

## AIDE MEMOIRE

### FOURTH GUYANA - EUROPEAN UNION NEGOTIATION SESSION ON A FOREST, LAW ENFORCEMENT, GOVERNANCE AND TRADE [FLEGT], VOLUNTARY PARTNERSHIP AGREEMENT [VPA]

10 March, 2016, Georgetown, Guyana

#### Introduction

1. The fourth Guyana - European Union negotiation session on the FLEGT-VPA was held on 10 March, 2016 in Georgetown, Guyana.
2. The session was chaired by Ms Veronique Lorenzo, Head of Unit (Environment, Ecosystems, Biodiversity and Wildlife), Directorate General for International Cooperation and Development – European Commission (EC), on behalf of the European Union (EU) and by Mr James Singh, Commissioner of the Guyana Forestry Commission (GFC), on behalf of the Cooperative Republic of Guyana (Guyana). A list of the participants is presented in Annex 1.
3. The parties committed to making public the presentations made at the technical sessions, the Aide Memoire which includes the revised Joint Roadmap, and a press release following the conclusion of this fourth negotiation session.

#### Opening Statements

##### *Opening statement by the European Commission:*

4. The EU congratulated Guyana for significant work on the VPA text and Annexes since the last Negotiation in April 2015. They welcomed the work done to consult stakeholders, particularly communities, through the cluster approach and encouraged Guyana to sustain this effort. The EU welcomed the commitment to make draft documents publicly available in a timely manner; and the general commitment to communication, transparency and consultation. They further emphasised that these are key pillars of a robust Voluntary Partnership Agreement (VPA) and that public access to key information is also important to support due diligence efforts for the implementation of the European Union Timber Regulation (EUTR) by operators. They also encouraged consideration of linkages between private certification schemes and the Guyana Timber Legality Assurance System (GTLAS).
5. The EU encouraged Guyana to carefully weigh the practical implications of what is defined, particularly in the Legality Definition (LD) and the GTLAS to ensure the VPA is implementable,

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within a reasonable time frame and emphasized the need to be thinking of implementation now, not only when the text is agreed. The EU highlighted the particular concerns in Europe about the global issue of illegal conversion of forests to other land uses and the risk that such illegal timber could enter the supply chain.

6. The EU emphasized that while the focus of the LD remains on forest related legislation the VPA represents an opportunity for addressing broader governance issues, including those related to land titling and land use. The EU also recognized that addressing land title and land use issues is a longer-term process which could be addressed through a dedicated inclusive mechanism. The EU suggested that this might include the creation of a multi-stakeholder coordination mechanism on land tenure and land use (focusing on Indigenous issues).
7. The EU expressed satisfaction on growing integration and linkages of Reduced Emissions from Deforestation and Forest Degradation (REDD+) and FLEGT in Guyana and also encouraged the promotion of synergies with the broader forest policies and other major initiatives such as the Extractive Industries Transparency Initiative (EITI) so that they are mutually supportive.
8. The EU concluded by welcoming the identification of key milestones, which will encourage continued momentum to complete the VPA.

#### ***Opening Statement by Guyana***

9. Guyana remains committed to finalising the VPA in 2016. In pursuit of this, the National Technical Working Group (NTWG), in collaboration with other Guyanese stakeholders and with the support and guidance of the Ministry of Natural Resources (MNR), has worked collaboratively with the EU and European Forest Institute (EFI) and other recognised /international partners to implement Roadmap activities in a timely manner.
10. Guyana looks forward to the continued support from these partners as it seeks to complete the remaining activities, continuing in an environment of transparency and participation of all groups. Guyana is particularly thankful for the commitment of the NTWG, EFI and FLEGT Facilitation Support Office.
11. Guyana expressed confidence that all parties will continue working effectively and efficiently to initial the VPA in 2016.

