

AIDE MEMOIRE

FOURTH MISSION OF THE JOINT MONITORING AND REVIEW MECHANISM

Accra, 13th – 16th March, 2012

Introduction

1. The fourth 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 13 to 16 March 2012. The mission was co-Chaired by Ghana and the EU. The Ghana Delegation was led by the Honourable Henry Ford Kamel, the Deputy Minister of Lands and Natural Resources. The EU Delegation was led by Ambassador Claude Maerten, Head of Delegation, EU Delegation, Accra.
2. The Ghana team included representation from the Forestry Commission (FC), the Parliamentary Select Committee on Lands and Forestry, the Ministry of Finance and Economic Planning, civil society and the private sector. The EU team included representation from the European Commission, Member States and experts from the EU FLEGT Facility. A participants list is attached as an annex to this aide memoire.

Legality Assurance System (LAS): Development and priority actions for 2012

3. The LAS comprises a legality definition, a wood tracking system (WTS) and a system to verify compliance. An Independent Monitor (IM) that conducts periodic audits to assure credibility of legality compliance also forms part of the LAS. Following the WTS pilot, Ghana tendered for a service provider to develop and deploy a WTS that is fully compatible with the expectations framed in the VPA. In line with due process, the final recommendation of the assessment of tenders is before the Ministerial tender review board for approval and a contract will be signed by the end of April. This WTS will be ready for deployment for national roll out by December 2012.
4. The Government has developed guidance and procedures so that it can verify compliance with the definition of legality set out in Annex II of the Agreement. This includes guidance for the verification of legality by the Timber Validation Department (TVD). This verification system, which includes manuals, protocols and procedures for verification, will be further tested in consultation with the EU and national stakeholders. A workable verification system will be ready for implementation at a

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

national level by September 2012. The verification system, together with the WTS, is necessary for the issuance of FLEGT licenses.

5. With regard to the tendering process for the procurement of an Independent Monitor (IM), the final recommendations have been submitted to the Ministry of Lands and Natural Resources (MLNR) for endorsement through the relevant processes. The IM will be contracted by May 2012.

Dealing with imports and wood in transit

6. The importance of integrating imported timber into the national LAS was discussed. It was envisaged that timber imports from non-FLEGT countries could undermine the credibility of Ghana's LAS. In recognition of this, Ghana will explore options for managing such risk and will draw on experience from other VPA-partner countries in developing solutions for dealing with the verification of legality of timber imports.
7. With regard to wood in transit, it was clarified that under the terms of the VPA, once the FLEGT licensing scheme is operational, EU competent authorities will expect all timber exports physically leaving the territory of Ghana, to be accompanied by a FLEGT license. This introduces a challenge in terms of dealing with timber products in transit from third countries. The EU advised that in order to avoid problems, clear guidance would be required for EU competent authorities to enable them to identify a shipment as wood in transit. The JMRM agreed that a technical discussion between EU and Ghana customs authorities should take place before July 2012 to identify what is required in order to facilitate EU customs clearance of shipments of wood that have transited through Ghana.

Update on the policy and legislative review

8. To secure strong legal backing for the provisions of the VPA and enable the Forestry Commission (FC) to operate the FLEGT licensing scheme, GoG has drafted a FLEGT Legislative Instrument (LI), which will be adopted by July 2012. This LI will provide the necessary legal backing for the establishment of the Timber Validation Council (TVC). This body will have responsibility for oversight of the LAS and will also be charged with dealing with complaints regarding the functioning of the licensing scheme. The TVC will elaborate rules of procedure and be fully operational by December 2012.
9. A new forest bill that consolidates existing legislation and supports the fundamental legal reform questions identified in Annex II of the VPA has been submitted for review, and will be subjected to wider stakeholder consultations. This bill will be presented to Parliament in 2013.

