

## **THE EUROPEAN UNION**

hereinafter referred to as "the Union"

and

## **THE REPUBLIC OF LIBERIA**

hereinafter referred to as "Liberia"

hereinafter referred to together as "the Parties",

**CONSIDERING** the close working relationship between the Union and Liberia, particularly in the context of the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000<sup>1</sup>, revised in Luxembourg on 25 June 2005, hereinafter referred to as "the Cotonou Agreement";

**CONSIDERING** the Communication from the Commission to the Council and to the European Parliament on an EU Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT)<sup>2</sup> as a first step towards tackling the urgent issue of illegal logging and associated trade;

**HAVING REGARD** to the importance of principles set out in the 1992 Rio Declaration in the context of securing sustainable forest management and, in particular, of Principle 10 concerning the importance of public awareness and participation in environmental issues and of Principle 22 concerning the vital role of indigenous people and other local communities in environmental management and development;

**CONSIDERING** the 1992 Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the management, conservation and sustainable development of all types of forests and the recent adoption by the United Nations General Assembly of the Non-Legally Binding Instrument on all types of forest<sup>3</sup>;

**HAVING REGARD** to the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) and, in particular, the requirement that CITES export permits issued by the Parties to CITES for specimens of species listed in Annexes I, II or III be granted only under certain conditions, including that such specimens were not obtained in breach of the relevant laws for the protection of fauna and flora;

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<sup>1</sup> OJ EC L 317, 15.12.2000, p. 3.

<sup>2</sup> COM(2003) 251 final, 21.5.2003.

<sup>3</sup> A/RES 62/98 of 31 January 2008.

**CONSIDERING** the importance attached by the Parties to development objectives agreed at international level and to the Millennium Development Goals of the United Nations;

**REAFFIRMING** the importance attached by the Parties to the principles and rules which govern the multilateral trading systems, in particular the rights and obligations laid down in the General Agreement on Tariffs and Trade (GATT) 1994 and in other multilateral agreements establishing the World Trade Organisation (WTO) and the need to apply them in a transparent and non-discriminatory manner;

**HAVING REGARD** to Council Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community<sup>1</sup>;

**CONSIDERING** the framework established by Liberia's National Forestry Reform Law<sup>2</sup> which balances the competing commercial, community and conservation priorities in use, management and protection of forest resources, thereby promoting effective present use of forest resources for economic development while, at the same time, ensuring that forest resources will be available for the benefit of future generations;

**ACKNOWLEDGING** further Liberia's recognition of the importance of public participation and transparency in sustainable forest use and governance, including allocating forest licenses, promoting environmentally sound operations and monitoring compliance with fiscal and other regulatory requirements;

**RECOGNISING** that Liberia's legality assurance system is designed to ensure the legality of all timber products exported from Liberia to any part of the world and with a view to applying and/or extending the legality requirement to all timber products used on the domestic market;

**CONSIDERING** the efforts made by Liberia to promote sustainable management of forests and wildlife throughout its entire national territory and, in particular, to ensure the legality of all timber flows;

**RECOGNISING** further the contribution that implementing a FLEGT voluntary partnership agreement will make to combating climate change, in line with efforts to reduce emissions from deforestation and forest degradation (REDD+) by fostering forest law enforcement and governance;

**CONSIDERING** the importance attached by the Parties to the participation of civil society, the private sector and the resident local population in the success of forest governance policies, in particular through consultations and public information,

**HEREBY AGREE AS FOLLOWS:**

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<sup>1</sup> OJ EU L 347, 30.12.2005, p. 1.

<sup>2</sup> National Forestry Reform Law of 2006 (NFRL).

## ARTICLE 1

### Objective

The objective of this Agreement, consistent with the Parties' common commitment to the sustainable management of all types of forest, is to provide a legal framework aimed at ensuring that all imports into the Union from Liberia of timber products covered by this Agreement have been legally produced and, thereby, to promote trade in timber products.

In addition, this Agreement provides a basis for dialogue and cooperation between the Parties to facilitate and promote full implementation of this Agreement and enhance forest law enforcement and governance.

