



Joint Monitoring and Review Mechanism of the Ghana-EU FLEGT Voluntary Partnership Agreement

Aide Memoire

Meeting of the Joint Monitoring and Review Mechanism

Accra, 14th and 15th May 2019

Introduction

1. A meeting of the Joint Monitoring and Review Mechanism¹ (JMRM) to facilitate the implementation of the Forest Law Enforcement Governance and Trade (FLEGT) Voluntary Partnership Agreement (VPA) between Ghana and the European Union (EU) took place in Accra on 14th and 15th May, 2019. The Joint Secretariat of the JMRM was duly represented.
2. The Ghana delegation included representation from the Ministry of Lands and Natural Resources (MLNR), the Forestry Commission (FC), Customs Division of the Ghana Revenue Authority, Civil Society, and the Private Sector. The EU delegation included representation from the EU Delegation to Ghana, the European Forest Institute (EFI) EU FLEGT Facility, and the European Commission in Brussels (DEVCO).
3. The JMRM discussed progress on VPA implementation. The following sections provide a summary of the discussions and agreement reached. The meeting agreed to prepare an Aide Memoire at the conclusion of the JMRM, and include any statement or decision that either Party has requested for inclusion. The Aide Memoire will be adopted by written procedure through an exchange of notes between the parties, signed and made public. A full participant list for both delegations is attached as Annex I to this Aide Memoire.

GhLAS updates

4. In April 2019, the FC entered into a contract with Ata Marie Group Ghana (AMGG) to carry out further work on the Ghana Wood Tracking System (GWTS). While some of this work is required to ensure system readiness for licensing, the scope of work under this new contract also includes functionalities that should be regarded as system enhancements, which go beyond the requirements of the VPA.
5. It was further clarified that the team carrying out the final joint assessment of the system would be examining all of this work more closely, but that for the purposes of updating interested stakeholders, this scope of work included the following:
 - Accommodating six-digit Harmonised Standard codes rather than the four-digit codes that had previously been used

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



- Reformatting the FLEGT license to address feedback that had been provided during the licensing shipment test carried out in October 2017
 - Enabling certain information to be viewed on handheld devices as well as on laptops
 - Introducing greater efficiencies in business processes in relation to the management of harvesting from plantations
 - Including new information fields to ensure that justification is provided when a 'red flag' is cleared from the system and that the system user who cleared the flag is identifiable
6. The FC confirmed that AMGG expect to complete the software design, installation and testing of all new features and functionalities by the end of July 2019 and emphasised that the release of upgraded versions of the software would not interrupt the effective functioning of the system.

Linking the GWTS with the EU's FLEGT IT system

7. Following the FLEGT license shipment test in October 2017, Ghana agreed to explore developing an interface between the GWTS and the EU's FLEGT IT system, which acts as an electronic database of all FLEGT licenses received into the EU. Ghana reaffirmed its interest in developing such an interface, but clarified that it would not be possible to carry out this work under their current contract with AMGG.
8. It was agreed that to move this process forward, the EU Delegation would provide the Director of the Timber Validation Department (TVD) with the relevant contact details for a contact point for FLEGT IT within DG Environment in the European Commission. This would enable further discussion to clarify the scope of work required to develop this interface so that the FC could secure the necessary budget to carry out the work.
9. In addition to the FLEGT IT interface, the FLEGT Competent Authorities (CAs) had also requested that access be provided to the GWTS to enable them to verify the validity and authenticity of the paper-based FLEGT licenses by cross-checking them with the copy held electronically by the FC. Ghana confirmed their willingness to provide the FLEGT CAs with restricted access to the GWTS and will discuss with AMGG to confirm how this request could be accommodated.

