

TERMS OF REFERENCE
Facilitation Unit for
Forest Law Enforcement, Governance and Trade (FLEGT)
Voluntary Partnership Agreements in Africa

INTRODUCTION

1. DFID's Forest Governance, Markets and Climate (FGMC) Programme is a global programme which has the broad aim of bringing about governance and market reforms that reduce the illegal use of forest resources and benefit poor people who depend on forests for their livelihoods. It supports the EU Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan, as part of a global effort to tackle deforestation, in particular by tackling illegal logging in developing timber-producing countries and the trade in illegally-produced timber products.
2. Voluntary FLEGT Partnership Agreements (VPAs) are one of the main instruments for cooperation with timber-producing countries. These are legally-binding bilateral trade agreements between the European Union and developing countries where illegal logging is a problem, and which see advantages in using trade incentives as a means to tackle it. The EU and its member states support these countries to prepare for and implement the agreements.
3. Each country entering such an agreement undertakes to develop and implement a legality assurance system, which includes defining "legal timber", implementing agreed controls on timber harvesting and trade, licensing exports verified as legal and regular independent audits of the system's functioning. When the system is in place only exports licensed as legal will be allowed as imports into the EU.
4. Developing and implementing these systems requires extensive work by a wide range of stakeholders in each country. Apart from government regulators, these include private sector operators from large corporate enterprises to small artisanal loggers, and civil society groups representing communities and environmental interests. Often they are debating different

parties' rights and obligations under a country's forest-related laws for the first time.

5. Once a VPA has been signed and ratified by both sides, a high-level bilateral Joint Implementation Committee (JIC) is established to monitor and guide its implementation. These are normally co-chaired by the EU Ambassador and the country's Minister responsible for forestry. Between concluding negotiations and VPA ratification, "Interim JICs" are convened to serve as a vehicle for oversight.
6. The ultimate success and credibility of VPAs require: (i) that the wide range of actions envisaged in the agreements stay on track; (ii) that stakeholder processes that helped shape the VPA negotiations are sustained and strengthened; (iii) that requirements of international markets for evidence of legal production of timber and agricultural commodities produced on forest land are available to and understood by stakeholders in each partner country; (iv) that the progress made by partner countries in tackling forest governance challenges, including implementation of their VPAs, is known to international stakeholders; and (v) that lessons are shared between partner countries negotiating or implementing FLEGT VPAs, and with other FLEGT-related activities. Effective facilitation is necessary to help partner governments ensure that these expectations are met.
7. Ensuring that all parties in a partner country understand VPA's benefits, demands and processes, and to help them engage effectively also requires expert facilitation over extended periods from the start of negotiations through effective implementation. This is a delicate task that seeks to keep stakeholders involved and engaged in a process, while fostering local ownership and avoiding steering the process. It is also necessary to assist regularly with communications between each country's government, its EU Delegation, the European Commission and involved donors to ensure all are informed of relevant developments concerning relevant developments in politics, regulation and markets.
8. So far five African countries – Ghana, the Central African Republic, Cameroon, Republic of Congo and Liberia – have ratified the VPA. Three countries – Cote d'Ivoire, Gabon and Democratic Republic of Congo – are

negotiating in early 2016. In Asia, the VPA is agreed with Indonesia and negotiations are on-going with Thailand, Vietnam and Laos, while talks are stalled with Malaysia. In the Americas, negotiations are ongoing between the EU and Guyana and Honduras. No FLEGT-licensing system is yet delivering FLEGT licensed timber for the EU market, although Indonesia and Ghana anticipate the start of licensing in 2016.

9. DFID has provided support to VPAs in Ghana and Liberia since 2007. This covered facilitation for both negotiation and implementation. DFID currently provides support for facilitation in Liberia, Ghana, Cote d'Ivoire, Congo, DRC, Indonesia, Myanmar and Guyana. The FGMC Programme foresees support to VPAs in up to 10 countries. Other EU Member States are providing support to VPAs in Congo, Cameroon, CAR, Cote d'Ivoire, the Democratic Republic of Congo (DRC), Honduras, Laos and Vietnam.

