

**Aide Memoire of the Second Negotiation Session Between the
Republic of Liberia and the European Union
9th –11th March, 2010**

INTRODUCTION

1. The second Liberia-European Commission negotiation session on a Forest Law Enforcement, Governance, and Trade Voluntary Partnership Agreement (FLEGT VPA) was held from 9th-11th March 2010 in Brussels.
2. The session was co-chaired by Liberia and the EU. The Liberian delegation was led by the Honorable Dr. Florence Chenoweth, Minister of Agriculture and Chairman of the Board of Directors of the Forest Development Authority. The European Union (EU) delegation was led by Luis Riera, Director of the Directorate General Development of the European Commission. A list of delegates is presented in Annex 1.
3. The two Delegations met with representatives of EU civil society and EU private sector to provide an update on VPA development and exchange views.
4. This Aide Memoire captures the key points discussed and action points agreed upon to support the completion of negotiations.

OPENING STATEMENTS BY EU AND LIBERIA

5. Mr. Riera welcomed the Liberian delegation to Brussels and acknowledged the President of Liberia's commitment—through her efforts in the reform of the forestry sector—to improved forest governance. He noted Liberia's political support to the process evidenced by the composition of the delegation and by the multi-stakeholder institutional structures put in place in Liberia to support VPA discussions. Mr. Riera underscored the importance of coordinating a future REDD strategy with the VPA.
6. Minister Chenoweth expressed her appreciation to the EU on behalf of the President, her Excellency President Ellen Johnson-Sirleaf, to help Liberia's efforts to rebuild. She confirmed Liberia's commitment to the VPA process and noted the shared aim between the parties to improve upon Liberia's current governance systems, acknowledged that the VPA would serve as a strong foundation for good forest governance, and stressed the importance of access to markets as a means of poverty reduction.

SUMMARY OF DEVELOPMENTS OF VPA

7. Liberia presented a summary of the VPA process to date, namely the activities being undertaken by the Technical Secretariat, Steering Committee, Legality Definition and Legality Assurance System Working Groups and developments on the design of the legality definition and principles of the Legality Assurance System.

Working Groups

8. Two working groups have been constituted to support work on the development of the Legality Definition and Legality Assurance System (LAS).

Standard of Legality

9. The development of the Legality Definition is progressing. The Steering Committee has advertised a terms of reference for a local legal consultant to develop the first draft of the legality definition. The individual should be hired by the end of March.

Timber Sources

10. Liberia proposes that timber and timber products will be obtained from the following types of contracts/permits: Forest Management Contracts (FMCs), Timber Sale Contracts (TSCs), Private Use Permits (PUPs), Forest Use Permits (FUPs), Plantations, Community Rights Contracts, and Chainsaw Operating Permits, though community rights contracts and chainsaw operating permits will be phased into the system and will rely on further developments of appropriate regulatory frameworks.

Product Scope

11. Liberia proposes to include the following products in the product scope of the LAS: round logs, wood chips, railway sleepers, sawn timber, plywood, parquet flooring, wooden frames, packing case, joinery, and furniture. It is still under discussion amongst the working groups whether to include charcoal and handicrafts.

Scope of Market Application of the LAS

12. During the discussion, Liberia explained that the LAS will be designed as a national system to cover all production and thus proposes to initially apply FLEGT licensing to all its exports and implement a phased approach for permit and contract types that cover production for the domestic market.

Verification Procedure

13. Full verification procedures will be developed once the legality definition is drafted building from the Liberia Chain of Custody System.

Chain of Custody

14. The principles set out in the Liberia proposal were agreed upon and the parties noted that the system will be further developed once the legality definition has been drafted. It was also noted that the system will need to incorporate wood in transit and imported wood.

Independent Monitor

15. The principles set out in the Liberia proposal generally meet the expectations of the EU and provides a useful starting point to draft a description of the independent monitors functions and roles. It was agreed that these role and functions need to be further elaborated to distinguish the

role of an independent auditor and independent observer. Liberia noted the importance of Liberian participants in this function.

