

AIDE MÉMOIRE

European Union Forest Law Enforcement, Governance and Trade (FLEGT) Voluntary Partnership Agreement (VPA) between the European Union and Guyana

First meeting of the Pre-Joint Monitoring and Review Committee (JMRC)

10 March 2022, Georgetown, Guyana

1. The Pre-Joint Monitoring and Review Committee (Pre-JMRC) was convened on 10 March 2022 in Georgetown, Guyana. This first meeting of the Pre-JMRC of the Guyana-EU Forest Law Enforcement, Governance and Trade (FLEGT) Voluntary Partnership Agreement (VPA), was chaired by the Hon. Vickram Bharrat, Minister of Natural Resources of Guyana, and the Ambassador of the European Union to Guyana, Fernando Ponz Cantó. A list of participants is presented in Annex I.
2. This Pre-JMRC was preceded by technical sessions held on 8 and 9 March between the EU and Guyana (hereinafter called 'the Parties'), and with the participation of the VPA stakeholders. The content of these technical sessions is captured in this Aide Mémoire.
3. The Parties agreed to this Aide Mémoire and committed to making public the presentations made at the technical sessions, this Aide Mémoire, the Joint Implementation Framework (JIF), and a joint press release following the conclusion of the Pre-JMRC.

Opening statements

Opening statements by the European Union

4. Ambassador Fernando Ponz Cantó on behalf of the European Union greeted all present and acknowledged the importance of the EU-Guyana partnership as well as the shared values of good forest governance, legal compliance, sustainable forest management, responsible trade, and respect for human rights.
5. He lauded the progress that was already made by Guyana during the negotiation phase, notably with regards to legal reforms, the continuous revision of the National Forest Policy, and the involvement of non-state actors in the conversations.
6. The Ambassador encouraged the continued commitment, inclusion and participation of all stakeholders in the VPA implementation process. He also reiterated the EU's continued commitment to support Guyana in implementing the VPA.

Opening statements by Guyana

7. Honourable Minister Bharrat welcomed all present and highlighted the work that was done by the stakeholders over the two days of technical sessions.

8. The Minister stated that the VPA continues to positively impact livelihoods, capacity strengthening and improve forest governance through enhancing the legal and regulatory framework. Guyana's commitment to the VPA is manifested through the continuous revision of the National Forest Policy, the adoption of the Forest Regulations in 2018, the inclusion of the VPA in the Low Carbon Development Strategy, which outlines our development strategy up to 2030 and promotes alternative livelihoods for Indigenous and forest dependent communities, and the alignment of the VPA with the national Constitution of Guyana and international instruments such as the UN Declaration on the Rights of Indigenous Peoples.
9. He further clarified that the current meeting allows the Parties to discuss the implementation process, and how the VPA is related to other policy instruments as the draft EU Regulation on Deforestation and Forest Degradation.
10. The Minister stated that the VPA continues to be supported by Guyana and expressed his gratitude for the support of the stakeholders to the process, which is indeed of national significance and importance. The Minister therefore encouraged the stakeholders to continue engaging in the process, thereby allowing to start FLEGT licensing timber in the shortest possible time.

Modalities, adoption of the agenda, agreement on the ToR of the Pre-JMRC

11. The two Parties agreed on the agenda of the meeting and on the drafting of this Aide Mémoire of the pre-Joint Monitoring and Review Committee (Pre-JMRC).
12. The Parties agreed on the Terms of Reference of the Pre-JMRC, which are included as Annex II with this Aide Mémoire
13. The Parties agreed on the agenda and the modality for drafting the Aide Mémoire.
14. The Parties agreed to making public this Aide Mémoire.
15. Representation of the Pre-JMRC will comprise:
 - a) *For the European Union*, the Ambassador of the European Union to Guyana.
 - b) *For Guyana*, the Minister of Natural Resources
16. The Pre-JMRC will be made up of representatives of the European Union and Guyana, and will be co-chaired by both Parties. The Parties may invite other stakeholders in the Pre-JMRC as observers and consult them as necessary. The Parties agreed that in the absence of adequate time, observers could not be invited to this first Pre-JMRC. The Parties agreed that the future participation of observers is foreseen by the JMRC's Rules of Procedure.
17. The Parties agreed that the press will be invited at the closing of this first Pre-JMRC.
18. The Parties will make decisions in the Pre-JMRC on the basis of consensus.

