

AIDE MEMOIRE

SEVENTH MISSION OF THE JOINT MONITORING AND REVIEW MECHANISM

Accra, 4th-6th June, 2014

Introduction

1. The seventh Joint Monitoring and Review Mechanism¹ (JMRM) to facilitate the implementation of the Voluntary Partnership Agreement (VPA) between Ghana and the EU took place in Accra from 4th to 6th June 2014. The meeting was co-Chaired by Ghana and the EU. The Ghana Delegation was led by the Honourable Barbara Serwaa Asamoah, Deputy Minister of Lands and Natural Resources (MLNR). The EU Delegation was led by Ambassador Claude Maerten, the Head of the EU Delegation to Ghana.
2. The Ghana team included representation from MLNR, the Forestry Commission (FC), Civil Society and the Private Sector. The EU team included representation from the European Commission, Member States and experts from the EU Forest Law Enforcement Governance and Trade (FLEGT) Facility. A participants list is attached as Annex I to this Aide Memoire.
3. The JMRM reflected on progress made with various aspects of VPA implementation since the last meeting in November 2013. The following sections provide a summary of the discussions and decisions in relation to each of the areas concerned.

Legality Assurance System (LAS)

4. The LAS comprises a legality definition, a wood tracking system (WTS) and a system to verify compliance with the laws included in Annex II of the VPA. An Independent Monitor (IM) that conducts periodic audits to assure credibility of the system to verify legal compliance also forms part of the LAS. Since the last JMRM, there has been significant progress with key elements of the system's development, to the extent that the design of the LAS is almost completed.
5. With respect to the legality definition, Annex II of the VPA clearly identifies the various timber use rights that constitute legal sources of timber. At previous meetings of the JMRM, the need to convert existing leases to Timber Utilisation Contracts (TUCs) in order to be compliant with Ghana's legal framework has been raised. Ghana confirmed that discussions between Government and the industry on this matter were ongoing but acknowledged that the completion of this process now needed to draw to a close as a matter of urgency so as not to impede progress towards FLEGT licensing.

¹ The purpose of the JMRM is described in Article 19 of the VPA

6. Since the last JMRM, the development of the Wood Tracking System (WTS) has advanced on an accelerated schedule. As a result, with the exception of work that remains to be done on the plantation, export and mill modules, the design of all other elements of the WTS have been completed. What remains now is to ensure full deployment.
7. An initial roll out of the system with John Bitar & Co. Ltd. (JCM), one of the largest timber exporters, began in March 2014. With this company's timber operations covering six forest districts, this exercise provided a clear demonstration of the efficiency that an electronic tracking system would introduce into forest management processes (eg the ability to produce a digital stock map in three days as opposed to three weeks for a hand drawn map). It also provided an opportunity to assess the capacity of the staff of the FC to work with such a system.
8. One challenge that was identified during this initial rollout was with connectivity to the system server to enable data logged on the hand-held devices to be downloaded to the central database. Although Ghana is seeking a long-term solution, in the interim they will continue to back up with the paper-based system in some areas and then upload this information into the electronic system at appropriate intervals.
9. Civil Society acknowledged the progress made so far and appreciates the level of engagement in the VPA implementation process. However, they expressed their interest in actively participating in the ongoing processes for rolling out the WTS. In particular, they are keen to see that areas involving community rights and fiscal regimes are respected and that any non-compliances are dealt with promptly.
10. Following recent correspondence with the Service Provider over their contract payments, the JMRM appreciates efforts made by the Government to resolve this matter in a timely manner so that the planned work schedule is not disrupted. The Forestry Commission will be following the matter closely with the Ministry of Lands and Natural Resource and the Ministry of Finance.
11. The verification protocols, which provide guidance on processes and procedures for verifying legal compliance, were field tested in March 2014. The testing was carried out with the participation of a representative of civil society and a further revised version of the protocols has been drafted to incorporate the feedback received from participants to this exercise.
12. Field testing of these protocols has underscored certain challenges that must be addressed as a priority in the coming months. One such priority is the need to ensure the completion of the remaining forest management plans for production forest reserves. A further priority is the development of clear criteria against which compliance with the requirements for negotiation and implementation of Social Responsibility Agreements (SRAs) with communities affected by logging operations can be verified.
13. The Timber Validation Committee (TVC) as described in Annex V of the VPA and in Timber Resources (Legality Licensing) Regulations 2012 (LI2184), was inaugurated

