

**Aide Memoire of the Fifth Negotiation Session between
the Republic of Liberia and the European Union
March 15-17, 2011**

Introduction

1. The fifth negotiation session between the Republic of Liberia and the European Union on a Forest Law Enforcement, Governance, and Trade Voluntary Partnership Agreement (FLEGT VPA) was held from 15th -17th March, 2011 in Brussels.
2. 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 actions agreed upon to support the completion of negotiations. A list of delegates is presented in Annex 1.
3. Director Riera welcomed the Liberian delegation and expressed satisfaction at the significant progress Liberia had made since the last round of negotiations. Minister Chenoweth expressed her pleasure to be back in Brussels and stated Liberia's commitment to concluding the VPA negotiations by May 9th 2011.
4. The discussions, agreements reached and outstanding issues are summarized below.

VPA Legal Text

5. Following a review of the legal text, Liberia provided text to complete Article 16 (1) and (2) concerning stakeholder involvement in implementation of the VPA.
6. It was agreed that Liberia and the EC will exchange views on Liberia's proposed text for Article 25 concerning the inclusion of reasons for suspending the VPA.
7. The EU explained why Liberia's proposal for Article 10, specifying a time limit within which Member States' competent authorities must request information from Liberia's Licensing Authority on the validity of FLEGT licenses, might encourage Member State Competent Authorities to query more licenses and actually slow down the release of shipments. Liberia agreed to omit the text but requested that its concern regarding the possible delayed release of shipments should be recorded. It was agreed that this concern would be addressed in relation to Independent Auditing of the verification processes by both parties' Authorities, and that any concerns would be taken up by the JIC. Specific language to this effect has been added to Annex X on the JIC.
8. The EU agreed to provide a definition of the European Commission to be included in Article 2 so as to clarify the distinct roles of the Commission and the Union.

Annex I: List of products

9. The list of products was agreed as drafted.

Annex II: Legality Assurance System

10. Annex II of the VPA was discussed in detail and the contents, including the institutional establishment of a Legality Verification Department, which will include Chain of Custody and Legality Verification, and a Licensing Department, were substantially agreed. The LVD function will be implemented by a contracted service provider that would be transferred to the FDA. The timing and management of this transfer needs further discussion.
11. The text needs greater clarity on procedures to regulate timber in transit and procedures for demonstrating the legality of imported timber (cross-check with legality definition verifiers).
12. The legality definition field test identified a concern that abandoned and seized logs have not been integrated into the chain of custody system and that the consistency between the requirements as framed in the definition, and in the CoC system needs to be reviewed.
13. Further technical discussions will be held on 17 March to clarify aspects of Annex II and these will be finalized by 25 March 2011.

Appendix to Annex II: Legality Definition

14. The detailed Appendix to Annex II setting out the Legality Definition was discussed and agreed in general. Liberia will further clarify the following points by 25 March 2011:
 - a) Reference in the introduction to those laws and regulations that are still under development (Community Rights Regulations, Chainsaw Logging Regulation);
 - b) The verification roles and relationships between FDA's LVD and other government agencies;
 - c) The reference time limits for specific verifiers, e.g., certificate of registration;
 - d) Which indicators relate to which product and contract type, e.g., rubberwood;
 - e) Where FDA is identified as a verifying authority, clarifying this role vis à vis that of the LVD;
 - f) Principle 3: Application to rubber wood to be introduced;

- g) Principle 4: Explanation by Liberia on how the legal requirement for private certification schemes will be addressed;
- h) Principle 6: The need to review the verifiers linked to demonstrating the legality imports;
- i) Principle 7: The legal requirement for FMC holders to establish processing facilities within prescribed time period (further internal discussion required), as requested by the EU;

15. The results of the Legality Definition field tests will be discussed on 17 March.

Annex III: Release for Free Circulation in the EU of Shipments from Liberia

16. The EU explained the process for checking the validity of licenses by EU competent authorities and release of licensed shipments. The text of the Annex was agreed.

Annex IV: Requirements and Technical Specifications of FLEGT Licenses

17. The EU presented a draft outline for the Annex on procedures for issuance of licenses and the license format. Liberia notified its decisions concerning specific items in the Annex to address its own procedures and license format. These included:

- a) Validity of licenses;
- b) Logos and watermarks and security features on licenses;
- c) Number, colors and destination of copies;
- d) The time frame for replacing lost licenses; and
- e) Use of FLEGT license form for all exports and the need to indicate destination of each shipment so that the EU is distinguished. Box 2 will be used for this and Tax Identification Number.

Annex V: Independent Audit and Civil Society Monitoring

18. The terms of reference for the Independent Auditor were reviewed and the text agreed.

19. A paper on independent monitoring by civil society was presented. Further consideration will be given to this proposal.