19. Minuting of the Pre-JMRC will be done by the EU FLEGT VPA Facilitator.

20. The Aide Mémoire will be drafted by the EU FLEGT VPA Facilitator.

Updates on the VPA signature and ratification process

21. The European Union presented an indicative timeline of the VPA signature and ratification process, outlined next steps, and anticipates the readiness for signature by September 2022 with possible ratification by the end of 2022.

22. Guyana clarified that there is no requirement for parliamentary approval of the VPA. However, Cabinet must issue a no-objection to the VPA text.

Discussion on the updated Joint Implementation Framework (JIF)

23. The JIF was presented by Guyana and provides a framework to guide the implementation of the VPA. It is enclosed as Annex III to this Aide Mémoire.

24. The JIF is a living document and can be adjusted by the (Pre-)JMRC.

25. The JIF comprises of eight Strategic Tasks; each with specific timelines, costing, and information on funding streams as well as implementing partners.

Discussion on developing a tool for monitoring VPA-implementation

26. The Parties agreed to develop a tool for the operational planning and monitoring of the VPA implementation ("workplan").

27. The FLEGT Secretariat, with support from the EU, will be leading on the development of the workplan. The Parties will endeavour to endorse the workplan at the next (Pre-)JMRC.

Updates on the process for adopting the Rules of Procedure and Rules of Arbitration

28. A presentation on the Rules of Procedure, guiding the functioning of the JMRC, was made and is included as Annex IV to this Aide Mémoire.

29. A presentation on the Rules of Arbitration, which will guide the process for dispute resolution, was made and is included as an Annex V to this Aide Mémoire.

30. The Parties agreed that the Rules of Procedure and Rules of Arbitration will be developed jointly and will endeavour for its adoption to be recommended at the first JMRC.

Presentations made by civil society organisations and the private sector

31. Indigenous Peoples' Organisations recommended that (presentation included as Annex VI):

- The VPA implementation must be inclusive, transparent and participatory.

- Consultations must be held with Village Councils before allocating concessions where villages will likely be impacted.
 - A robust communication and engagement strategy must be developed in an inclusive manner and must be accessible.
 - Engagement with Indigenous District Council bodies and the National Toshias Council (NTC) must be strengthened.
 - An impact assessment on the implementation of the VPA must be conducted.
 - The establishment of a complaints mechanism, as it is provided for in the VPA
 - The Government of Guyana was strongly encouraged to ensure that all relevant legislation is updated or revised to protect the rights of Indigenous Peoples, if relevant within the framework of the VPA.
32. Environmental organisations (presentation included as an Annex VII) requested clarification on when work will commence on the establishment of the VPA complaints mechanism and whether more information on the modality for establishing the mechanism existed and could be shared. The GFC explained that Activity 5.3.1 of the JIF foresees the commencement of works on the VPA complaints mechanism by the end of the year 2022.
33. The private sector raised the following issues (presentation included as an Annex VIII):
- The need for increased transparency through the creation of a complaints mechanism.
 - The need for enhancing IT systems to improve efficiency and to combat illegal and unethical practices.
 - Concerns surrounding market access due to differences in preferences regarding certification schemes. In this regard, they requested the comparison of certification schemes and queried whether markets that currently require different certifications could be encouraged to accept the FLEGT license.
 - The need for clarification on the implications of the draft EU regulation on deforestation for Guyana, and how Guyana can avoid being categorized as a high-risk country. It was further asked what benchmarks will be used to classify countries. The EU provided clarifications on this point during a presentation delivered later on the agenda.