in April 2014. According to Annex V, the role of this committee is to “*have oversight for the functioning of the Timber Validation Department (TVD)*” and to ensure that it operates “*in a transparent and independent manner*”. The committee is chaired by an Appeals Court Judge and includes representation from a number of stakeholder groups. The committee will undergo induction and field training in June and begin work on their operating procedures shortly after.

14. The contract with the Independent Monitor (IM), Scientific Certification Services (SCS) was signed in May 2014. The Terms of Reference (ToR) for the IM are included as Annex VI to the VPA. SCS have already submitted an inception report and a workplan clarifying their schedule of activities will be developed in consultation with Ghana and the EU before the end of June 2014.

Joint assessment of the LAS

15. The VPA requires that the LAS be subjected to an independent technical evaluation before the licensing scheme becomes fully operational. Annex VII of the VPA sets out the criteria for this assessment. Detailed ToR for the work were agreed between the parties in February 2014 and the consultants commenced work in April 2014.
16. A presentation was made to the JMRM by the joint assessment team, covering the scope of their work, initial findings and next steps. The key objectives of the assessment are to:
 - determine the consistency of the system that has been designed with regard to what was described in the VPA;
 - ensure that the LAS is delivering what is required; and
 - assess the FC’s capacity to implement the system.
17. The team will identify any systemic weaknesses observed during their assessment and make recommendations for dealing with any findings of non-compliance. The assessment is in five phases and is expected to conclude in August 2014 when the team will submit a final report to the JMRM for review.

Timber in transit

18. During the last JMRM it was agreed that Ghana would propose text for inclusion in the VPA to exempt transit timber from the FLEGT licensing requirement. Consequently, the following text was proposed and accepted by the EU.

“Timber in transit has to be kept physically segregated from domestic or imported timber and transits Ghana under Ghanaian customs control.

Timber in transit will not be integrated in the LAS and will not be subject to issue of a Ghanaian FLEGT License at the point of export. The country of

origin and country of harvest must be indicated in the bill of lading and other transport documents. Ghana will specify legal documents and related customs controls specific to timber in transit.

Detailed procedures will be developed before the licensing system becomes operational.”

19. It was agreed that to enable EU customs to determine the authenticity of documents accompanying shipments of transit timber, Ghana would provide the EU Delegation with samples of the customs transit declaration form, which is the documentation that normally accompanies goods in transit, so that the Delegation can share these with EU customs.

Imported Timber

20. Annex V of the VPA commits Ghana to ensuring that any imports are reported to the Timber Industry Development Division (TIDD) of the FC and states that “export documentation will be used to verify logs sourced from outside of the country”. At the last meeting of the JMRR, it was agreed that Ghana would propose text to clarify in greater detail, how they intend to assure the legality of timber imports.
21. In discussion it became apparent that Ghana’s proposed approach, while in line with what had been agreed in the VPA, would not meet the requirements of the EU Timber Regulation (EUTR). It was also clarified that all VPAs concluded subsequent to the one with Ghana, included measures that would satisfy requirements for risk mitigation for imports from third countries.
22. Concerned not to undermine the credibility of their FLEGT license, Ghana proposed to review their proposal. This review will be informed by information to be provided by the European Forest Institute (EFI) on how other VPA partner countries have dealt with the issue.

Revision of Annex I

23. Following a formal exchange of letters, Ghana accepted the EU’s proposal for a change in the HS codes used in Annex I to describe the products covered by the FLEGT license. Following a discussion on exclusions of species and products from the VPA, Ghana proposed to delete Annex I(b)², in light of changes to the range of species prohibited for export. Deletion of this Annex however, would require amendments to the text of the VPA and therefore require further consideration.

