

Liberia - EU FLEGT Voluntary Partnership Agreement
AIDE MEMOIRE
EIGHTH MEETING OF THE JOINT IMPLEMENTATION COMMITTEE
Monrovia, November 24- 26, 2020

Introduction

1. The Eighth Joint Implementation Committee Meeting (JIC) to oversee the implementation of the FLEGT Voluntary Partnership Agreement (VPA) between Liberia and the European Union (EU), was held in Monrovia from November 24- 26, 2020. The meeting was co-chaired by Hon. Harrison S. Karnwea, Sr., Chair of the Board of Directors of the Forestry Development Authority (FDA), Republic of Liberia, and Ambassador Laurent Delahousse, Head of the EU Delegation to Liberia. A participant list is attached as Annex 1 of this Aide Memoire.
2. Before the start of the technical sessions on November 24, the formal chairs of the JIC officially opened the meeting to both virtual and in person participants. Both parties acknowledged the delays in the JIC convening due to the global Coronavirus (COVID 19) pandemic. Hon. Harrison S. Karnwea Sr. welcomed JIC members and emphasized that while Liberia has made significant progress under the implementation of the VPA, the EU and United Kingdom should remain patient with the process, as Liberia commits to taking more aggressive strides toward FLEGT licensing. Hon. Karnwea highlighted that the EU- Liberia partnership should not suffer any further setbacks.
3. Ambassador Laurent Delahousse indicated that he is new to the country, but recognizes that the economic viability, competitiveness, and sustainability of the forest requires Liberia to adhere to international standards around transparency and accountability. The Ambassador also acknowledged the importance of EU and UK's continued cooperation and support to the implementation of VPA in Liberia.
4. The EU and Liberia agreed that there is a need to further accelerate VPA implementation and improve Liberia's global competitiveness by sustainably managing the forest. **The parties agreed that COVID 19 is something the world must live with and therefore it is not an excuse to delay the implementation of the Voluntary Partnership Agreement.**
5. Hon. Cllr. Frank Musah Dean Jr., Minister of Justice extended the commitment of the Government of Liberia to ensure sustainable forest management and agreed with the EU that Liberia's global competitiveness in the forest sector is closely intertwined with the successful implementation of the VPA. Hon. Joseph J. Tally, Deputy Managing Director of Operations of FDA also welcomed the members of the Joint Implementation Committee and announced that he would serve as a supporting Co-Chair of the Technical Sessions along with Hon. C. Mike Doryen, Managing Director of FDA.
6. Hon. C. Mike Doryen expressed appreciation that the JIC formal chairs, the EU Ambassador and FDA Board Chair decided to raise the profile of EU and Liberia's consultations, by being present to open the JIC technical sessions each day. Mr. Ivan Borisavljevic, Head of Resilience section at the EU Delegation further emphasized the global significance of Liberia's forest, and officially opened the technical sessions of the Joint Implementation Committee meeting.

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Progress with the Timber Legality Assurance System (TLAS) Overview since the last JIC and status of VPA implementation

7. The VPA Secretariat at FDA provided a status on the Forward Planner and the respective JIC decisions and action points captured in the tool, since the sitting of the last Joint Implementation Committee. The Secretariat summarized that out of the 19 decisions that were made by the EU and Liberia during the 7th JIC in February 2019, 11% were completed 47% were in progress, and 42% were pending. The EU requested that Forward Planner updates to the JIC and other implementation structures need to contain significantly more detail around agreed timeframes, actions still in progress, key steps to be taken, and the individuals responsible for those actions.
8. Considering examples provided from other VPA countries and how they structure the monitoring of their implementation tools, Liberia and the EU agreed that the Forward Planner has not been fulfilling its intended role in measuring the status of implementation. It was agreed that the tool is not being used to its full potential because there has not been adequate monitoring of targets within the tool. Because of this lack of updating, it was highlighted that the Forward Planner may be reflecting an inaccurate picture of progress on VPA implementation. Considering these factors, **Liberia and the EU agreed that the tool will be reviewed on a quarterly basis, through a high-level meeting to be led by the Technical Committee of the Liberian Implementation Committee (LIC).**
9. **Both parties also agreed that the maintenance of the Forward Planner and necessary capturing of updates to the tool will continue to be done by the VPA Secretariat.** Liberia and the EU also proposed that the relevant support projects (VPASU and MFGAP) be designated to work with the VPA Secretariat and relevant GOL agencies on the preparation of LIC discussions on the Forward Planner. **It was agreed that senior management at the FDA would also provide a more direct drive and be present at meetings to support accelerated decision making during these sessions.** This will help promote decision making from other line agencies, and more efficient utilization of the Forward Planner. It was also proposed that representatives of at least three other Ministries/Agencies are needed to broaden the pool of technicians working with the Forward Planner. **The EU and Liberia agreed that representatives of LRA, Ministry of Internal Affairs (MIA), Ministry of Commerce, and Ministry of Labour would be the representatives.**