Updates on the future of the VPA in light of the draft EU regulation of deforestation (presentation in Annex IX)

34. The EU presented the proposal for an EU Regulation “on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation”, also referred to as EU regulation on deforestation, highlighting the key components, the state-of-play, and next steps.

Questions raised were:

- What are the implications of the regulation for Guyana?
- How can Guyana be classified as a low-risk country?
- Will the EU be providing support on the classification
- The VPA negotiations provided a guarantee of legality. What was agreed between Guyana and the EU when negotiating the VPA, is that the FLEGT licenses would provide a green lane to

enter the EU market. Adding a new element on sustainability alters the former agreement. The GFC is worried that VPA stakeholders will incur additional costs/meet difficulties to comply with these additional requirements

The GFC recommended that the EU parliament should reconsider this regulation before imposing it on countries and the EU should make an added effort to conduct an assessment of Guyana which will help guarantee its access to EU market. Further, Guyana can only see this regulation as an opportunity if there are no other changes moving forward. There should be a compromise that will allow exemption for countries that have completed the VPA processes and/or have a low deforestation rate.

EU response:

- The EU explained that benchmarking (one of the main elements of the proposed Regulation) will aim at assessing deforestation rate and agriculture expansion. Other indicators will include the efforts made by the country to effectively tackle deforestation: this can for example include regulations put in place or the integration of forest in the country's National Determined Contributions (NDCs) under the Paris Agreement. It was also highlighted that the benchmarking system will be subject to implementing acts, providing more details about the criteria and the process of the country assessment.
- The EU further explained that cooperation (Article 28) is also a key element of the regulation on deforestation. Through this article, the EU proposes to support partner countries to tackle deforestation, notably through improved agriculture value chains and to help ensure that the new EU rules on deforestation benefit partner countries. An assessment on the impact of this regulation on partner countries may also be considered.
- The regulation is still being discussed with the EU Member States and the European Parliament. Indicatively, the entry into force may not take place before 2024.
- The EU also confirmed that the VPA licences will provide a green lane for the legality requirements under the proposed regulation but operators will have to exercise due diligence to fulfil the sustainability criteria of the regulation. The EU justified the addition of sustainability criteria by the fact that addressing legality is not sufficient anymore to tackle deforestation. Considering the extremely low rate of deforestation, Guyana has a comparative advantage regarding the proposed regulation with regards to countries with a high rate of deforestation and should take this regulation as an opportunity to potentially increase its market share.

Updates on the status of the existing and upcoming JIF funding programs

35. Eticwood presented the AFD EU FLEGT programme for Guyana (presentation included as Annex X). The following JIF priorities were identified for funding:
 - Enhancing the IT System – Wood Tracking System (WTS)
 - Providing support to the private sector
 - Raising awareness among Indigenous Communities
 - Assessment and monitoring of the impact of the VPA implementation.
36. The following questions, answers and comments were made:
 - The EU recommended coordination among implementing partners to avoid the overlapping of activities and to maximize synergies.

- The EU highlighted that impact monitoring should consider impacts on Indigenous Peoples in areas of concern, whether or not they are involved in logging. This process will include developing the framework and also monitoring the impact over a longer period.
- Guyana enquired if the timeline for assessing the business model for small concessions and indigenous communities is adequate. A similar observation was made on the timeline for assessing the enhancement of value added.
- TAAMOG enquired if support will be given to indigenous communities involved in wood cutting, as well as to Indigenous Organisations representing these communities.
- APA recommended that raising awareness should take the form of active support to Indigenous Communities to enable them to better participate in the VPA implementation. This includes ensuring that indigenous peoples are engaged in developing the VPA complaints mechanism. Environmental monitoring activities conducted by indigenous communities could also be recognized by the FLEGT Secretariat as a source of information to strengthen databases.

Responses provided by Eticwood:

- The work plan of the AFD EU FLEGT programme is currently being developed corresponding to the needs of stakeholders.
- Under this work plan, the impact assessment will focus on small FSOs and indigenous communities involved in the timber sector before focusing on other stakeholders.
- Concerning the timelines: after the ToRs are developed, they will be shared with the GFC, at which point they can be adjusted.