Annex VI: Criteria for evaluation of the LAS

20. The Annex was agreed without comment.

Annex VII: Implementation Schedule

21. The EU presented an outline of items that needed to be considered for implementation, including during an interim period between VPA initialing and ratification. This included:
 - a) Establishment of implementation structures, including regulations if needed;
 - b) Development of the LAS, including establishment of the Liberia Verification Department, contracting of an external service provider and associated capacity building, establishment of the Liberia Licensing Department and associated export procedures, and contracting of the Independent Auditor;
 - c) Development of private sector capacities to meet VPA requirements, including industrial contract holders and chainsaw operators;
 - d) Establishment and strengthening of civil society monitoring;
 - e) Legislative processes for community forestry, chainsaw loggers, transit timber, etc and modifications needed to accommodate these in the legality definition;
 - f) Extension of LAS to cover the domestic market;
 - g) Impact monitoring plan developed and baseline study completed;
 - h) Communication plan developed, including awareness raising, information provision to key actors and development of a public information capacity.
22. Liberia will use these points as a basis for developing an indicative schedule for inclusion in Annex VII. This should cover plans extending at least up to the time that the verification function is transferred to the FDA and licensed timber will be delivered to the EU market capturing the key aspects covered during the negotiations. An initial draft will be completed for dialogue with the EU by 25 March 2011.

Annex VIII: Supporting Measures for VPA Implementation

23. EFI presented the results of a capacity building needs assessment it has carried out for the implementation of the VPA. This covered needs for the government to fulfill its core functions as well as additional needs to implement the LAS.
24. EFI also noted a study undertaken by CIDT on existing training resources in Liberia that could be used to plan capacity development. This study suggests potential strategies and existing relevant donor programs, which may provide opportunities.
25. A third piece of work by EFI has developed a model for costing capacity building needs for the VPA. This separates core regulation costs and additional costs for the VPA. It also distinguishes operating and investment costs (additional equipment and training) and

projects costs for different production level scenarios and implementation strategies. EFI will further develop this work based on the agreed institutional arrangements for the LAS.

26. Liberia would like the model to extend to include the transition from the service provider to transfer functions to FDA of all functions.
27. The EU noted the difficulties of getting support in place quickly and the current lack of structures for delivering it.
28. Liberia outlined the progress on development of the forest sector and how the VPA fits into this picture. The need has been recognized for the FDA to update its strategic plan and forest sector program, including enhanced coordination of donors in the sector. This needs to be prioritized to allow for an effective start to support VPA.
29. The EU pointed out that the initialing event could be an opportunity to attract donors to the sector if implementation plans were sufficiently developed.
30. The EU presented a suggested skeleton structure for Annex VIII covering supporting measures. This includes a wider set of actions than timber trade facilitation. This will be considered by Liberia in conjunction with the implementation schedule and be drafted in dialogue with the EU by 17 March 2011.

Annex IX: Reports and Public Information

31. Liberia agreed to verify certain aspects with regard to Liberian law on whether certain information as listed in the draft can be published by 25 March 2011.
32. Other aspects of the text in the Annex were agreed.

Annex X: Joint Implementation Committee

33. The Annex was reviewed and agreed.
34. The EU will provide text referring to Article 19 of the VPA, in the chapeau text.


Next Steps

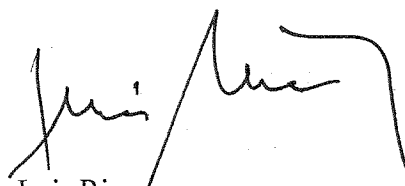
35. The Parties agreed the following schedule of actions to take leading up to initialing the VPA:

Date	Action	Subject
25 March:	Video-conference	Outstanding issues Annex VII: Implementation schedule Annex VIII: Supporting measures

		Annex IX: Public Information
5 April	Video-conference	Finalising outstanding documents: Independent CS Monitoring
15 April		All text completed and ready for legal review
9 May	Initialing in Monrovia	

March 17, 2011


 Florence Chenoweth
 Minister of Agriculture
 Republic of Liberia


 Luis Riera
 Director, DG Development
 European Commission

Annex I
List of Participants

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
Karl-Heinz Kadner	DG Taxud, European Commission, Brussels
Gregorio Valero Jordana	DG Legal Service, European Commission, Brussels
Hugh Speechly	Forest Governance and Trade Programme, DFID, London
Katarina Motoskova	Liberia Desk, West Africa Unit, External Action Service European Commission
Paula Vazquez-Horyaans	Head of Operations EU Delegation; Monrovia
Melissa Othman	EU FLEGT Facility, European Forest Institute, Finland
Jussi Lounasvuori	EU FLEGT Facility, European Forest Institute, Finland
Tomi Tuomasjukka	EU FLEGT Facility, European Forest Institute, Finland
Lena Yadlapalli	EU FLEGT Facility, European Forest Institute, Finland
Daphne Hewitt	EU FLEGT Facility, European Forest Institute, Finland

Liberia Delegation

Florence Chenoweth	Minister of Agriculture
Moses D. Wogbeh	Managing Director, Forest Development Authority
Idella Cooper	Deputy Minister of Justice
Elfrieda S. Tamba	Deputy Minister of Finance
Drayton K. Hinneh	Director Bureau of Concessions, Ministry of Finance
Ciata A. Bishop	Executive Director, National Investment Commission
Thomas Sellu	Trade Information Officer, Ministry of Commerce and Industry
T. Negbalee Warner	Legal Advisor
Isaac F. Mannah	Industry Representative
Kula L. Jackson	Civil Society Representative
Amos T. Kofa	Coordinator, Technical Secretariat
Charles K. Miller	Deputy Coordinator, Technical Secretariat
Anna L. Halton	FLEGT Envoy, Monrovia