#### **Agenda Item 1: Update on the Annexes and participation in the VPA process**

12. Guyana provided an update on the progress made on the VPA Annexes since the third negotiation (April 16, 2015). Guyana indicated that *Annex I Product scope, Annex III Conditions governing the release for free circulation of timber in the EU, Annex X Transparency and Annex*

*XI Joint Monitoring and Review Committee* are in the near final draft stage. An overview of progress on the other annexes was presented. However, it was indicated that comments are still being received from stakeholders.

13. Guyana indicated that discussions are ongoing regarding the inclusion of furniture in the Annex I Product scope. The EU responded by indicating that although the VPA is a dynamic document, changes in text or Annexes are better effected prior to ratification or after the issuance of FLEGT licenses to avoid delays in the issuing of FLEGT Licenses.
14. Guyana highlighted that the draft Annexes were developed through an extensive stakeholder participation process. Guyana expressed appreciation for the technical support of the EFI. Guyana presented how the engagement of stakeholders was conducted countrywide, which targeted over six hundred individuals in more than 100 communities using the cluster-based approach. A specific effort was made to ensure that stakeholder participation had gender balance. Future consultations will continue to benefit from the use of translators in communicating messages in the local Indigenous languages. The NTWG also emphasized the need for more interaction and engagement with members of the Parliament of Guyana on the VPA.
15. The EU encouraged Guyana to continue these efforts on consultation and to make use of the available communication material already produced in other VPA countries and through other FLEGT related projects. The EU recommended that the latest version of the Annexes be made available online in a timely manner and it should be indicated on the GFC webpage that comments can be provided within a specified timeframe. The EU also emphasized that the comments matrix on the GFC's website should be updated regularly.
16. The NTWG emphasized the need for maintaining interaction and engagement with the relevant stakeholders and indicated that it will continue to use appropriate communication media including radio stations, television stations and recorded DVDs.

## **Agenda Item 2: Focus on Annex II Legality Definition and Regulatory Framework**

17. Guyana presented progress on the Annex II LD and highlighted the key concepts and changes. Guyana introduced the new format (matrices, verification sections, Forest Sector Operators (FSO), how various themes are covered – environmental, social, fiscal, etc.), static and dynamic verifiers, frequency verification and participation of other agencies.
18. The EU congratulated the efforts and advances made by Guyana on this Annex and noted a good sense of realism on how the system will actually work. The EU concluded by providing a few general comments:
  - a) The possible merging of the two 'matrixes on Large and Small Concessions since they are both similar except for two indicators.

- b) Consideration of the different levels of capacity between the different types of FSOs to comply with the LD.
- c) Provision of information on the forest concession allocation process in the LD for transparency.

Guyana indicated that some of this information is already available on GFC's website and notes these comments.

- 19. The parties also agreed on the necessity for strong inter-agency cooperation in the implementation of the GTLAS through high level commitments such Memorandum of Understandings (MoUs) to ensure that there exists a strong mandate to collaborate particularly when FLEGT Licensing commences.
- 20. Both parties discussed the on-going review of the forest regulations and its impact on the LD. Guyana reassured the EU that these developments will not affect the LD.
- 21. In concluding discussions on the LD, the parties took note of the advancement of the draft Code of Practice of Amerindian Villages and Guyana indicated its commitment to undertake consultations with the Amerindians groups/villages.

### **Agenda item 3: Annex III EU Port Procedures**

- 22. The EU presented Annex III and emphasized that this was standard text across all VPAs and noted Guyana's proposal to change Joint Implementation Committee (JIC) to Joint Monitoring and Review Committee (JMRC). Both parties discussed issues relating to the FLEGT license and agreed that this Annex could be considered as the final draft.

### **Agenda item 4: Presentation on Initialing, signing and ratification**

- 23. The EU explained the three different stages needed to reach implementation phase; initialing, signing and ratification. For formal implementation to commence, ratification needs to be concluded on both sides. The EU further explained that it can take up to 6-12 months between initialing to ratification on the European side. Experience has shown that on the partner country side ratification has actually taken longer in some cases. The EU suggested that Guyana should continue to keep its Parliamentarians informed on this VPA process.