Legality Matrix and FLEGT Licensing Procedures

10. It was made clear that despite Liberia's commitment to issue FLEGT Licensing by 2022, currently only 42 out of 132 verifiers in Liberia's Legality Matrix have been activated in LiberTrace. **The EU and Liberia agreed that in order to accelerate towards FLEGT Licensing more verifiers need to be activated.** It was agreed that the work of the previous support project (VPASU1) already identified a roadmap (Compliance Procedures) and outlined in the Forward Planner which verifiers are ready to be activated. The roadmap also outlines how each Ministry and line Agency will roll out each "ready" verifier.
11. Liberia, EU agreed that a logical process needs to be agreed through a comprehensive technical review of the verifiers recommended to be activated. It was agreed that this needs to be done by the LVD, along with relevant line agencies with support from the VPASU2. Capacity constraints of line agencies also need to be clearly considered and outlined. **It was agreed that the roadmap of activation of the additional 132 verifiers needs to be concluded by the end of the first quarter of 2021 and captured in the Forward Planner.** The United

Kingdom Foreign Commonwealth Development Office (FCDO) expressed its support of the verifier activation roadmap being developed. The EU also agreed to further support a more in-depth assessment of the efforts needed from line agencies, under the EU's future support program.

12. Liberia's Third-Party Monitor Société Générale de Surveillance (SGS) indicated that activated verifiers must be audited, and that this requires that adequate budget and logistics be mobilized in a timely manner. The LVD clarified that despite administrative delays in the past, the department has an adequate budget to do necessary audits and field checks. It was highlighted however, that other Ministries and Agencies still face logistical challenges in implementing the necessary legality checks in the field. It was agreed that **the LIC Technical Committee will initiate an assessment of this issue and if necessary, budgetary allotment may be made under the Chain of Custody operations budget at FDA (formerly LVD Budget).** SGS also outlined that in order to ensure that newly activated verifiers do not create further non compliances, procedures need to be outlined and elaborated for new verifiers (who will verify, when, how, etc.) SGS also highlighted that the VPA Legality Matrix as a whole needs to be reviewed to capture current regulations and incorporate CFMAs.
13. The Liberia Timber Association (LibTA) emphasized that the legality matrix needs to be simplified and made practical. LibTA explained that companies particularly struggle with complying with specific verifiers, which are linked to key infrastructure which is not currently being provided by the government (for example, compliance with verifiers linked to companies setting up sawmills could be further facilitated by the government providing electricity infrastructure at all ports). The FDA clarified that there are currently 12 companies who have set up operational sawmills, and so the private sector should continue dialogue with the government around why particular companies are facing some challenges with infrastructure, while others are not. LibTA further highlighted that despite private sector contributions to the economy, the logging sector has lost its representation on respective Boards at FDA and the National Port Authority (NPA).
14. Considering the concerns raised, **the Government of Liberia and the Liberia Timber Association (LibTA) agreed to convene more frequent meetings on the challenges and solutions matrix drafted by the private sector.** The Government of Liberia highlighted and the EU reemphasized that the private sector also needs to be prepared to take very clear steps to comply with the law. **The FDA indicated that the Board would extend an invitation to the Liberia Timber Association (LibTA) to attend as an observer at FDA Board meetings as the Board deems necessary.** FDA highlighted that even without voting powers, LibTA concerns need to be considered at the Board level. The UK FCDO raised concern that considering community management of forests that this invitation should also be extended to communities. FDA highlighted that communities currently hold adequate representation on other relevant bodies where their concerns can be raised. LibTA added that LibTA membership includes partner companies engaged in community forestry.
15. **The FDA committed to further ensure compliance to verifiers by putting together more diverse teams: staff who have the technical skills in forestry as well as staff with advanced management capacity.** FDA emphasized that there is a need to incorporate a wider pool of skills at FDA, to more efficiently implement the VPA.
16. Liberia agreed that in working towards FLEGT Licensing there is a need to draft and agree on a budget and workplan for the Liberia Licencing Department (LLD). The LLD budget will be supported out of the funds currently allocated to the operations of the Chain of Custody system at the FDA (formerly the LVD Budget). **This workplan and budget should be drafted against the mandate of the LLD as outlined in the VPA, for approval by FDA**