² Annex I (b) captures export prohibitions as at the time of negotiation

Update on the domestic market

24. The Domestic Market Policy on the whole will only require administrative approval as most of its contents are part of normal forest sector operations. However, areas that would require legislation (see 24 and 25 below) will be extracted for Cabinet and subsequent Parliamentary approval.
25. The Public Procurement Policy for verified legal timber has undergone a further revision based on the outcome of consultations with the Parliamentary Select Committee and other bodies. A revised version of the policy is now ready for submission to Cabinet for approval.
26. The artisanal milling concept proposed to supply legal lumber to the domestic market, in place of illegal chainsaw milling, has been successfully piloted. The enabling framework is yet to be put in place to allow full national roll out.

Update on policy and legislative review

27. Annex II of the VPA sets out a number of areas requiring reform in both the short and long term. The long-term or 'tier 2' reforms included issues such as forest tenure for farmers in different types of forests. Ghana confirmed that addressing security of tenure for farmers in off-reserve areas remained a concern and that proposals for how to address this issue would be developed in the coming months by a consultant financed through technical assistance from the World Bank.
28. During the last JMRM, the development of a legislative instrument (LI) for the administrative allocation of timber rights in the off-reserve areas was under discussion. At this meeting, civil society confirmed their interest in remaining engaged in the discussions and requested that the current draft of the LI be shared with them for further input.
29. On the issue of the 'special permits' issued under the provisions of Act 617 section 6 (2) of the Timber Resources Management Act (TRMA), the Ministry explained the review of that section of the law will form part of the wider legislative reform process.

VPA Impact Monitoring

30. A representative of the Ghana side of the joint Ghana-EU impact monitoring working group made a presentation to the JMRM of the work done to date on the development of a draft proposal for an impact monitoring framework for the VPA.
31. The presentation explained that the joint team has met five times in total, with four of those meetings drawing on the expertise of an independent Monitoring and Evaluation expert. It also described the evolution of the process from separate areas of interest to arrive at three areas of common interest for impact monitoring: forest condition, livelihoods, and revenue. To gain a better understanding of the impacts in

these areas, changes in Forest Management, Markets and Governance Practice will also be monitored.

32. A first draft proposal for the impact monitoring framework has been prepared by the independent expert for review by the joint team. This proposal includes packages of work for each impact area, with each package comprising a combination of data collection and analytical work.
33. The next steps in this process are as follows:
 - review of current draft proposal by the joint team (video conference proposed for the week of June 16th);
 - elaboration of the proposal with details (ToRs) for each work package;
 - identification of existing datasources and monitoring systems;
 - identification and completion of necessary baseline studies;
 - identification of resourcing requirements;
 - engagement with stakeholders on agreed methodology; and
 - consolidation of the proposal for submission to the next JMRM

Independent Market Monitor

34. In March 2014, the International Tropical Timber Organisation (ITTO) was appointed as the Independent Market Monitor (IMM) for the EU. A presentation on the objectives and scope of work of the IMM was made its lead consultant, Rupert Oliver.
35. This presentation clarified that the objectives of the IMM were to:
 - generate information on the performance of FLEGT licensed timber in the EU market;
 - improve the understanding of the impacts of VPAs on timber prices, trade and market trends globally;
 - ensure that VPA partner countries and the EU provide reliable stats and info on FLEGT timber trade and acceptance in their reporting; and
 - inform decisions by JMRM in Ghana & JICs in other VPA countries by providing timely & accurate info on market impact
36. Some of the information that the IMM will monitor includes the volume and value of trade flows, the prices of 'indicator' products on the EU market, the time for FLEGT licensed timber to clear customs and the changing perception of timber coming from VPA partner countries.
37. The work of the IMM will be guided by an Advisory Committee on which Ghana has confirmed that it would be interested to be represented. The first baseline report of the IMM will be issued before the end of 2014 with the first annual report anticipated before the end of 2015. These reports will feed into the JMRM annual reporting on trade in FLEGT licensed timber.