### **Agenda item 5: Annex V Guyana Timber Legality Assurance System**

- 24. Guyana presented the advances on Annex V with an emphasis on the global verification approach (routine, consolidated and FLEGT License), focus on information flows, focus on 'Legality Certificate', recognition of private certification schemes, Licensing (timing, format,

interaction with Customs Excise and Trade Operations (CETO), and interaction between the VPA Independent Audit (IA) and the Independent Forest Monitoring (IFM) under the MOU with the Kingdom of Norway.

25. The EU congratulated Guyana on all these advances and important concepts. The EU emphasized:
- a) Support for linkages between private certification schemes and GTLAS.
  - b) The importance of coordination with other agencies involved in the development, design and implementation of the GTLAS.
  - c) The need to elaborate the concepts related to verification methodology.
26. Guyana expressed its intention to integrate the IFM with the IA when the FLEGT License is fully operational and also expressed its concerns about the IA funding implications. The EU welcomed the future integration of both processes.

#### **Agenda item 6: Focus on VPA Text**

27. After discussions on Guyana's proposed changes it was agreed that Guyana would provide a revised version of the text to the EU for consideration.

#### **Agenda item 7: Annex XI: JMRC**

28. The EU made a presentation on the roles and responsibilities of the JMRC. The EU further emphasized the need for continued stakeholder participation in the implementation phase. Additionally, the EU shared the experiences of other VPA countries for the development of VPA coordination mechanisms. Guyana raised several questions with respect to the composition of the JMRC and how its activities could be financed. The EU highlighted that in most countries there are two levels of consultations; one internal for national discussions and one external for bilateral discussions and advised Guyana to explore the possibilities of donor financing activities of the internal consultations. The EU also suggested that Guyana include a list of the different stakeholder groups to be represented in the JMRC in Annex XI.

#### **Agenda item 8: Imports and coherence with EUTR**

29. The EU indicated the need to address the issue of imported timber and presented two possible options:
- a) Due diligence principle, similar to the EUTR approach, where responsibility for managing the risks of illegality falls on the importer.
  - b) Border measures where responsibility for managing the risks of illegality falls on Guyana.

The EU further noted that a reference to the legal origin of imported timber inclusive of the country of harvest is needed in the GTLAS. Guyana took note of the information and indicated that it will further look into the matter.

### **Agenda item 9: Focus on Annex X: Transparency Annex**

30. Guyana remains committed to promoting transparency which it has already demonstrated by publishing and making available a significant amount of information on the forestry sector. The EU encouraged Guyana to promote synergies with EITI so that they are mutually supportive. Guyana took note of the last comment. Both parties recognized that subject to a few more comments by the EU, the Annex will be finalized. Guyana requested the EU to provide EU legislation relevant to public access to information. EU agreed to provide the requested information.

### **Agenda item 10: Complaint Mechanism**

31. The EU presented the principles of the complaint mechanism which should be transparent, efficient, timely and available to all stakeholders. Guyana explained that there is an existing formal complaint mechanism and further indicated that it would document this mechanism, undertake internal stakeholder discussions to improve on this if necessary, and include it in the GTLAS.

### **Agenda item 11: Annex VIII Complementary Measures**

32. The EU presented the use of this Annex in other VPA countries to address broader forest governance issues. Guyana and the EU acknowledged that the VPA represents an opportunity for the promotion of broader governance issues. Both parties recognised that land titling and land use issues have been raised by stakeholders. However, the parties cautioned that addressing land title and land use issues is a longer-term process which should be addressed through a dedicated inclusive mechanism. Supporting measures defined in Annex VIII could establish such a mechanism.

33. As an example of complementary measures related to the above, the EU mentioned the possible creation of a Multi-stakeholder Coordination mechanism on land tenure and land use. The purpose of this Coordination mechanism would be to provide a dedicated space for dialogue on land tenure, land use and conflicts over land use. Reference to this Multi-stakeholder platform could be also included in Annex V in the section on Stakeholders or on Consultation mechanisms. Participation of different government agencies particularly Ministry of Indigenous People's Affairs (MIPA), GFC, Guyana Lands and Surveys Commission (GLSC) and Guyana Geology and Mines Commission (GGMC); as well as non-government stakeholders such as indigenous groups and private sector representatives could be encouraged, which would result in increased coordination

between government agencies and stakeholders regarding land governance. Guyana agreed to further explore this suggestion.