Management before the end of December 2020. It was agreed that the LLD should also seek support from the FDA Accounts Department as well as from the VPASU2, in preparation of their workplan and budget. The LLD proposed that there is a need for Liberia to clearly agree to timeframes in the Forward Planner around the LLD's functioning and to provide detail around when the LLD will execute different aspects of their mandate, as Liberia works toward the FLEGT Licencing deadline.

17. **The EU and Liberia agreed that further analysis may be needed in order to set a realistic deadline for FLEGT Licensing, especially considering the activation of verifiers.** FDA Management emphasized the need for implementation targets to be aggressive, and to continue to work towards FLEGT licensing in 2022. FDA suggested that outstanding outputs could be re-evaluated by the JIC at that time.

Law Enforcement and Non-Compliance

18. The EU expressed concern to Liberia that a number of key reports indicate that the implementation of the TLAS is a challenge, and that legal compliance in the sector is not at the level that it should be. The EU highlighted that in addition to these reports, the concerns and findings raised by the Independent Auditor and Third-Party Monitor are sometimes not addressed and that this strongly indicates that there might be some regression in the implementation of the VPA. The EU emphasized that despite Liberia's clear institutional challenges, the performance of the Legality Verification Department (LVD) needs to improve, and systematic changes need to be made to insure further progress under the VPA. The EU indicated that although the necessary changes will require time and joint effort, Liberia needs to progressively learn to drive the system and proactively improve the compliance picture in the country.
19. Liberia responded to the EU's concern, and acknowledged that the compliance challenges identified do exist. Liberia indicated that FDA Management and the FDA Board have also taken an interest in the compliance picture. The FDA expressed that management and compliance issues are much more complicated in countries managing natural forests. Considering this, the FDA advised that it would be helpful to see more implementation examples at future JICs from VPA countries that are engaged in the management of natural forests, rather than from those engaged in plantation forestry.
20. The Ministry of Justice further highlighted that the FDA Board has taken steps towards the approval of the draft Enforcement and Compliance Handbook, and that once finalized this will help to more clearly outline how the Government has agreed to deal with potential non compliances in the future. The National Authorizing Office (NAO) also clarified that considering contractual delays due to COVID, the contract of the Independent Auditor has been extended to May 2021.
21. The Ministry of Justice indicated that MOJ has also agreed with the FDA Board and FDA Management to convene in order to define more specifically how the Government of Liberia will deal with non-compliance issues. The Government clarified that although they do not want to go into details about specific non compliances, the Government of Liberia acknowledges that there are issues with non-compliances and have agreed to have internal discussions to move the sector forward. The Ministry of Justice also reminded the JIC that FDA and MOJ have an existing MOU governing their relationship around reviewing issues of compliance, and that both institutions are considering reactivating the agreement. **A clear roadmap will be developed on how the Government plans to move forward with non-compliances. This roadmap will be made available by the next JIC, which will be held**

within the next six months. UK FCDO thanked the Government for its commitment and highlighted that it would be helpful to have this roadmap outlined as soon as possible, considering the increasing number of non-compliances.