37. An update on the status and progress of the EFITAP Programme, funded by the UK, was given to the Pre-JMRC (see the presentation in Annex XI). The Programme will come to an end in December 2022, and no details are known on the shape or form of a follow-up programme, if any.

38. The following questions, comments and answers were made:

- Guyana indicated that it places a lot of value on the work being done by EFITAP and that their contribution to the implementation of the VPA cannot be underestimated.
- While the contribution of EFITAP to the implementation of the VPA was also acknowledged by the EU, it was flagged that coordination between Guyana and the EU on the EFITAP workstreams could be improved. For example, the EU would welcome to be able to provide inputs during the development of documents such as ToRs.
- In relation to the above, the EU requests to be involved *ex ante* on developments going forward. This is even more important now that the AFD EU Programme is in its inception phase, and the latter will need to be closely involved to ensure continuity in the workstreams which they will take over such as the development of the IT system.

39. The Delegation of the EU presented the EU-Guyana Forest Partnership cooperation programme, outlining the following points:

- The EU is a donor to the JIF which will be partly covered by the EU Delegation's Forest Partnership programme as well as the Technical Cooperation Facility (TCF). It was emphasized that the TCF constitutes a readily available funding stream.
- The concept note coming from the Ministry of Natural Resources has to be endorsed by the Ministry of Finance before being processed by the Delegation of the EU.

- The Delegation of the EU also explained that Forests are at the forefront of the 2021-2027 EU-Guyana cooperation, constituting the priority area for the 2021-2027 programmes.

The following questions, answers and comments were made:

- Guyana informed that the Ministry of Finance indicated that the current TCF is reserved for Covid-19 measures and as such the GFC proposal for JIF funding will not be eligible. The Delegation of the EU suggested that this might require further discussion at a trilateral meeting outside of the Pre-JMRC.
 - TAAMOG asked whether the United Kingdom plays a role in Guyana's VPA process. The EU responded that the VPA is a trade agreement between Guyana and the EU, of which the UK is no longer part. In the context of the VPA, the UK can make financial contributions but is not a Party to the VPA.
40. Guyana explained that a Guyana REDD+ Investment Fund (GRIF) proposal was submitted of which approximately US \$1 million may be accessible to the VPA. However, there is no designated timeline for when this potential funding will become available. Guyana indicated that the proposal will be shared with the EU.

Additional topics discussed by the Parties

Government Coordination Body (GCB)

41. Guyana indicated that the establishment of the GCB encountered some delays, but that by the end of March 2022 the group should be fully constituted. TAAMOG enquired whether indigenous peoples will be represented on the GCB and who the representative will be. The GFC indicated that the Ministry of Amerindian Affairs will be a member of the GCB.

Strengthening of the FLEGT VPA Secretariat

42. It was explained that an assessment of the FLEGT Secretariat's skillset was conducted to determine what would be needed to continue implementing the VPA. The Secretariat requires support in communications, IT and other project management skills such as reporting and report writing, and monitoring and evaluation. A more conducive work environment is also required. The FLEGT Secretariat needs its own office and supporting infrastructure, such as a back-up power supply and other equipment. There is also need for legal, financial and marketing skills and/or staff within the Secretariat.
43. The EU emphasized that the future of the VPA depends on the FLEGT Secretariat and requested to receive the report of the needs assessment as the EU stands ready to further build up capacities of the Secretariat through technical assistance. The EU also explained that donors cannot cover the entirety of the funding needs but that financial commitments should also be made by the Government of Guyana. The EU further stated that domestic revenue mobilization is an increasingly important issue as it is tied to the financial sustainability of the VPA. The question of how the GFC is funded by national sources is also crucial, as it may affect the VPA in the future.
44. Guyana clarified that the GFC funds all salaries and some operational costs of the FLEGT Secretariat. Guyana also explained that the GFC has developed a new revenue structure based on stumpage value. However, the implementation of this new revenue structure has been put on hold since the sector has faced many recent challenges such as Covid 19. The GFC earns about GY

\$100-110 million monthly against operational costs of approximately GY \$120 million monthly. It is therefore difficult to finance the needs of the FLEGT Secretariat, notably a back-up generator.