Status of the solar installation and IT upgrade work

10. To support the efficient running of the GWTS, which forms an essential component of the Ghana Legality Assurance System (GhLAS), the UK Department for International Development (DFID) contracted a service provider in 2017 to install solar power at a number of national, regional and district offices and to also upgrade the connectivity of the FC's IT systems. The end date for this contract has had to be extended to allow for the construction of a battery house at the Resource Management Support Centre in

Kumasi. All work under this contract is now expected to be completed by the end of July 2019.

Independent Monitoring

11. The fourth and final audit of the GhLAS under the current contract with the Independent Monitor (IM), was carried out at the end of 2018. It was agreed that the scope of this fourth audit and the level of detail provided in the report, met the expectations of the JMRM and that future audits under a new contract should meet a similar standard.
12. In relation to the findings of the audit, it was agreed that it would be important to ensure that all corrective actions highlighted in the report, should be addressed in a timely manner so that the credibility of the system would not be undermined. It was acknowledged that some of these corrective actions may require a policy response rather than a technical one, and that where this is the case, escalation to the JMRM would ensure the necessary Ministerial attention to enable a resolution to be identified.
13. The JMRM noted the observation of the IM that it would be important to have procedures to guide the clearance of red flags at the point of license issuance. Ghana acknowledged this concern and agreed that it would need to be addressed.
14. The JMRM decided to publish the public summary of the findings of the fourth IM audit according to Decision 01/15/05/2019 as annexed to this Aide Memoire.
15. With regards to the tendering process for the next IM contract, the following was agreed:
 - Ghana will review the current Terms of Reference with assistance from the EFI EU FLEGT Facility and in consultation with the EU, to ensure that any lessons learned from this initial contract can be considered. One such modification to be made would be for greater emphasis on field missions rather than secondary data as a source of information to inform audit findings
 - Ghana and the EU will work to identify sources of funding that could be mobilised to support an audit in 2019, thereby avoiding any gap in the cycle of annual audits that has been established since 2015. The JMRM will clarify whether it is necessary for an IM contract to be in place before a decision on readiness for licensing can be made
 - Ghana to explore options for entering into a multi-year IM contract when available funding might be limited to covering the cost of services for just one year
16. Beyond the above action points, it was also agreed that in the long term, Ghana will need to explore sustainable options for longer term financing of the IM as this third party audit of the system is integral to the credibility of the GhLAS.

Impact Monitoring

17. A representative of the Joint Team on Impact Monitoring (JTIM) provided an update on the status of the draft impact monitoring framework for the VPA and the next steps towards finalisation. The status may be summarised as follows:

- In the absence of existing data sources that would facilitate the establishment of clear baselines for areas such as national VPA process, livelihoods and forest governance, the JTIM will prepare narrative summaries of the situation that describes the context in 2006, and any changes that have occurred between then and the end of 2018.
- These narratives will be validated as baselines through a stakeholder consultation with key experts for the respective thematic areas. The timing of these stakeholder consultations is dependent on when the two projects that are expecting to secure FAO EU FLEGT Programme funding to support this work, have signed their Letters of Agreement with the FAO. It is expected that these validation meetings should take place before the end of July 2019.
- Once these baselines have been validated, there will be a final national stakeholder consultation meeting before submitting the draft framework to the JMRM for approval. Funding for this national consultation exercise has yet to be identified.

18. It was agreed that pending the approval of the framework and related baselines, evidence being generated by the various data sources identified for the framework, should be drawn upon to support the narrative of the positive changes that the implementation of the VPA has been responsible for in the sector.