## ARTICLE 2

### Definitions

For the purposes of this Agreement, the following definitions shall apply:

- (a) "import into the Union" means the release for free circulation into the Union within the meaning of Article 79 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code<sup>1</sup> of timber products which cannot be classified as "goods of a non-commercial nature" as defined in Article 1(6) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code<sup>2</sup>;
- (b) "export" means the physical leaving or taking out of timber products from any part of the geographical territory of Liberia, except for timber products in transit through Liberia;
- (c) "timber in transit" means any timber products originating from a third country, which enter the territory of Liberia under customs control and leave it in the same form whilst retaining their country of origin;
- (d) "timber products" means the products listed in Annex I;
- (e) "HS code" means a four or six-digit code, as set out in the Harmonised Commodity Description and Coding System established by the International Convention on the Harmonised Commodity Description and Coding System of the World Customs Organisation;
- (f) "FLEGT license" means a document which confirms that a shipment has been legally sourced and verified in accordance with the criteria laid down in this Agreement. A FLEGT license may be in paper or electronic form;
- (g) "licensing authority" means the authority designated by Liberia to issue and validate FLEGT licenses;

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<sup>1</sup> OJ EC L 302, 19.10.1992, p. 1.

<sup>2</sup> OJ EC L 253, 11.10.1993, p. 1.

- (h) "competent authorities" means the authorities designated by the Member States of the Union to receive, accept and verify FLEGT licenses;
- (i) "shipment" means a quantity of timber products covered by a FLEGT license that is sent by a consignor or a shipper from Liberia and is presented for release for free circulation at a customs office in the Union;
- (j) "legally produced timber" means timber products acquired, produced and marketed by processes that comply with all the statutory and regulatory provisions in force in Liberia, as set out in Annex II;
- (k) "release for free circulation" means a Union customs procedure which confers the customs status of Union goods on goods which are not from the Union (with reference to Regulation (EEC) No 2913/92), entailing the collection of any import duties due; the collection, as appropriate, of other charges; the application of commercial policy measures and prohibitions and restrictions; and the completion of other formalities laid down in respect of the importation of goods;
- (l) "European Commission" means the institution of the Union referred to in Articles 13(1) and 17 of the Treaty on European Union which, among other tasks, ensures the Union's external representation and exercises coordinating, executive and management functions.

### **ARTICLE 3**

#### **FLEGT Licensing Scheme**

1. A Forest Law Enforcement, Governance and Trade Licensing Scheme (hereinafter referred to as "the FLEGT licensing scheme") is hereby established between the Parties. It establishes a set of procedures and requirements aiming at verifying and attesting, by means of FLEGT licenses, that timber products shipped to the Union were legally produced or acquired. In accordance with Regulation (EC) No 2173/2005 and this Agreement, the Union shall accept such shipments from Liberia for import into the Union only if they are covered by FLEGT licenses.
2. The FLEGT licensing scheme shall apply to the timber products listed in Annex I.

### **ARTICLE 4**

#### **Licensing Authority**

1. Liberia shall designate its licensing authority (hereinafter referred to as the "licensing authority") and notify contact details of the licensing authority to the European Commission. Both Parties shall make this information available to the public.
2. The licensing authority shall verify that timber products have been legally produced in accordance with legislation listed in Annex II. In accordance with the terms set out in Annex II, it shall issue FLEGT licenses covering shipments of legally produced or acquired timber for export to the Union.

3. The licensing authority shall not issue FLEGT licenses for any timber products that are composed of, or include, timber products imported into Liberia from a third country unless it has been proven that the timber product has been produced and exported in accordance with the laws of the third country concerned and has complied with Annex II to this Agreement and with any regulations governing the importation of timber products into Liberia.
4. The licensing authority shall establish and make publicly available its procedures for issuing FLEGT licenses. It shall also keep records of all shipments covered by FLEGT licenses and, in line with the national legislation concerning data protection, shall make these records available for the purposes of independent monitoring, while respecting the confidentiality of exporters' proprietary information.

## **ARTICLE 5**

### **Competent Authorities of the Union**

1. The European Commission shall inform Liberia of the contact details of the competent authorities designated by the Member States of the Union. Both Parties shall make this information available to the public.
2. The competent authorities shall verify that each shipment is covered by a valid FLEGT license prior to releasing that shipment for free circulation in the Union. The release of the shipment may be suspended and the shipment detained if there are doubts regarding the validity of the FLEGT license. The procedures governing release for free circulation into the Union of shipments covered by a FLEGT license are described in Annex III.
3. The competent authorities shall maintain and publish annually a record of FLEGT licenses received.
4. In accordance with the national legislation on data protection, the competent authorities shall grant persons or bodies designated by Liberia as independent auditor, access to relevant documents and data.
5. However, when timber and derived products from species listed in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and covered by a FLEGT license enter the Union, they shall undergo only the examination laid down in Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein<sup>1</sup>. The FLEGT licence scheme shall nonetheless provide assurance of the legal harvesting of these products.

