



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

Aide Memoire

Technical Session of the Joint Monitoring and Review Mechanism
Accra, 17 November 2016

Introduction

1. A technical session 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 17th November, 2016. The session was co-Chaired by Ghana and the EU. The Ghana Delegation was led by Musah Abu-Juam, Technical Director at the Ministry for Lands and Natural Resources (MLNR). The EU Delegation was led by Benoist Bazin, Team Leader for Infrastructure and Development at the EU Delegation to Ghana.
2. The Ghana team included representation from the Forestry Commission (FC), Ghana Revenue Authority (Customs Division), Civil Society and the Private Sector. The EU team included representation from the EU Delegation, European Commission, and experts from the EU FLEGT Facility. A participant list is attached as Annex I to this aide memoire.
3. The session discussed progress on key aspects of the VPA implementation. The following sections provide a summary of the discussions and decisions in relation to each of the areas concerned.

New Legislative Instrument Legality Definition

4. At the eighth session of the JMRM in March 2016, it was agreed that the guidelines developed for the award of 'special permits' under the provisions of Act 617, would form the basis of a new Legislative Instrument (LI), that would be reviewed by government and sector stakeholders before onward transmission to Parliament for approval.
5. In July 2016, a joint working group comprising representation from MLNR, FC, the Attorney General's office and civil society, began work on this draft LI. Once this process began however, it became apparent that there were areas where further provisions were required, or where harmonisation was necessary. As a result, this working group took the opportunity to develop a larger consolidated LI than had originally been intended.

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



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6. The provisions contained in the draft 'Timber resource management and legality licensing regulation xxxx 201x), include:
- a distinction between large and small scale Timber Utilisation Contracts (TUCs), with guidelines that clarify duration, size and non-fragmentation. The inclusion of a provision for small scale TUCs was a new provision and reflected discussions that had been held by sector stakeholders previously, regarding the need for an LI focused on the allocation of timber rights in the off-reserve area.
 - A requirement that any existing 'special permits' be converted to TUCs
 - The replacement of the term 'competitive bidding' with 'competitive procedure', so that competitive bidding can be one form of competitive award, but not the only option available
 - Clarification that no timber rights are subject to automatic renewal
 - A requirement for Social Responsibility Agreements to be negotiated with adjacent communities for all commercial logging permits (this includes salvage permits)
 - Explicit mention of the requirement for representation of civil society on the Timber Validation Committee
 - A provision that the conversion of extant leases should be done through the 'one-off' rather than annual payment of a Timber Rights Fee
 - Provision for public access to information from forest resource management
7. The extension of the scope of the LI resulted in a delay in the anticipated timeframe for its completion. After review by the Attorney General's office, the LI has now been released and is ready to be put before Parliament. With Parliament currently on recess however, and Presidential and Parliamentary elections scheduled for December, it is now expected to be adopted in the first quarter of 2017.

Conversion of Extant Leases to TUCs

8. At the eighth session of the JMRM in March 2016, negotiations between Government and the private sector on the payment of a Timber Rights Fee (TRF) for conversion of extant leases to TUCs were ongoing. As these negotiations were unsuccessful, sector stakeholders agreed to use the approach of making a provision in the new LI to address this issue (see para. 6 above). As this approach has been communicated to the private sector and no objections have been raised to date, it is expected that once the LI has been approved, the process of conversion of concessions to TUCs will run smoothly.

Annex Changes

9. It was agreed at the eighth session of the JMRM, that certain amendments to the annexes of the VPA would be necessary prior to licensing. These changes included:
- The inclusion of special permits (now referred to as TUCs) in annex II
 - Inclusion of new provisions for transit and imported timber
 - The changes to the description of the LAS in annex V to reflect system enhancements and efficiencies introduced through the system development
 - Changes to Annex I(b) to include other species that are prohibited for export

10. As the scope of the new LI was extended to address issues included in paragraph 6 above, this has impacted on the number of changes necessary to the annexes. As a consequence, a multi-stakeholder team is still working on the amendments to ensure that there is consistency between the proposed changes and the provisions of the new LI. This work will be complete by the end of November 2016, at which point an advance informal copy of the text will be shared with the EU. The date of final formal transmission will depend on the date of the approval of the draft LI, assuming that no changes have been made to the LI that would require further changes to the annexes.
11. The EU confirmed that based on the experience with Indonesia, the approval of changes to the annexes could take anywhere between four to six months. In addition to these changes, prior to FLEGT licensing, there is a requirement to amend the FLEGT regulation to include Ghana as a country ready to license timber. This amendment can also take three to four months, but can happen in parallel with the approval of the changes to the annexes.