INFORMATIONAL PRESENTATIONS BY EU

16. The EU made a series of presentations on information relevant to the VPA.
17. The EU presented the structure of the Voluntary Partnership Agreement and its various annexes. It was noted that the Agreement is a legally binding trade agreement to strengthen governance and transparency, build capacity and build upon Liberia's reform process in the forest sector. It was emphasized that there is no blueprint for the VPA and the onus is on both parties to define the substance and legal obligations together. The agreement should be based on Liberia's existing legal framework and systems of control.
18. The European Forestry Institute, on behalf of the EU outlined the main elements of the Legality Definition, a major component of the Legality Assurance System. Highlights focused on the fact that the Legality Definition is a practical tool to clarify what is considered legal timber as defined using the existing legal and regulatory framework of a country. If one criteria of the definition is not met, no FLEGT license will be delivered for the shipment. FLEGT license will provide assurance that timber is fully compliant. She suggested that the legality definition should be easy to understand and implement and must clearly state requirements for compliance.
19. The EU presented the underlying reasons to incorporate independent monitoring in the VPA. He explained that IM provides credibility to the system and ensures that the timber entering Europe is legal. The IM's main function is to analyze the system performance and efficiency and identify the system's weaknesses and report to the Joint Implementation Committee. He presented the main differences between independent observation and independent monitoring, namely that Independent Monitoring/Auditing focuses on system analysis of the FLEGT Legality Assurance System whereas Independent Observation focuses on case analysis of permit allocation processes or routine forest operations in the field. He also reminded the delegations that the Terms of Reference for the Independent Auditor will be attached as an Annex to the VPA.
20. The EU presented customs procedures within the EU as they will apply to the VPA. The procedure for accepting FLEGT licenses in Member States provided under the FLEGT regulation No. 1024/2008 was described. It was underlined that that when partner countries licensing systems become operational, all shipments from partner countries will need to have FLEGT licenses in the standardized format in order to be released for free circulation within the EU. This procedure will be outlined in an annex of the VPA. Liberia indicated that FLEGT licensing would be integrated into its customs procedures.
21. The EU presented the market drivers within the EU, including the new Due Diligence Regulation which will require EU operators to implement systems to minimize the risk of placing illegally harvested timber products on EU markets. The regulation as proposed, will apply to both domestic and imported timber, and will accept FLEGT licensed timber as having met its requirements. The EU presented member states' public procurement timber policies and indicated

that six of the twenty-seven member states had developed and passed such policies requiring either sustainable or legally verified timber. It was noted that the majority of these countries recognize FLEGT licensed timber as evidence of legality. In response to questions of consistency by Liberia, it was indicated that a harmonization committee is working on this issue.

22. It was explained that the EU is developing a trade promotion strategy to improve the market position of FLEGT timber and timber products on the EU market.

CAPACITY BUILDING AND DEVELOPMENT ASSISTANCE

23. Both parties recognized the need for significant capacity building in an Annex, both technical and financial. It was noted that such needs should be identified in an annex of the VPA. Financing arrangements would be dealt with separately through various existing legal frameworks governing development assistance of the European Commission and individual member states. The EU made a presentation about the National Indicative Program and the possible funding support Liberia could access through this mechanism. She noted that support for the VPA could be drawn from the Governance Tranche (20 million Euros) subject to national priorities. It was noted that that the UK is providing development assistance to support negotiations of the VPA. The EU encouraged Liberia to identify necessary support in advance so that needs can be addressed in a timely fashion.

TRANSPARENCY

24. It was agreed that a vehicle was needed to effectively communicate Liberia's commitment to improved governance. Liberia suggested that the LEITI could be used as such vehicle. It was also noted by both parties that an Annex to the VPA could focus on disclosure and transparency. An example was presented.

NEXT STEPS AND ROAD MAP

25. The parties agreed to the attached modified roadmap which identifies actions to be taken and highlights agreed milestones to enable the parties to reach a conclusion before March 2011.
26. It was agreed that the parties will meet via video conference to discuss emerging issues and progress in the third week of May. It was also agreed that the third negotiating meeting will be held in Liberia in the second week of July. Liberia has agreed to develop a detailed workplan based on the milestones and outputs included in the revised roadmap. It is foreseen that we conclude negotiations by February 2011.

March 11, 2010

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