Developing criteria and procedures for assessing that the traditional rights of Amerindian peoples are not impeded

45. The GFC suggested for the Indigenous CSOs to provide recommendations on how to develop the criteria to ensure that Indigenous Peoples' traditional rights are not being impeded by FSOs. The Indigenous CSOs indicated that a coordinating space and an independent coordinator for guiding this process would be helpful for this task.
46. The CSOs were invited to develop and submit a concept note to access the necessary funding to implement the above, a proposal that was endorsed by the GFC.
47. The EU Delegation indicated that it launches annual calls for proposals which could support this type of activity, depending on the theme and priorities of the call. The EU Delegation also reminded that the government may consider engaging more with CSOs. The EU further encouraged stakeholders to examine available funding streams such as the Global Land and Forest Tenure Facility.
48. Guyana enquired if calls for proposals are foreseen under the AFD EU FLEGT programme. Eticwood responded positively but indicated that support will be dependent on the Steering Committee's decision.

Mechanisms for broader discussions with countries involved in the VPA-process

49. Guyana stated that there is great value in bringing VPA countries together since they often experience similar issues. These exchanges can provide solutions to common challenges, which could in turn help to advance the respective VPA processes.
50. The EU responded that these exchanges have indeed proven to be useful and that we should explore opportunities to revitalize such dynamics in the future.

Markets for FLEGT-licensed timber and product development

51. FLEGT VPA is not going to be as effective if Guyana continues to export logs and lumber primarily. Guyana explained that exporters would benefit from being able to increase reliability and quality of manufactured timber products. However, most of the sector lacks expertise and has outdated equipment to be able to meet these needs. Guyana requests external expertise to provide the necessary training and knowhow. The EU responded that these aspects are prioritised by the AFD EU FLEGT Programme.
52. Marketing is another issue as there are many wood species that are valuable but are not being utilised by producers. The Forest Products Development and Marketing Council therefore needs capacity and training.
53. FLEGT licensed timber is also not an absolute guarantee for marketing, as it is destined particularly for EU markets and not necessarily recognized worldwide. The EU indicated that it is engaging with other major export markets on this issue.

54. The EU responded that the marketing issues go beyond the VPA and legality requirements. This is the objective of the Forest Partnership programme where value chains will be promoted.

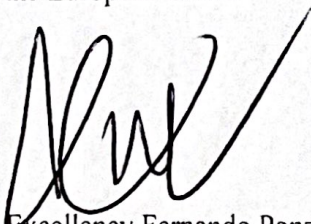
Agreement on date of the next Pre-JMRC

55. The Parties agreed that the next Pre-JMRC will be organized along the lines of the signature of the VPA.

ANNEXES TO THIS AIDE MÉMOIRE

1. List of participants
2. Pre-JMRC Terms of Reference
3. Updated Joint Implementation Framework (JIF)
4. Presentation on the Rules of Procedure
5. Presentation on the Rules of Arbitration
6. Presentation delivered by Indigenous Peoples' organisations
7. Presentation delivered by environmental organisations
8. Presentation delivered by the private sector
9. EU presentation on the deforestation-free regulation
10. Presentation on the AFD EU FLEGT programme
11. Updates on EFITAP programme

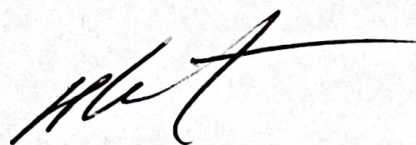
For the European Union



His Excellency Fernando Ponz Cantó

Head of the Delegation of the European Union
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Hon. Vickram Bharrat

Guyana Minister of Natural Resources