OBJECTIVE

10. An international service provider will provide a FLEGT facilitation service for at least five VPA partner countries in Africa. These were initially expected to include Ghana, Liberia, Côte d'Ivoire, Republic of Congo and the Central African Republic (CAR). Democratic Republic of Congo (DRC) has subsequently replaced CAR as a focus country, as recorded in contract amendment 1, dated 10 November 2015. The overarching objective of this Service is to facilitate a dynamic and well informed VPA negotiation and implementation that builds local ownership for the resulting VPA.

RECIPIENTS AND CLIENT OF SERVICES

11. The recipients for the services will be the governments of the partner countries involved, normally represented by their agencies responsible for forest regulation and/or the EU Delegations leading in VPA negotiation and implementation. The client is the UK Department for International Development (DFID), working closely with the concerned EU Delegations.
12. Note that working arrangements may vary depending on the "positioning" of individual facilitators. In some instances a facilitator will need to work closely with a partner country government, while in others they might work

more closely with the EU Delegation, helping facilitate EU contributions to the VPA; in still other contexts a facilitator might play a neutral role in between the EU and partner country. This positioning will be further specified in Terms of Reference for each partner country which will be agreed following an initial inception phase.

SCOPE OF SERVICES

13. The Unit will maintain the offices in the five partner countries sufficient to meet the needs of the facilitation services required and tailored to account for the circumstances in each country.
14. The services will include facilitation of country VPA processes to ensure that the key actors in partner countries advance actions as agreed in each country's VPA and associated work plan, or negotiation road map, so that political momentum is maintained, the process builds political (stakeholder) support for the VPA, and actions are focused on achievement of intended results.

OUTPUTS

15. The facilitation services should result in the following outputs, which are elaborated in the country specific Terms of Reference that have already been agreed with DFID and each of the concerned EU Delegations:
 - a) **Effective and efficient support is provided to the joint VPA structures (JIC or negotiation teams)** that enables the EU and partner countries to effectively monitor progress, identify problems, understand stakeholder perspectives and feed the debate and dialogue between two parties;
 - b) **Continuous information is provided on progress with VPA negotiation and implementation** to each concerned EU Delegation, the European Commission and the European Forest Institute's (EFI) FLEGT Facility, including information concerning readiness to start FLEGT licensing and highlighting impediments to progress and solutions; (depending on the positioning of the facilitation service in a particular partner country, this could include continuous provision of

information on progress with VPA negotiation and implementation to stakeholders in the country in close association with the government, to ensure maximum opportunity for effective stakeholder engagement with negotiation and implementation processes);

- c) **Continuous documentation of lessons learnt from each VPA** in relation to FLEGT processes is shared with decision-makers, opinion formers, civil society organisations, the private sector within and between partner countries, with other donors and with the EFI FLEGT Facility, as guided by the direction of joint negotiation teams or JICs;
- d) **Progress with improved forest governance and management through VPA implementation is continuously documented** and, as appropriate and agreed with joint negotiation teams or JICs, provided so as to inform development and implementation of national and international market standards and regulations concerning the timber trade (e.g. EU Timber Regulation, US Lacey Act and related processes in timber-consuming countries, as well as private sector certification schemes);
- e) **Information on the requirements of emerging international market standards and legislation** related to the trade in timber products and agricultural products grown on forest land that affect each partner country is continuously assembled and effectively communicated to relevant stakeholders;
- f) **Information on progress with VPA milestones** as indicated in annual work plans, VPA implementation schedules, negotiation roadmaps or other structures established to guide the process of negotiations or implementation is continuously provided; this will include *inter alia* informing concerned stakeholders on progress with:
 - i) design, rollout and implementation of each partner country's timber Legality Verification System (LAS) such that the system's credibility with national and international stakeholders is maintained;
 - ii) monitoring of the VPA implementation through Independent Audits of each country's (LAS), and other monitoring processes, so that

guidance is provided to the JICs, and resulting actions are followed up and documented;

- iii) design and implementation of VPA impact monitoring jointly with EU and partner stakeholders ;
- iv) accessibility of results from monitoring of market access for FLEGT-licensed timber products to timber sector stakeholders, including small-scale and community-based enterprises, and to relevant government agencies in each partner country;
- v) addressing specific forest governance reforms identified in each VPA (such as artisanal chainsaw milling, community-based land tenure, concession allocation mechanisms, and information transparency); and
- vi) marketing development and relevant partnerships to promote legal and sustainable forest management and trade in timber products from each partner country.