22. The FDA highlighted that based on the Government's internal consultations on non-compliances, corrective actions will be taken. **The FDA emphasized that there is a clear need for internal restructuring and rotation of staff to improve the professional and technical capacity around FDA 's implementation of the Voluntary Partnership Agreement. Corrective actions will begin at FDA within the next week, so that there is no further regression in the VPA implementation process.** FDA also expressed regret that due to the leadership change at FDA in 2018, VPA implementation was a new process for several members of FDA management. However, with the current knowledge of the process FDA is committed to using this restructuring as an opportunity to make sure there is more robust supervision of staff, and that management provides the necessary drive.
23. **FDA Management committed to continue to engage the LIC through regular sessions and to ensure that discussions at the LIC are tailored to also make decisions around key outcomes from the LVD-SGS Project Board meetings.** The EU agreed that comprehensive management of natural forests is a significant challenge and acknowledged the Government's commitment to improved forest governance. Both parties committed to seeing Liberia's timber progress to being more competitive on the international market.
24. **Liberia and the EU further agreed that the JIC must convene at least twice a year and that both parties will fully commit to this level of frequency in engagement.** It was agreed that the long periods of time lapsing between JICs is negatively impacting adequate monitoring of the implementation of the VPA. It was agreed that more frequent meetings are especially necessary considering current levels of compliance, and the upcoming end of the contracts for the Independent Auditor and the Third-Party Monitor.
25. The Liberia Timber Association proposed that the private sector could further contribute to reducing non compliances by setting up LibTA as a Self-Regulating Organization (SRO). LibTA's view was that this would encourage further compliance because the organization would be able to identify and sanction companies if they do not comply with Liberia's current laws. Compliance certificates could then be withheld from members who violate, and those companies would not be allowed to operate until non compliances are cleared.
26. The EU and Ministry of Justice acknowledged and appreciated the willingness of the private sector to get more involved in preventing non compliances in the sector. The EU also noted that although SRO status could be explored, this status would not be a substitute for the mandate of the Government of Liberia and FDA in managing non compliances. **LibTA was encouraged to further analyse the feasibility and legality of their suggestion. The Government of Liberia agreed to review this analysis.** The Ministry of Justice also emphasized that the Government would like to see more effort from the private sector in addressing those minor and administrative non compliances that could easily be handled by the companies on their own.

Tracking and Control: Next Steps for Third Party Monitoring and LiberTrace

27. Representatives of the LIC Technical Committee provided a status update on the bidding process for Third-Party Monitoring via the Public Procurement Concessions Commission (PPCC). It was highlighted that progress has been made in PPCC consultations to confirm that the Third-Party Monitoring contract can be vetted as a procurement bid rather than as a concession bid. It was outlined that there are several steps remaining in the procurement process, including submission and approval of a procurement plan, circulation of an expression of interest, and review of proposals from potential bidders. Despite a potentially lengthy process, **Liberia reconfirmed its commitment to maintaining a Third-Party Monitor and agreed to engage in an international competitive bidding process to select a service provider.**
28. The Government agreed that considering the short timeframe to the end of the current contract, the Government will propose the extension of the current contract with SGS for six months, so that there is no break in Third-Party Monitoring. **The Technical Committee of the LIC will lead the negotiations for the extension with SGS and agree to an extension by the end of January 2021.** FDA highlighted that the Government will also need to seek a "no objection" confirmation from PPCC, on its desire to extend. **MOJ indicated that this letter will need to be drafted and sent to PPCC in the coming days before discussions on the extension can begin with SGS.** The EU acknowledged support of Liberia's efforts to secure an internationally reputable firm and offered further support of the VPASU2 on the procurement process, if needed.
29. The Liberia Revenue Authority (LRA) and FDA provided a status update on the transition of LiberTrace software hosting and maintenance to the Government of Liberia. LRA highlighted that the hosting and maintenance arrangement will involve three levels of support: a help desk at FDA, support maintenance at LRA and a third level of escalated support to the software service provider. LRA highlighted that the primary data center for LiberTrace will be at LRA headquarters while back up data will be stored in the cloud and at LRA's Freeport Data Center. The EU expressed congratulations to the FDA, LRA and the Multi- Stakeholder Forest Governance and Accountability Program (MFGAP) for progress thus far on the LiberTrace transition.
30. **LRA noted that a Memorandum of Understanding needs to be signed between FDA and LRA to ensure that related costs around the maintenance of LiberTrace at LRA, are covered during and at the end of the support of MFGAP. This should be signed before the end of the current hosting agreement with SGS.** LRA highlighted that before the full transition of LiberTrace is complete, further training and capacity building needs to take place. **It was also emphasized that the procurement and purchasing of new LiberTrace servers needs to happen before the end of the current SGS contract.**