Progress with the domestic market

10. Since the JMRM in July 2011, the domestic market policy described has been finalised and subjected to wider consultation. It has been approved by MLNR and is ready for inter-Ministerial consultation before being submitted to Cabinet for approval. The policy is structured around five specific objectives as follows: (i) to meet the demand for timber on the domestic market from legal sources; (ii) to eliminate illegal timber production and trade; (iii) to promote good governance in the supply of timber on the domestic market; (iv) to promote industry modernization and retooling for improved efficiency; and (v) to promote community based enterprises as alternative livelihoods for forest fringe communities. Key milestones for various activities covered by this policy are framed by the draft implementation plan annexed to this aide memoire. An operational plan for the implementation of this policy will be available by September 2012.
11. The EU acknowledged the multi-faceted approach being employed by Ghana to address the challenges of illegal logging to meet domestic market demand. The EU welcomed Ghana's initiative to strengthen law enforcement through the deployment of rapid response units, with the approval from the Attorney General's office, to use FC staff as prosecutors for forest offences. The development of a public procurement policy for verified legal timber to be used in Government-financed contracts has been submitted to MLNR for inter-Ministerial consultations. Legislative backing for the implementation of this policy will be in place by end of July 2012.

VPA Impact Monitoring

12. Following the last JMRM, Ghana and the EU committed to work together to develop a national impact monitoring framework for VPA implementation. Ghana's Multi-Stakeholder Implementation Committee (M-SIC) established a working group to initiate this process. Draft impact areas have been identified through this exercise and will be finalised by the end of April, after which, a joint Ghana-EU working group will draft an impact monitoring framework prior to the next JMRM.

Rules of Arbitration, Rules of Procedure and Annex I Product Codes

13. The JMRM has agreed on a final version of the rules of procedure and arbitration and a proposal to amend to Annex I correcting product codes. These agreements will be formalised through an exchange of letters between the parties.

Annual Report

14. A draft annual report for 2010 has been agreed upon and will be published by 15 April 2012. Drawing from this JMRM, the text for the 2011 report will be finalised by the end of March 2012 and ready for publication.

Concerns raised by civil society

15. The JMRM appreciates the continued contribution of civil society to forest governance and noted the observations and concerns raised during the mission. Civil society commented that concerns raised in the last JMRM regarding the issuance of administrative permits have been addressed to their satisfaction. Furthermore, they acknowledged that in general there was a willingness to disclose information, however further work was needed to facilitate ease of access to key sector information. In this regard, civil society acknowledged the importance of their role in collating and further disseminating this information. They also acknowledged the existence of various platforms for dialogue with government on forest sector issues.
16. Concerns were however raised in respect of the statutorily-required frequency with which forest taxes are reviewed and the progress on the conversion of concession leases into the new contract framework. The latter is also a requirement of the VPA. In response to these concerns, Ghana encouraged all actors to make use of the M-SIC for raising concerns pertaining to VPA implementation. Where concerns raised are not adequately addressed through the M-SIC, further consideration would be given to how such platforms could be strengthened.

Communications

17. The FC presented a national communication strategy focused on securing support for VPA implementation from each of the stakeholder groups. It was agreed that there is a need to develop clear messages for international buyers and stakeholders on progress with VPA implementation and advances in the development of the legality assurance system. Discussions with civil society highlighted the need for more direct communication between the EU and Ghana private sector to understand shifts in market expectations resulting from the EU timber regulation.
18. The EU will report on progress with VPA implementation in its high level political dialogue with the Government of Ghana.

Implementation priorities

19. The FC has developed an implementation plan that sets out priority actions and milestones for 2012. This document provides a good basis for future discussions to communicate and monitor progress with implementation. This document is attached as an annex to this aide memoire.
20. Both parties are fully committed to taking all necessary measures for the issuance of FLEGT licenses by March 2013.

Date of the next JMRM

21. The next meeting of the JMRM is tentatively scheduled for mid-September 2012 in Accra.

Signed: _____
Hon. Henry Ford Kamel (MP)
Deputy Minister of Lands and Natural Resources

Signed: _____
Ambassador Claude Maerten
Head of EU Delegation

Date: _____

Date: _____