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Final GhLAS assessment

12. At the eighth meeting of the JMRR in March 2016, five pre-conditions were agreed related to the launching of the final joint assessment of the Legality Assurance System (LAS). The status of these pre-conditions is reflected in the table below:

| Pre-condition | Status |
|--|---|
| Special Permits: LI to be submitted to Parliament | LI drafted and approved by the AGs office, but not yet submitted to Parliament |
| Power supply and connectivity: procurement and installation completed for priority districts | The tender process managed by Crown Agents on behalf of DFID for both of these services, resulted in failed tenders. The process has now had to start over with AECOM, DFID's new service provider. This delay means that this installation is not likely to be complete until May/June of 2016. The Forestry Commission are confident however that an interim solution that they have identified, would enable the assessment of the system (see para. 13) |
| Forest Management Plans: Completion of at least 12 of the priority 32 plans | This criterion has been met. |
| Roll-out of the WTS at an advanced stage: All sources subject to end to end testing | The rollout has covered 17 forest districts, which accounts for 45% of the timber production. Rollout has been paused for two and a half months pending the delivery of Compliance and Enforcement training to all operational staff of the Forest Services Division. The training is scheduled to start on November 28 th and run until mid-February 2017. The roll out is expected to be complete by the end of February. |
| Annex Changes: proposed changes drafted and transmitted to the EU | The Annex Changes will be transmitted to the EU by the end of November. Finalisation of these changes is pending the approval of the LI. |

13. With regard to the delays being experienced with the procurement of IT and solar installations, Ghana proposed to focus the GhLAS assessment on 6 districts where interim solutions to the power and connectivity challenges could be provided. It was agreed that in proceeding with such an approach, it would be important to ensure that full end-to-end assessment for all sources of timber would be possible, to avoid a situation where a systemic failure is identified at a later stage that was missed due to an oversight in the sampling methodology. With this understanding and considering the timeframe for completion of other pre-conditions, April 2017 was agreed as a tentative date for launching the final joint assessment.
14. In addition to the 12 forest management plans that have now been finalized, a further 10 management plans have undergone field survey and technical review and are ready to be taken out to stakeholder consultation once funding for this process can be mobilized. These 22 priority plans cover all reserves from which timber will be harvested in the

period up to the end of 2018. The remaining 10 management plans will need to be completed by early 2019, when these areas will come under production.

Independent Monitor

15. Following the JMRM in March 2016, during which the report of the first 'test audit' was discussed, SCS Global Services, the Independent Monitor service provider, agreed to produce a summary report for review. A draft of this document has now been provided to MLNR and will be shared with the JMRM secretariat by the end of November 2016. A final summary report will be published by the end of March 2017.
16. At the meeting of the JMRM in March 2016, it was agreed that it would be useful to hold a further audit in advance of the final joint assessment of the GhLAS and it was agreed that this would take place in August 2016. In addition to the audit being useful to identify systemic weaknesses or areas of non-compliance, it was also noted that the service provider is contractually obliged to carry out at least one audit a year. This audit will now commence in the week of November 21st, 2016.

Domestic Market

17. The public procurement policy for the use of verified legal timber in Government financed contracts, has not yet been approved by Cabinet. The policy was submitted to Cabinet for review in February 2016 and a sub-cabinet committee was created to examine the policy, given its potential impacts on various Government Ministries, Departments and Agencies. With the upcoming elections, there is not expected to be further progress on this until the first quarter of 2017.
18. In August 2016, a new mandatory system of tracking timber on the domestic market was introduced by the Timber Industry Development Division (TIDD) of the FC. The system involves the issuance of a Domestic Timber Inspection Certificate (DoTIC) to all timber supplied to the domestic market. To establish the legality of timber flows on the domestic market, the DoTIC is linked to the Log Measurement and Conveyance Certificate (LMCC). This LMCC is issued at the point of loading logs onto the timber trucks for transport out of the forest and is only issued to logs that have been legally sourced. In this way, by issuing a DoTIC to those holding an LMCC, there is a clear chain of custody that ensures the legality of timber being traded. Furthermore, traders are required to issue a waybill to cover all legally sourced timber leaving the markets.
19. As this system was just rolled out in August 2016, there is a plan to review it with key stakeholders in the first quarter of 2017 so that any tweaks to the system can be made. Once this process is complete, the routine collection of information contained in the DoTIC will enable data on trade flows on the domestic market to be recorded. This information will then be published along with the data on timber exports, in the monthly reports from TIDD that appear on the website of the Forestry Commission.