Benefit Sharing Progress and Payments

31. The National Benefit Sharing Trust Board (NBSTB) provided an update on outcomes from the first National Forest Forum on Benefit Sharing (NFF), which took place in mid-November. The NFF included a field trip to Lofa County for key stakeholders in the Government, National Legislature, private sector, and civil society to view successful benefit sharing projects.
32. The Board highlighted that during the discussions at the NFF, it was agreed that there is room for improvement in the capacity of the community members from the Community

Forestry Development Committees (CFDCs) and the Community Forestry Management Bodies (CFMBs) to manage and account for the respective benefit sharing funds entrusted to them. NFF participants also raised questions during their discussions around whether the two benefit sharing mechanisms (for CFDCs and CFMBs) could be merged. **It was agreed that further discussions are needed within the Government on benefit sharing, and that building the capacity of communities to manage funds and projects needs to be prioritized.**

33. During the NFF, participants also agreed that there is an urgent need for the Government of Liberia to look more closely at dormant logging companies, and the implications that forest area dormancy has on community benefit sharing. The NBSTB highlighted that when dormant areas are still officially in existence, and remain a part of Liberia's overall forest allocation, this creates complications around what is owed, and who should pay the relevant benefit sharing and land rental fees to affected communities. The EU expressed shared concern and questioned what activation of dormant concessions might mean for long term forest sustainability. **It was highlighted that the payment and collection of benefit sharing fees from dormant concession areas, and respective arrears needs to be clarified.**
34. Liberia and the EU agreed on the outputs at the National Forest Forum on Benefit Sharing, that a transitory account could be used to facilitate more expedient payments from companies to communities via the National Benefit Sharing Trust Board (NBSTB). **It was agreed that discussions need to be held in advance of the next JIC with the relevant Government actors (i.e., FDA, Ministry of Finance and Development Planning, Central Bank of Liberia, MOJ and the LRA) to assess the feasibility of putting this transitory account in place.** UK FCDO expressed its support of the setup of the transitory account and suggested that the current mechanism used to support the LVD be used for the NBSTB.
35. LibTA highlighted that the benefit sharing process is a challenge because the Government is behind on payments and the companies are also behind on payments. The UK FCDO added that there is evidence that the government has not collected all that is to be collected from companies, and this has resulted in a very small percentage of overall amounts owed, actually being disbursed to communities. LibTA further agreed that a transitory account would help but considering the Government's current cash position, further discussion might be needed on different solutions for arrears owed, versus a solution for currently accruing payments.
36. FDA expressed further concern around the sustainability of benefit sharing projects and offered to play an advisory role (if needed) in community selection of sustainable projects. The National Benefit Sharing Trust Board responded that they are also interested in improvements in the overall sustainability of community projects. The NBSTB outlined that support was received to improve its selection processes and that the Board has made efforts to develop project sustainability guidance in a draft management guideline for CFDCs. **It was also agreed that the National Benefit Sharing Trust Board would regularly share their reports with the EU and Liberia, including reports on the sustainability of community projects.**