## **ARTICLE 6**

### **FLEGT Licenses**

1. FLEGT licenses shall be issued by the licensing authority as a means of attesting that timber products have been legally produced or acquired.
2. FLEGT licenses shall be drawn up and completed in English.
3. The Parties may, by agreement, establish electronic systems for issuing, transmitting and receiving FLEGT licenses.
4. The procedure for issuing FLEGT licenses and the technical specifications are set out in Annex IV.

## **ARTICLE 7**

### **Definition of legally produced timber**

For the purposes of this Agreement, a definition of "legally produced timber" is set out in Article 2 and in Annex II. The definition sets out Liberia's national legislation and accompanying regulations that must be complied with before timber products may be covered by a FLEGT licenses. Annex II also includes "legality matrices" along with "legality indicators" and "legality verifiers" and detailed verification procedures to be followed to determine compliance with Liberian law.

## **ARTICLE 8**

### **Verification of Legally Produced Timber**

1. Liberia shall establish a system to verify that timber has been produced or acquired legally and to ensure that only shipments verified as such are exported to the Union. This system for verifying legality shall include compliance checks in order to provide assurance that the timber and derived products intended for export to the Union have been legally produced or acquired and that FLEGT licenses have not been issued for shipments of timber that have not been legally produced or acquired, or that are of unknown origin. The system shall also include procedures to ensure that timber of illegal or unknown origin does not enter the supply chain.
2. The system for verifying that shipments of timber products have been legally produced is described in Annex II.

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<sup>1</sup> OJ EC L 61, 3.3.1997, p. 1.

## **ARTICLE 9**

### **Application of the FLEGT Licensing Scheme to Timber Products not exported to the Union**

1. Liberia shall endeavour to verify the legality of timber exported to non-Union markets, of timber sold on its domestic markets and of imported timber using, where possible, the legality verification systems developed for implementation of this Agreement.
2. To support such endeavours, the Union, in dialogue with interested parties, shall encourage use of the systems developed to implement this Agreement for trade in other international markets and with third countries.

## **ARTICLE 10**

### **Consultations on validity of licenses**

1. Where doubts about the validity of any license arise, the competent authority concerned may promptly ask the licensing authority for additional information and seek further clarification. If no answer is received from the licensing authority within 21 calendar days of the date of receipt of the request for additional information, the competent authority shall act in accordance with its applicable national legislation and shall not accept the license. If, after provision of additional information and further investigation, it is established that information on the license does not correspond to the shipment, the competent authority shall act in accordance with the national legislation in force and shall not accept the license. The licensing authority must be promptly informed in writing of each non-acceptance of a FLEGT license along with the reason for non-acceptance.
2. Where persistent disagreements or difficulties arise in relation to consultations concerning FLEGT licenses, the matter may be referred to the Joint Implementation Committee.

## **ARTICLE 11**

### **Independent Auditor**

1. The Parties agree on the need to call on the services of an independent auditor at agreed intervals to check the performance and efficiency of the FLEGT licensing scheme, as set out in Annex V.
2. Liberia shall engage the services of an independent auditor, after consulting the Union.
3. The independent auditor shall refer complaints arising from its work to the Joint Implementation Committee.
4. The independent auditor shall submit its observations to the Parties in reports in accordance with the procedure described in Annex V. Reports of the independent auditor shall be published in accordance with the procedure set out in Annex V.
5. The Parties shall facilitate the work of the independent auditor, including by ensuring that the latter has access on the territory of each Party to the information necessary for the performance of its functions. However, a Party may, in accordance with its legislation on data protection, withhold any information that it is not allowed to disclose.

## **ARTICLE 12**

### **Irregularities**

The Parties shall inform each other if they suspect or have found evidence of any circumvention or irregularity in the FLEGT licensing scheme, including in relation to the following:

- (a) circumvention of trade, including re-direction of trade from Liberia to the Union via a third country, where there is reason to believe that this is done with the intention of avoiding licensing;
- (b) FLEGT licenses covering timber products that include imports from suspect sources in third countries; or
- (c) fraud in obtaining or using FLEGT licenses.

## **ARTICLE 13**

### **Date of Operation of the FLEGT Licensing Scheme**

1. The Parties shall agree on a date from which the FLEGT licensing scheme shall be operational.
2. The launch of the issue of FLEGT licenses shall be preceded by a joint technical evaluation, the objectives and criteria of which are set out in Annex VI. The evaluation shall determine that the legality assurance underpinning the FLEGT licensing scheme adequately fulfils its functions and that the systems in the Union for receiving, verifying and accepting FLEGT licenses are in place.