### **Agenda item 12: Field Testing**

34. The EU presented the draft terms of reference for field testing to assess the applicability and enforceability of the LD requirements and verification mechanism set up in the GTLAS. The EU further indicated that the field testing can only commence once the GTLAS Annex was fully mature (anticipated to start in June 2016) review of the Forest Regulation is complete.
35. Both parties agreed that the composition of the field testing team should include representatives of key stakeholder groups. The selection of the FSOs to be tested should reflect the various types existing under the LD.

### **Agenda item 13: AOB:**

#### ***Conversion and Salvage Timber***

36. Both parties took note of the increasing political importance of conversion and salvage timber. Guyana indicated that most of these sources are already included in the LD; however, they will further update the LD to ensure that there are no gaps in the sources of timber. Guyana explained that conversion timber includes timber legally obtained as a result of agriculture, mining, infrastructural development, hydropower and other sources.

#### ***Plantation Forest***

37. On the matter of the plantations forest, Guyana informed the EU that while there is potential for plantation development in the future plantation timber will not be considered as a source of timber at this time in the VPA; however, this position may be reviewed if plantation timber becomes available.

#### ***Paper based and Electronic systems***

38. EU shared its experiences on paper based and electronic systems from other VPA partner countries and advised Guyana to consider various options. Guyana took note and indicated it will adopt a progressive approach bearing in mind the need for quick reconciliation of data along the supply chain.

#### ***Transition to Implementation phase***

39. Both parties appreciated the need for interim arrangements for the transitioning from the negotiation to the implementation phase. When a VPA is ratified, a formal JMRC is established. To avoid a gap between the end of negotiation phase and formal ratification which has taken up to 12 months in some countries, the parties considered the establishment of a pre-JMRC to maintain dialogue and momentum. The establishment of a secretariat to facilitate the work of the pre-JMRC and future JMRC was discussed. The EU encouraged Guyana to explore the


possibilities of obtaining future donor funding for these activities. Guyana took note of this suggestion.


**Visits to EU Member States during the next negotiation session**

40. Guyana expressed the desire to visit port facilities in EU Member States to better understand customs procedures. Guyana also requested that consultations be facilitated with the relevant Competent Authorities on the procurement procedures related to UK Greenheart restriction and meetings with various stakeholder groups. The EU acknowledged the importance of such visits and agreed to make an effort to facilitate these activities during the next negotiation.

**Next negotiation session**

41. The parties agreed to a fifth negotiation in July/August, 2016, as per the revised VPA road map in Annex 2 of this document.

  
Veronique LORENZO  
10/03/16

  
10th March 2016



## ANNEX 1:

### LIST OF PARTICIPANTS

#### A) Guyana team

1. James Singh – Commissioner of Forests, Guyana Forestry Commission
2. Kenny David – Guyana Forestry Commission
3. Jacy Archibald- Guyana Forestry Commission
4. Keith Austin- Guyana Forestry Commission
5. Gavin Agard – Ministry of Natural Resources
6. David James- Ministry of Indigenous People's Affairs
7. Esther Sam – Ministry of Legal Affairs
8. Ronalda Edwards- Ministry of Foreign Affairs
9. Simone Beckles- Guyana Revenue Authority (CETO)
10. Deonarine Ramsaroop – Forest Products Association of Guyana
11. Laura Singh – Forest Products Development and Marketing Council Inc.
12. Mohindra Chand – Guyana Manufacturing and Services Association
13. Rodney Davis- Representative Community Forestry Association
14. Joel Fredericks- National Toshias Council