Forest Revenue Collection and Arrears Arrangements

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37. FDA and LRA outlined that although there have been multiple negotiations between the Government of Liberia over the last seven years, company compliance levels with arrears arrangements has been low. Current arrears from logging companies to the Government of Liberia total approximately \$16 million of which approximately \$3.8 million of those arrears are owed against area fees. **A breakdown of current arrears owed will be included as Annex 3 of this Aide Memoire.** The FDA further emphasized that the outstanding arrears are astonishing and that a deadline needs to be declared for companies to become compliant. **FDA proposed that a cross government conversation is necessary to agree on the way forward on fees owed from dormant concession areas.**
38. The Liberia Timber Association (LibTA) expressed that individual company arrears and the current state of payments owed to the Government of Liberia are not known by the Association. LibTA requested further clarity on the current state of arrears, and more detail around why companies with outstanding arrears are still being allowed to ship. Considering the current end of the FIDIERA Act, LibTA asked the Government give further consideration to a new solution for the bid premium arrears accrued by logging companies before 2012. The UK FCDO emphasized that with the increasing tax arrears trend in the forest sector, further analysis is needed into how arrears and requested deferred payments from the private sector are impacting forest communities.
39. The LRA provided a summary of the current legal framework around forest sector tax payments, and a historical overview of arrears negotiations between the Government of Liberia and logging companies. LRA reemphasized that even with the agreed changes over the years to aspects of the legal framework, the remaining company arrears currently outlined by the Government are legitimate and must be paid because the laws of Liberia are not retroactive. LRA also emphasized that in setting up arrears arrangements, the private sector should note that these arrangements cannot be agreed by a government institution unilaterally. LRA has registered concern to FDA around the overlap of roles in the assessment and collection of liabilities and provided further clarity. LRA noted that companies should expect their shipments to be stalled due to lack of a tax clearance if tax payment instalment arrangements have not been made with appropriate cross Government coordination.
40. LRA added that under the 2017 Forestry Development Industrial Regime Act (FIDIERA), two companies have applied for tax credits against investments. Of these two applications, one company received verification of tax credits of approximately \$1.9 million against a sawmill investment. Under a separate Memorandum of Understanding with the Government, another company also received a tax credit of approximately \$3.2 million against road rehabilitation infrastructure in the south eastern region of Liberia. **Although the FIDIERA act has now expired, the Government of Liberia needs hold further legal consultations to determine whether companies can still request future tax credits against investments made during the 2017-2020 term of the Act.**
41. In line with comments from the National Benefit Sharing Trust Board, FDA and LRA agreed that there are issues around getting dormant concessions to pay the legally required fees. **Both agencies agreed that further investigation is needed into the legal framework around this issue, in order to determine what actions can be taken around dormant concessions with outstanding arrears.**
42. LibTA outlined that there is evidence that the tax regime in the forest sector in Liberia does not create an enabling environment for logging companies. LibTA reflected that the VPASU1 supported the analysis of a report that was prepared by concession holders. The report

reflected that 35% of companies had been billed for areas within their concessions that were not harvestable. It was also outlined that some areas within concessions are not harvestable because mining or agricultural permits have been issued by the Government of Liberia, within forest concessions. **The FDA further indicated that there needs to be an analysis of concession areas and those areas within concessions that are not harvestable, in order to verify the claims of the private sector.** LibTA outlined that in order to fine for arrears, a reconciliation for every company must be made. **The FDA would like for this analysis to be completed by the next JIC so that outstanding arrears can be properly calculated. The analysis will be led by FDA and will be supported by the VPASU2 and MFGAP.**

43. The EU agreed that these are substantial issues and that in depth discussions are necessary within the Government of Liberia. The EU outlined that in order to further inform these discussions, the monthly harvesting and payment reports from the LVD need to be drafted in a comprehensive way and delivered on time. The FDA agreed to provide the necessary reports so that all payments owed to stakeholders can be reconciled. **It was agreed that the LVD will work with the previous SGS template and provide that report monthly to the Project Board meeting and the NMSMC. It was agreed that the LVD needs to deliver these reports every single month.**
44. **The EU and Liberia agreed that further discussions are needed around timber processing and transformation, as Liberia is still exporting primarily round logs.** LibTA highlighted that there are challenges in this area around port and electricity infrastructure. **The EU asked that the VPASU2 help support the Government in furthering this discussion.**

Community Forestry Management Agreements and the Timber Legality Assurance System

45. The FDA provided an overview of the current status of community forests in Liberia. It was outlined that currently 128 Community Forest Management Agreement (CFMA) applications have been received and 44 have been approved. Of the 44 CFMAs approved, seven are actively operating. Of the CFMAs approved, 30 communities have signed third-party agreements of which 29 are commercial and one is conservation.
46. The 44 total CFMAs approved total an area of 941,560 hectares. Of the seven actively operating CFMAs, the total area allocated is 230,769. **Liberia and the EU agreed that the numerical data presented in this session on existing community forests, current areas allocated, and the status of applications will be included as Annexe 5 of this JIC Aide Memoire. It was agreed that the FDA website also needs to reflect updates to this information.** The Ministry of Justice expressed concern around FDA's balance of forest allocation between commercial and conservation, considering the current number of hectares allocated to commercially oriented community forests.
47. FDA noted that the institution faces continuous threats, pressure, and threats of lawsuits from communities to receive and process CFMA applications. FDA outlined that although the World Bank/Norway Liberia Forest Sector Project (LFSP) has committed to supporting 70 CFMA applications, the project has placed a hold on supporting CFMA applications. This hold on funding affects the process of awarding of community forestry status. LFSP has

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outlined that the project is driven by REDD+, so the project wants to take a step back and reevaluate its outputs, considering current trends.