Communications

19. An update was provided on the progress with communication activities linked to the JMRM as well as those linked to Ghana's development of a national communication strategy for FLEGT licensing. With respect to the activities related to the JMRM, the following updates were provided:

- EFI's EU FLEGT Facility have developed a page on their website where updates on progress with the joint assessment are made available². The process for publishing these updates is that at the request of the assessment focal points, draft text is prepared by EFI's EU FLEGT Facility's communications team and then shared with the focal points on the Ghana and EU side for their approval before publishing

² <http://www.euflegt.efi.int/official-documents-ghana/joint-assessment>

- The JMRM's joint working group on communications are working with the support of EFI's EU FLEGT Facility to finalise the 2018 VPA annual report and expect to have a draft ready to circulate to the Joint Secretariat of the JMRM for comments by the end of June 2019
 - The approach of using 'friendly emails' to share key updates on the process with interested stakeholders is expected to continue with the issuance of a mail related to the publication of the JMRM Aide Memoire.
20. On the work to develop a national communication strategy for FLEGT licensing it was confirmed that the first phase to develop an overarching framework for the strategy had been completed. The second phase, which involves the development of case studies and collation of evidence to support the implementation of the strategy, was reported as being underway and will draw on FAO EU FLEGT Programme support for these activities.
21. It was also noted during this discussion that when gathering evidence and case studies to inform the implementation of the strategy, it would be important to move beyond trade associations to engage directly with timber companies.

Domestic Market

22. An update was provided on progress made by Ghana in addressing illegal logging to supply the domestic market. Included among the measures reported on were:
- Collaboration that has taken place between the FC and Tropenbos Ghana to engage with operators involved in chainsaw logging to encourage them to formalise their operations by registering as artisanal millers. This approach, which involved the adoption of mobile sawmills for timber processing, has enabled these operators to access legal supply of raw material through agreements with large scale rights holders. Their registration also allows them to have direct access to timber by securing small-scale timber utilisation contracts (TUCs).
 - The introduction of a Domestic Timber Inspection Certificate (DOTIC) that requires that before any wood can be traded domestically, it must be in possession of a certificate that shows that it has come from a verified legal source. To further strengthen regulatory control, work is ongoing to require that all wood products being transported from the market site to its final destination, should also be accompanied by a waybill that is in conformity with GhLAS through its direct link to the DOTIC.
 - A study that is being undertaken by the Timber Industry Development Division (TIDD) of the FC, with support from the FAO EU FLEGT Programme is determining the feasibility of wood depots where legally verified wood products could be made available for sale to the local market
 - A review of tree tenure that is being led by the MLNR, and has engaged both private sector and civil society, is examining incentives for farmers to retain trees on their

farms and prevent illegal operators from gaining access to harvest naturally occurring trees

- Continued engagement by the MLNR at policy level in pursuit of the introduction of a public procurement policy for verified legal timber, which would help to create clear market incentives for legal compliance
- Implementation of import controls to ensure that any timber being imported into Ghana that enters into the GhLAS for further processing and sale on either the domestic or export market, comes from legal sources

Stakeholder Session

23. An opportunity was provided during the meeting for interaction with sector stakeholders. A list of names for those who joined the meeting during this session is included in the participant list attached in Annex I.
24. Civil society expressed their approval that the final assessment of the GhLAS was now underway and offered assurances that they remained ready to support the Government to address any issues that might be highlighted during the assessment as challenges to FLEGT licensing. In this regard, they emphasised their desire to provide practical support to tackling non-compliances and their willingness to reprioritise or adapt project activities to this end where necessary.
25. A representative of the legal working group that is co-convened by ClientEarth and Taylor Crabbe Initiative to provide capacity building support to CSOs, acknowledged the milestone that had been reached on May 6th 2019, with the publication of the notice inviting the private sector to apply to convert their leases.
26. In relation to the publication of the notice, CSOs gave an illustration of the practical support that they could offer to this process. The meeting was informed that the Nature and Development Foundation will support sixty small and medium enterprises (SMEs) to complete and submit the necessary application forms for conversion. They will do this as an additional activity when engaging with these SMEs through an existing project funded by the FAO EU FLEGT Programme.
27. A further area of support offered by civil society includes support to ensuring legal compliance with the negotiation and implementation of Social Responsibility Agreements (SRAs). It was acknowledged that significant progress had been made by both the FC and private sector in this regard, but that further work was needed. Civil society are working with the FC to establish a national database of SRAs. They are also working with private sector to ensure that communities and contractors are clear on the guidelines for SRA negotiation and requirements for demonstrating legal compliance.
28. Civil society also raised concerns about reported cases of Rosewood being harvested and transported despite the ban that has been put in place by the MLNR. A further

concern was expressed about the appropriateness of the permit type being issued for Rosewood.

