth
Minister of Agriculture
Republic of Liberia



Luis Riera
Director, DG Development
European Commission

List of Participants
Annex I

EU Delegation

Luis Riera Figueras	Director, Directorate General Development, European Commission, Brussels
Julia Falconer	Sustainable Development of Natural Resources, Directorate General Development, European Commission, Brussels
John Bruneval	Sustainable Development of Natural Resources, Directorate General Development, European Commission, Brussels
Hugh Speechly	Forest Governance and Trade Programme, DFID, London
John Bazill	DG Environment, European Commission
Katarina Motoskova	Liberia Desk, West Africa Unit, European Commission
Filiberto Ceriani Sebregondi	Head of West Africa Unit, European Commission
Melissa Othman	EU FLEGT Facility, European Forest Institute, Finland
Jussi Lounasvouori	EU FLEGT Facility, European Forest Institute, Finland
Jussi Viitanen	EU FLEGT Facility, European Forest Institute, Finland
Lena Yadlapalli	EU FLEGT Facility, European Forest Institute, Finland
Stephanie Altman	FLEGT Envoy
Clare Brogan	FLEGT Envoy
Katharine Thoday	FLEGT Envoy

Liberia Delegation

Florence Chenoweth	Minister of Agriculture
Moses Wogbeh	Managing Director, Forest Development Authority
Idella Cooper	Assistant Minister of Justice
Elfrieda Tamba	Deputy Minister of Finance
Vanaii Baker	National Investment Commission
Samuel Liberty	Ministry of Commerce
Negbalee Warner	Legal Advisor to the Ministry of Justice
Isaac Manneh	Industry Representative
Kula Jackson	Civil Society Representative
Amos Kofa	Coordinator, Technical Secretariat
Charles Miller	Deputy Coordinator, Technical Secretariat