## **ARTICLE 14**

### **Schedule for Implementation of this Agreement**

1. The Parties agree to the implementation schedule set out in Annex VII.
2. The Parties, working through the Joint Implementation Committee, shall evaluate the progress of implementation with reference to the schedule set out in Annex VII.

## **ARTICLE 15**

### **Supporting Measures**

1. The Parties have identified the areas indicated in Annex VIII as those in which there is a need for additional technical and financial resources in order to implement this Agreement.
2. The provision of such resources shall be subject to the normal procedures of the Union and its Member States for programming assistance to Liberia and to the budgetary procedures of Liberia itself.



3. The Parties shall consider the need for a joint arrangement whereby the financing and technical contributions of the European Commission and the Member States of the Union are coordinated to support these processes.
4. Liberia shall ensure that capacity-building to implement this Agreement is included in its national planning instruments, such as poverty reduction strategies and budgets.
5. The Parties shall ensure that activities associated with the implementation of this Agreement are coordinated with relevant existing and future development initiatives such as, among others, those supporting action to reduce emissions from deforestation and degradation (REDD+).
6. The provision of additional resources shall be subject to the procedures governing Union aid, as set out in the Cotonou Agreement, and to those governing the bilateral aid given to Liberia by Member States of the Union.

## **ARTICLE 16**

### **Stakeholder Involvement in Implementation of this Agreement**

1. Pursuant to the National Forestry Reform Law of Liberia related to participatory management of forest resources, Liberia shall ensure that the implementation and monitoring of this Agreement are done in consultation with relevant stakeholders, including industry, civil society, local communities and other people dependent on forests. Stakeholders shall participate via existing forest governance structures and by membership of a national body to be established pursuant to paragraph 2 of this Article.
2. Liberia shall establish a national committee to monitor implementation of this Agreement, made up of representatives of relevant Government agencies and other relevant stakeholders.
3. The Union shall hold regular consultations with stakeholders on implementation of this Agreement, taking into account its obligations under the 1998 Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters.

## **ARTICLE 17**

### **Social Safeguards**

1. In order to minimise any possible adverse impact of this Agreement, the Parties agree to develop a better understanding of the livelihoods of potentially affected persons and local communities, including those engaged in illegal logging.
2. The Parties shall monitor the impact of this Agreement on the communities referred to in paragraph 1, while taking reasonable steps to mitigate any adverse impact. The Parties may agree on additional measures to address any adverse impact.

## **ARTICLE 18**

### **Market-related Incentives**

Taking into account its international obligations, the Union shall strive to promote favourable access to its market for the timber products covered by this Agreement. Such efforts shall include:

- (a) encouragement of public and private procurement policies that recognise efforts to ensure a supply of legally produced timber products; and
- (b) promotion of FLEGT-licensed products on the Union market.

## **ARTICLE 19**

### **Joint Implementation Committee**

1. The Parties shall establish a Joint Implementation Committee (JIC) to facilitate monitoring and review of this Agreement. The JIC shall also facilitate dialogue and exchanges of information between the Parties.
2. Each Party shall nominate its representatives on the JIC which shall take its decisions by consensus. The JIC shall be co-chaired by two of its members, one from the Union and the other from Liberia.
3. The JIC shall consider any matter relating to effective implementation of this Agreement. In particular, the JIC shall:
  - (a) meet at least twice a year on dates and at places agreed by the Parties;
  - (b) prepare the agenda for its work and terms of reference for joint action;
  - (c) establish its own rules of procedure;
  - (d) establish a co-chair arrangement for presiding over its meetings;
  - (e) ensure that its work is transparent and that information about its work and decisions is made available to the public;
  - (f) if necessary, establish working groups or other subsidiary bodies for areas requiring specific expertise;
  - (g) publish an annual report. Details of the content of this report are given in Annex IX.
4. The specific functions of the JIC are described in Annex X.
5. In the period between the initialling of this Agreement and its entry into force, a joint mechanism for dialogue and monitoring shall be set up to facilitate implementation of this Agreement.

## **ARTICLE 20**

### **Communication on Implementation of this Agreement**

1. The representatives of the Parties responsible for official communications concerning implementation of this Agreement shall be:

For Liberia:

The Minister of Agriculture

For the European Union:

The Head of the Delegation of the Union in  
Liberia

2. The Parties shall communicate to each other in a timely manner the information necessary for implementing this Agreement.