REPORTING

16. The Unit will start its assignment with an inception phase, during which it will visit each country where it is expected to operate and consult with the EU Delegation and the Government to determine the detailed facilitation requirements and how the facilitation services should be positioned. The European Commission will assist with these visits by liaising with the Delegations concerned. Within six weeks of commencement the Unit will submit to DFID, the European Commission and each EU Delegation an Inception Report including Terms of Reference for facilitation in each case, including, but not limited to time commitments (e.g., full time placement or periodic visits) detailed task descriptions, reporting arrangements, and facility requirements.
17. Following approval of the extension of the contract, the Unit will report quarterly on progress in each partner country to the Senior Forest Governance and Markets Advisor, DFID, and will coordinate closely with EU Delegations and the European Commission, Brussels, relevant European

Forest Institute FLEGT Facility teams, and national multi-stakeholder implementation committees established in each partner country.

DUTY OF CARE

18. As part of the new Duty of Care Policy of DFID, we have assessed the risk of the countries (see below) which will be covered by the Service Provider. These assessments are provided in order to allow the Service Provider to take reasonable steps to mitigate risks where necessary:

Project: Facilitation Unit for Forest Law Enforcement, Governance and Trade (FLEGT) Voluntary Partnership Agreements in Africa

Countries covered: Liberia, Ghana, Cote d'Ivoire, DRC and Republic of Congo

Date of Assessment: initially 03 December 2012, updated 15 Feb 2016
below

Assessing Official:

	DFID Risk score				
Theme	Liberia	Ghana	Cote d'Ivoire	DRC	RoC
OVERALL RATING	2	1	2	2	2
FCO travel advice	3	1	3	3	3
Host nation travel advice	Not available	Not available	Not available	Not available	Not available
Transportation	3	2	3	3	3
Security	3	3	3	4	3
Civil unrest	3	3	3	5	3
Violence/crime	3	3	3	5	3
Terrorism	1	2	2	2	2
War	2	1	2	2	2
Hurricane	1	1	1	1	1
Earthquake	1	1	1	1	1
Flood	2	1	1	1	1
Medical Services	4	2	2	3	4

Nature of Project/ Intervention	2	2	2	2	2
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Below is the key for attributing overall scoring.

1 Very Low Risk	2 Low Risk	3 Med Risk	4 High Risk	5 Very High Risk
Low		Medium	High Risk	

19. The SP will be responsible for the safety and well-being of their Personnel whilst they are in countries covered by the programme (as defined in Section 2 of the Contract) and Third Parties affected by their activities under this Contract, including having appropriate security arrangements in place. Acceptance of responsibility must be supported with evidence of capability (no more than [2] A4 pages) and DFID reserves the right to clarify any aspect of this evidence. In providing this evidence Tenderers should consider the following questions:

- i. Have you completed an initial assessment of potential risks that demonstrates your knowledge and understanding, and are you satisfied that you understand the risk management implications (not solely relying on information provided by DFID)?
- ii. Have you prepared an outline plan that you consider appropriate to manage these risks at this stage (or will you do so if you are awarded the contract) and are you confident/comfortable that you can implement this effectively?
- iii. Have you ensured or will you ensure that your staff are appropriately trained (including specialist training where required) before they are deployed and will you ensure that on-going training is provided where necessary?

- iv. Have you an appropriate mechanism in place to monitor risk on a live / on-going basis (or will you put one in place if you are awarded the contract)?
- v. Have you ensured or will you ensure that your staff are provided with and have access to suitable equipment and will you ensure that this is reviewed and provided on an on-going basis?
- vi. Have you appropriate systems in place to manage an emergency / incident if one arises?

START DATE AND DURATION

20. The contract will start on or around 1 June 2013, and run for a period of 36 months, with a break to evaluate performance after [12] months, and the possibility of extension after 36 months, subject to continued need and programme review recommendations.

21. Following the review noted above, the contract extension will start on or around 1 July 2013, and run for a period of 18 months to the 31st December 2017.