29. In response, the JMRR expressed their shared concern that the credibility of the GhLAS should not be undermined by a failure to effectively regulate the harvesting and trade in Rosewood or other species in the north of Ghana and noted that the final assessment of the GhLAS would be looking more closely at Rosewood harvesting during their next mission.
30. On the subject of concerns about the credibility of the GhLAS, civil society offered assurances that a complaints mechanism has been developed, for which there are clear and transparent procedures. A planned activity of the legal working group in the coming months will be to test the robustness of this complaints mechanism by filing a 'mock complaint' and then working with the FC to further strengthen this mechanism if necessary.

Update on the final Joint Assessment of the GhLAS

31. The final assessment of the GhLAS was launched in February 2019, with three phases envisaged for the assessment process as follows:
 - Phase one, was a desk review of the VPA and proposed amendments to annexes, along with the various manuals of procedure, protocols and related documentation of relevance to the implementation of the GhLAS. This phase also incorporated a short mission to Ghana to finalise the methodology for the assessment and conduct interviews with various divisions and departments of the FC.
 - Phase two of the assessment involves field observations to examine the functioning of the system in practice in accordance with the criteria outlined in Annex VII of the VPA. The findings of this phase, will be categorised by the assessment team as being:
 - a. compliant
 - b. a minor non-compliance whereby the issue needs to be resolved but is not considered material to licensing
 - c. a major non-compliance where the issue is considered to be material to the functioning of the system and must be resolved prior to licensing.
 - Phase three of the assessment is the final phase during which the assessment team focus on ensuring that all issues considered necessary to be resolved prior to licensing, have been satisfactorily addressed.
32. The first mission in phase two took place in the first three weeks of April. An initial debriefing on mission findings was provided by the assessment team prior to their departure. A documented update on phase two was made available to the respective focal points on the Ghana and EU side on Monday 13th May. Some initial observations were made as follows:

- The assessment team recognised the significant progress made in the development and operationalisation of the GhLAS since the initial assessment in 2014. The mission had not been able to cover the full scope of issues necessary for them to make a comprehensive assessment of the system. Additional information will be provided by the FC to aid the assessment of the GhLAS and a further mission will be required to complete phase two.
 - The scope of this additional mission would include visits to additional forest districts, an examination of how the GhLAS deals with Rosewood, a closer look at the plantation module and a more thorough assessment of the system's functionality in relation to timber processing. The timing of the next mission would be determined by a communication from the focal points.
33. One preliminary finding was related to the failure to convert leases to TUCs. The Parties discussed that for this to be considered as resolved, it must be possible to demonstrate that at least one permit requiring conversion, has been able to go through the process from start to finish, with the final step being ratification by Parliament.
34. It was discussed that although Parliamentary ratification was beyond the control of the forest sector, any alternative solution that may be identified, such as a Parliamentary waiver to allow Ministerial discretion for approval of the conversion, could only be considered if it fell within the bounds of Ghana's legal framework. Ghana indicated that further discussion would be required on options for resolving this requirement for ratification and that seeking the advice of the Attorney General on the matter would also be considered.
35. An additional preliminary finding was related to the issue of harvesting taking place in areas without valid forest management plans. On this issue, the FC confirmed that although they had now been able to update 62 forest management plans, there were currently 19 new areas where timber production had started without having valid forest management plans in place. This issue will be resolved prior to licensing.
36. On the issue flagged by the assessment team in relation to inconsistencies between how the GhLAS is described in Annex V of the VPA and how it is found to be working in practice, the JMRM agreed that such inconsistencies should be handled as follows:
- Where the assessment team deem the practice to be equivalent to or more robust than what is described in the VPA, the FC will seek the support of the EU FLEGT Facility to document the actual practice
 - The drafted text will then be forwarded to the JMRM for their consideration
 - Once agreed at the level of the JMRM, this text will be annexed to the relevant aide memoire and at a point when the Parties consider it prudent to open up the VPA annexes for further revisions, any such revisions would be included in the scope of amendments to be proposed at that point