#### B) Observer

1. Laura George- Amerindian Peoples Association

#### C) European Union team

1. Veronique Lorenzo, European Commission (Brussels)
2. Ambassador Jernej Videtic, European Union Delegation in Guyana
3. Christopher Price, European Commission (Brussels)
4. Michela Tagliaferri, European Commission (Brussels)
5. Albert Losseau, European Delegation in Guyana

#### D) Support team

1. Didier Devers, European Forest Institute (EFI)
2. Thomas Pichet, European Forest Institute (EFI)

3. Muriel Treibich, European Forest Institute (EFI)
4. Alhassan Attah, FLEGT Facilitation Support Office
5. Kwame Asumadu- Guyana Forestry Commission Consultant
6. Basmatee Mohabeer- Guyana Forestry Commission
7. Romeico Lanferman- Guyana Forestry Commission
8. Quintyn Patrick- Guyana Forestry Commission

ANNEX 2:

Updated Joint Roadmap for Guyana – EU FLEGT VPA Negotiations

	MILESTONES	Completion Dates	Comments
4 <sup>th</sup> Negotiation Session		March 2016	Subject to assessment of progress during Fourth Negotiation Session
	Consultations are on-going Field testing of the Legality Definition and Legality verification by Independent Party	April- June, 2016	
	Annex 2 – Legality Definition	31 <sup>st</sup> March, 2016	
	Meeting with Cabinet	April, 2016	
	Meeting with Parliamentarians in Guyana	April, 2016	
	Complete Drafting of GTLAS	15 <sup>th</sup> April, 2016	VC on the 20 <sup>th</sup> April, 2016
	Consultations with Stakeholders (Focus Groups)	15 <sup>th</sup> April – 31 <sup>st</sup> May, 2016	
	Document available on GFC website for comments (closing date 31 <sup>st</sup> May, 2016)		
	Annex 1 – Product Scope Annex 3 – EU Port Procedures Annex 4 – Technical Specifications of Licences Annex 10 – Transparency Annex 11 - Joint Monitoring and Review Committee	29 <sup>th</sup> April, 2016	VC between Negotiators to agree on final draft of Annexes
	<b>Field testing and Report of GTLAS</b>	6 <sup>th</sup> June, 2016 – 6 <sup>th</sup> July, 2016	VC on the 10 <sup>th</sup> June after G/town testing VC on the 8 <sup>th</sup> July after report is completed

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	NTWG to engage with Resource persons to finalize GTLAS	6 <sup>th</sup> – 12 <sup>th</sup> July, 2016	
	Updating of the GTLAS following field testing and incorporation of relevant comments	12 <sup>th</sup> July, 2016	
	Annex 2 – Legality Definition Annex 5 – Timber Legality Assurance System (GTLAS) Annex 6 – Terms of Reference for the Independent Audit of GTLAS Annex 7 – Implementation Schedule Annex 8 – VPA supporting Measures Annex 9 – Criteria for assessing GTLAS Main Legal Text	31 <sup>st</sup> March, 2016 12 <sup>th</sup> July, 2016 31 <sup>st</sup> May, 2016 30 <sup>th</sup> June, 2016 30 <sup>th</sup> June, 2016 12 <sup>th</sup> July, 2016 30 <sup>th</sup> June 2016	VC on 19 <sup>th</sup> July to confirm arrangements for 5 <sup>th</sup> Negotiation
5 <sup>th</sup> Negotiation Session		July August 2016 (TBC with the EC)	Port Visit Visit to UK DEFRA Meeting with EU Parliamentarians and Civil Society Explore the possibility of High Level Political Representation from Guyana Conducted by Legal representatives from EU and Guyana
	<b>Legal scrubbing</b>	August – November, 2016	
6 <sup>th</sup> Negotiation Session-	<b>Initialling of Agreement</b>	5 <sup>th</sup> December, 2016	Subject to assessment of progress during Fifth Negotiation Session.
Discussions for the implementation of the VPA and the Next Steps Prior to Issuance of First FLEGT Licence	National Roll out of LAS	January 2017	

KM: Key Milestone

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