48. FDA outlined that LFSP however continues to provide funding towards community forestry management by drafting community forestry management guidelines, recruiting staff for the Community Forestry Department, and providing equipment, field vehicles, and logistical support. In piloting community forestry management plans under LFSP, FDA highlighted that there are challenges with communities pulling out of the process, despite the need for extensive inventories.
49. FDA highlighted that in many cases, community forest areas overlap with mining concessions, agricultural concessions, adjacent community forests and protected areas. The NUCFMBs acknowledged this point and estimated that approximately 30% of current community forests have overlap with mining concessions. FDA has proposed to do preliminary mapping exercises to help counter this overlap for potential CFMA applicants. It is proposed that if these mapping exercises are done, and there is any overlap to these areas, a CFMA will not be issued in the proposed area. As a result of current pressures to increase Government revenue, Liberia has recognized that there are conflicting mandates between the Liberia Land Authority (LLA), Ministry of Agriculture, the Ministry of Lands and Mines, and FDA. **There are necessary conversations to be had within the government around mining concessions being allocated within community forests, and the conflict that this is creating.**
50. FDA and the NUCFMBs highlighted that the majority of CFMAs are experiencing conflict and operational disruption due to interference from members of the National Legislature, local government Superintendents, District Commissioners, and policy makers. The NUCFMB highlighted that Government actors are not working within the legal framework around community forest management. This interference has fuelled disruption, unravelling of governance structures, undue influence in company selection and violence. **Liberia agreed that conversations need to be held regarding the interference from the National Legislature, and local government in the governance of community forests.**
51. The Ministry of Internal Affairs (MIA) acknowledged that there are frequent challenges with community forests because contract negotiations with the company may take place with the involvement of higher-level Government officials. MIA highlighted that at times these discussions may happen in the absence of the local community, and this may create conflict when the contract is being implemented. **Liberia and the EU agreed that the Ministry of Internal Affairs (MIA) be added to the Liberia Implementation Committee (LIC) considering current issues around community forestry and the MIA's direct statutory responsibility for supporting community governance structures. The Ministry of Internal Affairs noted that MIA's scope of work in coordination with the JIC and FDA needs to be more clearly outlined.**
52. FDA highlighted that there is evidence that especially during the COVID pandemic, many third-party companies have not been living up to their social agreements to the community. Communities continue to seek FDA's assistance to terminate existing, underperforming third-party contracts with companies. The NUCFMBs agreed that companies need to comply with the law by making their agreement of royalty fees to communities. UK FCDO indicated that that with the passage of the new Commercial Use Contract template, it is hoped that some of these issues will be resolved. UK FCDO also highlighted that currently there is no Commercial Use Contract template for community forests between 35,000-50,000 hectares.

53. Civil society further emphasized that if communities are to be engaged in sustainable management of their forests, donor support should be targeted at supporting communities to actually improve their livelihoods, and not primarily providing hand tools for very small-scale livelihood alternatives. Civil society also encouraged FDA to take national ownership by hiring staff that can be sustained at the level of current sector project staff. FDA was also encouraged to support civil society as a part of FDA' mandate to provide extension and monitoring services in the forest.
54. Norway highlighted that there is a very concerning trend with commercial logging shifting from Forest Management Contracts (FMCs) to community forests. Norway highlighted that the logging in community forests is based on 15-year cycle, and that this is not sustainable, as it encourages companies to do one-time extraction of the most attractive parts of the forest. Norway highlighted that this undermines efforts to sustainably manage the forest. The FDA responded that perhaps the legal framework around the cycle needs to be reviewed against the commercial competitiveness of a 15 year versus 25 year cutting cycle.
55. **The EU and Liberia agreed that there is a need for a short-term expert to review the legal framework around the harvesting cycle / term of the agreements (15 versus 25 years) and how to align it with the current cutting cycle as outlined in the Code of Forest Harvesting Practices.** Once recommendations are received from the expert, the JIC will then take a decision on how to move forward. **This expert mobilization should be prioritized so that the necessary recommendations can be reviewed and decided upon in advance of the next JIC.**
56. The JIC Seven-Member Committee on Community Forestry presented their draft workplan for formally incorporating community forestry into the legality matrix. **The EU and Liberia agreed that the workplan of the JIC Seven-Member Committee needs to be amended so that the committee's recommendation is proposed to the JIC within the next three months.**