- In cases where the assessment team deem the practice to be less robust than what is described in Annex V of the VPA, then the FC will revise the practice accordingly

37. It was agreed that EFI's EU FLEGT Facility's contract manager for the joint assessment would forward the Aide Memoire to the assessment team, with the respective focal points in copy, to alert them to the fact that the above process has been established for handling any inconsistencies identified.

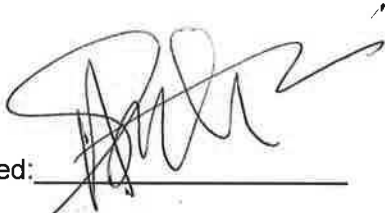
38. With respect to the timing of the second mission for phase two of the assessment, the FC indicated a desire to mobilise the team at the earliest opportunity. It was agreed that a communication to this effect would be sent to the consultants by Friday 17th May, by which time the availability of key individuals on the Ghana and EU side would have been confirmed.

39. During the debriefing session of the assessment team in April, the focal points had requested that EFI's EU FLEGT Facility make provision for funding to cover an additional mission as part of phase two. EFI's EU FLEGT Facility confirmed that funds had now been secured for this additional mission and that the contract variation covering this additional mission would be completed by the end of May 2019.

40. In preparation for the next mission, it was agreed that it would be useful if Ghana could share with the EU, a revised version of the shipment test action plan and also forward this to the FLEGT CAs who participated in the shipment test in 2017.

Date of the next JMRM

41. It was agreed that an appropriate date for the next JMRM would be determined at a later stage by the Joint Secretariat of the JMRM.

Signed: 
Hon. Kwaku Asomah-Cheremeh
Minister of Lands and Natural Resources

Date: 06/06/19

Signed: 
H.E. Diana Acconcia
Head of the EU Delegation to Ghana

Date: 06-06-19

Annex I: Participant List

Name	Organization
Musah Abu-Juam	Technical Director, Ministry of Lands and Natural Resources (MLNR)
John Allotey	Deputy Chief Executive, Forestry Commission (FC)
Chris Beeko	Director, Timber Validation Department (TVD), FC
Dr. Ben Donkor	Executive Director, Timber Industry Development Division, FC
Oppon Sasu	Executive Director, Forest Services Division, FC
Alex Asare	Director, Resource Management Support Centre, FC
Dr. Richard Gyimah	Timber Validation Department, FC
Agyemang-Prempeh K.	TVD, FC
Samuel Mawuli Doe	TVD, FC
Tabi Agyarko	MLNR
E. Adjenim-Boateng	Ghana Revenue Authority-Customs Division
Richard Nsenkyire	Ghana Timber Millers Organisation
Alex Dadzie	Ghana Timber Association
Albert Katako	Forest Watch Ghana
Samuel Kwabena Nketiah	Civil Society
Roberto Schiliro	EU-Head of Section, Infrastructure and Sustainable Development, EU Delegation to Ghana
Christopher Ackon	Programme Officer, EU Delegation to Ghana
Andrew Haywood	EFI EU FLEGT Facility
Clare Brogan	FLEGT Facilitator

Annex II: Decision 01 15/05/2019

Publication of Public Summary Report of the findings of the 4th audit report of the Independent Monitor

Decision no.	Description	Date of entry into force
01 15/05/2019	In accordance with Article 19(3) (j) of the VPA, the JMIRM has upon review of the 4th IM report decided to publish a public report summary.	15/05/2019