Transparency measures

38. At the last JMRM it was agreed that civil society would prioritise the list of information that they wanted to have access to and present that to the Government for their consideration. This list was formally submitted to a representative of the Government during the stakeholder session on Wednesday 4th June and is attached here as Annex II.
39. With the exception of one request where the FC suggested that a discussion with civil society would be necessary to clarify the format and frequency of reporting being requested, commitment was made to make all other information available on request or to publish it through the FC website (www.fcghana.org). Details of the response to each specific request are provided in the final column of the table in Annex II.

Annual Report

40. A draft annual report for 2013 will be finalised by 30th June 2014 and subsequently published on the relevant websites.

VPA Implementation Priorities for 2014

41. A detailed workplan reflecting key milestones towards issuance of FLEGT licenses was elaborated during the JMRM and is attached as Annex III to this Aide Memoire.

Date of the next JMRM

42. The next meeting of the JMRM is scheduled for September 2014 in Accra.

Signed:  _____

Hon. Barbara Serwaa Asamoah
Deputy Minister
Ministry of Lands and Natural Resources

Signed:  _____
Ambassador Claude Maerten
Head of Delegation
EU Delegation to Ghana

Date: 06/06/2014

Date: 6/6/14

Annex I: List of Participants to the JMRM

No	Name	Organization
GoG Delegation		
1	Hon Barbara Serwaa Asamoah	Deputy Minister, Ministry of Lands and Natural Resources (MLNR)
2	Mr. Musah Abu Juam	MLNR
3	Mr. Samuel Afari	Forestry Commission
4	Mr. Raphael Yeboah	Forestry Commission
5	Dr. Ben Donkor	Forestry Commission
6	Mr. Edward Obiaw	Forestry Commission
7	Mr. Oppon Sasu	Forestry Commission
8	Mr. Chris Beeko	Forestry Commission
9	Dr. Richard Gyimah	Forestry Commission
10	Mr. Agyemang Prempeh Koranteng	Forestry Commission
11	Dr. N. Attah Alhassan	Consultant – Forestry Commission
12	Mr. Samuel Nketiah	Tropenbos International Ghana – Civil Society
13	Mr. Albert Katako	Forest Watch Ghana - Civil Society
14	Mr Alex K Dadzie	Ghana Timber Industry
15	Mr Tabi Agyarko	MLNR
EU Delegation		
No	Name	Organization
1	Ms Julia Falconer	DFID
2	Mr Chris Price	EC
3	Ms Emilie Goransson	EC
4	Ms Clare Brogan	FLEGT FACILITATOR
5	Mr Rupert Oliver	ITTO/FLEGT VPA Independent Market Monitoring
6	Ms Marketta Juppi	EFI
7	Mr Morne vd Linde	EFI
8	Mr Bart Missinne	EU Delegation to Ghana
9	Mr Christopher Ackon	EU Delegation to Ghana

Annex II: Priority transparency list (04/06/2014)

	Specified information	Description	Government Response
1	Forest Reserve Management Plan – detailing <ul style="list-style-type: none"> ▪ <i>Strategic plans</i> ▪ <i>Operational plans</i> ▪ <i>Timber operational specifications (TOS)</i> ▪ <i>Harvesting schedules and District forestry development plans</i> 	Forest reserve management plans	This information can be made available on request
2	List of All valid Permits issued including <ul style="list-style-type: none"> ▪ TUCs ▪ Salvage permits ▪ Special permits ▪ Leases... 	Name of company, Location of the area, No. Of trees, species, Consent, Date of grant and expiry date	This information is already published on the FC website
3	National Forest Maps delineating the various TUC areas	Map	This information can be made available on request (maps of TUC areas are also included in the forest management plans)
4	Salvage permit Inspection reports	Reports indicating the type of project, the land area to be affected, enumeration of trees that would be affected & the estimated financial lost if not salvaged	This information is available on request from the District Forestry Office
5	List of all companies with valid property marks	Detailing the Name of company, & property mark	This information is available on the FC website
6	List of loggers and vendors in good standings vis-a-vis <ul style="list-style-type: none"> ▪ stumpage fee ▪ ground rent ▪ export levies ▪ Corporate Income Tax 	Name of company, area of operation, property mark	Government and civil society will discuss in what format and with what frequency this information should be made available