20. Given the volume of timber being harvested to supply both the domestic and regional markets, it was agreed that it would be important to have access to reliable data on the value, volume and direction of trade for both the formal and informal sector. For the formal sector, the DoTIC system for the domestic market and the export documentation for overland exports will provide this. For the informal sector, dedicated studies will be carried out by the FC in partnership with a number of civil society organisations.

Transparency

21. In addition to the provisions made in the new LI for public access to information from forest resource management, Civic Response have also been awarded a grant by the FAO FLEGT Programme that will enable them to develop a public portal for the Wood Tracking System. Discussions between the Forestry Commission and Civic Response to clarify the scope of information that could be shared through this portal, are planned for early 2017.

Impact Monitoring

22. The draft framework for Impact Monitoring was presented and received approval in principle to proceed to the next steps. The framework comprises seven impact areas: revenue generation, forest condition; livelihoods, forest management, forest governance, market structure/performance, and national VPA governance, with each area comprising a baseline summary statement.
23. For each impact area, there are a set of key 'monitoring questions' aimed at identifying the change envisaged in that particular area. Related to these questions are a series of indicators to track change in these areas. The indicators selected are ones that in so far as possible, draw on existing data sources and routine procedures. Data from these identified sources informs the development of the baseline summary for each impact area.
24. The institutional arrangement for the management of the framework includes the appointment of a VPA impact monitoring Facilitator whose work will be guided by a Manual of Procedures that have been developed specifically for this role. The Joint Team on Impact Monitoring (JTIM) will continue to oversee the implementation of the system once operational.

25. The next steps with the framework are as follows:

- Revisions to the draft framework by December 22nd
- Further revised draft framework to be shared with JMRM secretariat for wider distribution to JMRM membership
- A further meeting of the JTIM to be held in the week of February 20th 2017, during which the revised draft framework will be discussed, and the resource needs for the implementation of the system will be identified
- A stakeholder validation meeting, also in the week of February 20th, during which the framework structure and related institutional arrangements will be presented and discussed and feedback sought to make final refinements.
- A final version of the framework will be transmitted through the M-SIC to the Ghana side of the JMRM secretariat for formal adoption with the EU through exchange of written procedure

Communication

26. The JMRM sub-committee on Communications provided an update to describe progress made on the JMRM communication strategy. The sub-committee at the session presented and secured approval of three templates for JMRM branded communication. The templates were the friendly email template, the press release template and the Aide Memoire template.
27. During the session the JMRM also discussed improved coordination around contentious media issues. Guidelines were presented for how such issues should be dealt with and agreement was reached that close communication between the Parties on such issues would be important.
28. A draft ToR was proposed for developing a communication guideline for managing JMRM-level complaints. These ToR will be shared with the secretariat of the JMRM and a decision as to whether the support for this work will be provided by staff of the Forestry Commission, a member of the JMRM, or an external consultant provided by the EU FLEGT Facility will be required.
29. The EU FLEGT Facility shared experience on how the media and market responded to the announcement of the first FLEGT licensed timber, to guide Ghana's development of its own strategy towards FLEGT licensing. The session then discussed ideas and suggestions for Ghana's way forward. The session agreed that the EU FLEGT Facility should provide a technical input in December 2016 for the JMRM's consideration that could guide the development of the communication strategy for FLEGT licensing.

Annual Reporting

30. Draft annual reports have been compiled to reflect developments for the period 2013/2014 and 2015. For the purposes of review, these will be presented in a single document, with standard text for each section, followed by a table containing two rows of information: the

first relating to the period 2013/2014 and the second relating to 2015. This document will be circulated to members of the JMRM for comment on Monday 21st November, with final comments to be provided by November 30th. The communications team at the EU FLEGT Facility will assume responsibility for publication of the reports and will require six weeks for that purpose from receipt of documents.

Date of the next JMRM

31. It was agreed to tentatively schedule a further technical session of the JMRM for March 2017:

Signed: 

Musah Abu-Juam

Ministry of Lands and Natural Resources

Date: 18/11/16

Signed: 

Benoist Bazin

EU Delegation to Ghana

Date: 21/11/16