Status of Regulations and Procedures (TLAS) and the Legality of Liberia's forest concessions

57. The Ministry of Justice (MOJ) indicated that a decision has been drafted on the legality of forest concessions, considering the absence of a complete archival record of relevant concession allocation documents. Once the draft is finalized, Liberia's opinion is expected to reflect that concessions are considered legal because concession agreements were ultimately passed by the National Legislature. **After the finalization of the draft, the Government of Liberia will communicate a final position to the JIC before the end of 2020.** The EU expressed its satisfaction on the progress made by the Government of Liberia in this area.
58. The FDA provided an update on the status of regulations and procedures relevant to the implementation of the TLAS. It was highlighted that the Commercial Use Contract Template (CUC) and Regulations on Transit Timber and Imported Logs, Timber and Timber products has satisfied the review process by the FDA Board. **The FDA Board has asked FDA management to take the necessary steps to put these two instruments in place.** The EU acknowledged the passing of the Commercial Use Contract Template and the importance of this as a step forward in improving the governance of community forestry.

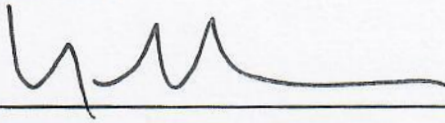
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59. FDA indicated that the Board has also requested additional external reviews of several draft regulations and instruments including the Chainsaw Regulation and the Compliance and Enforcement Handbook. **The FDA committed that the review of these two instruments should be completed within three weeks of the JIC, after which both can be approved for further validation of public participation. The status of the remaining regulations and those instruments the FDA Board is currently finalizing, are outlined in Annex 6 of this Aide Memoire.**
60. The Ministry of Justice emphasized that the FDA Board should prioritize the approval of the Compliance and Enforcement Handbook as this instrument is of high importance in terms of managing non compliances. MOJ requested that this instrument be fast tracked and approved by the next JIC meeting. **MOJ emphasized and the EU agreed that the JIC needs to agree on a process and timeframes for the EU to review and return comments on pending regulations.**
61. Liberia expressed growing concern over the delay in the official submission of EU comments and review of the Regulations on Transit Timber and Importation of Logs, Timber, and Timber Products. The EU agreed and expressed however, that there has not been a formal submission from the EU to Liberia on these regulations because there is a need for a comprehensive review to ensure that these regulations are globally aligned with other VPAs. **The EU indicated that this feedback will be provided by the end of the first quarter of 2021.**

Issues Raised by Stakeholders

62. FDA and civil society also reconfirmed the need for the LVD to circulate harvesting reports to the NMSMC every month, and to make those reports available on the FDA website. Civil society also reflected on LRA's IT assistance to the FDA around LiberTrace and asked whether similar support could be extended to support the FDA website. **The FDA highlighted that a company has been contracted to support more robust maintenance of the FDA website and will ensure that the relevant transparency related documents are made available on the FDA website.**
63. FCDO and the VPASU2 also proposed that a portal be developed in LiberTrace for civil society to be provided with read only access. If this feature is developed, there would be no need for stakeholders to request this information in person. LibTA highlighted the need to make sure that company information is secure if the portal is developed.
64. Civil society also proposed that a regulation should be drafted to ensure that all the issues of transparency and benefits to communities that are not currently covered under existing laws, can be captured in the relevant regulations and guidelines.
65. Civil society raised concern about the low response on their monitoring reports that they prepare independently, which is causing frustration and fatigue to undertake these monitoring activities. Civil society is always prepared to engage, but it gets increasingly difficult to play their role when there is no attention paid to their work.

The EU and Liberia agreed that the next JIC will take place in May of 2021. Planning will be led by the European Union.

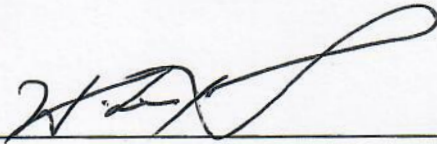


11/12/2020

Signed: Head of Delegation of the European Union in Liberia
Ambassador Laurent Delahousse

Date

and



12/12/2020

Signed: Chair of the Board of the
Forestry Development Authority
Hon. Harrison S. Karnwea, Sr.

Date