## **ARTICLE 21**

### **Reporting and Public Disclosure of Information**

1. The publication of information is essential to improve governance and therefore provision of information to stakeholders shall be central for this Agreement. Information shall be regularly published to facilitate implementation and monitoring of systems, increase transparency, and thus improve stakeholder and consumer confidence as well as to ensure greater accountability of the Parties. Details of the information to be published are set out in Annex IX.
2. Each Party shall determine the most appropriate mechanism for publishing information. In particular, the Parties shall endeavour to provide stakeholders in the forest sector with reliable and up-to-date information.
3. The terms of reference and procedures guiding the functioning of the JIC shall be published.

## **ARTICLE 22**

### **Confidential information**

1. Each Party undertakes, within the limits of its laws, not to disclose confidential information exchanged under this Agreement. Neither Party shall disclose to the public, nor permit its authorities involved in the implementation of this Agreement to disclose, trade secrets or confidential commercial information exchanged under this Agreement.
2. Subject to paragraph 1, the following information shall not be considered confidential:
  - (a) The number and type of FLEGT licenses issued by Liberia and received by the Union and the volume of timber products exported from Liberia and received by the Union under such licenses;
  - (b) The names and addresses of relevant FLEGT license-holders and importers;
  - (c) The amounts of fees and taxes paid by any exporter;
  - (d) Monetary fines imposed or regulatory action taken against any contractor or FLEGT license-holder.

## **ARTICLE 23**

### **Territorial Application**

This Agreement shall apply to the territory in which the Treaty on the Functioning of the European Union is applied under the conditions laid down in that Treaty, on the one hand, and to the territory of Liberia, on the other.

## **ARTICLE 24**

### **Settlement of Disputes**

1. The Parties shall seek to resolve any dispute concerning application or interpretation of this Agreement through early consultations.
2. If a dispute has not been settled by means of consultations within two months from the date of the initial request for consultations, either Party may refer the dispute to the JIC, which shall endeavour to settle it. The JIC shall be provided with all relevant information for an in-depth examination of the situation with a view to finding an acceptable solution. To this end, the JIC shall be required to examine all possibilities for maintaining effective implementation of this Agreement.
3. In the event that the JIC is unable to settle the dispute within two months, the Parties may jointly seek the good offices of, or request mediation by, an independent third party.
4. In the event of it not being possible to settle the dispute in accordance with paragraph 3, either Party may notify the other of the appointment of an arbitrator; the other Party must then appoint a second arbitrator within 30 calendar days of the appointment of the first arbitrator. The Parties shall jointly appoint a third arbitrator within two months of the appointment of the second arbitrator.
5. The arbitrators' decisions shall be taken by majority vote within six months of the third arbitrator being appointed.
6. The award shall be binding on the Parties and shall be without appeal.
7. The JIC shall establish the working procedures for arbitration.

## **ARTICLE 25**

### **Suspension**

1. Either Party may suspend application of this Agreement in the event that the other Party (a) fails to fulfil its obligations as specified under this Agreement, or (b) fails to maintain the regulatory and administrative measures and means required to implement this Agreement, or (c) acts or fails to act in a way that poses significant risks to the environment, health, safety or security of the people of either the Union or Liberia. The decision on suspension and the reasons for that decision shall be notified to the other Party in writing.

2. The conditions of this Agreement shall cease to apply 30 calendar days after such notice is given.
3. Application of this Agreement shall resume 30 calendar days after the Party that has suspended its application informs the other Party that the reasons for the suspension no longer apply and the Parties jointly agree to the resumption of this Agreement.

## **ARTICLE 26**

### **Amendments**

1. Either Party wishing to amend this Agreement shall put the proposal forward at least three months before the next meeting of the JIC. The JIC shall discuss the proposal and, if a consensus is reached, shall make a recommendation. Each Party shall consider the recommendation and, subject to its agreement, shall approve it in accordance with its own internal procedures.
2. Any amendment so approved by both Parties shall enter into force on the first day of the month following the date on which the Parties notify each other of completion of the procedures necessary for this purpose.
3. The JIC may adopt amendments to the Annexes.
4. Notification of any amendment shall be sent to the depositaries of this Agreement and shall enter into force at the time and in the form laid down in paragraph 2.

## **ARTICLE 27**

### **Annexes**

The Annexes to this Agreement shall form an integral part thereof and shall be enforceable.

## **ARTICLE 28**

### **Duration**

With effect from its entry into force, this Agreement shall remain valid indefinitely.

## **ARTICLE 29**

### **Termination of this Agreement**

Notwithstanding Article 28, either Party may terminate this Agreement by notifying the other Party in writing. This Agreement shall cease to apply 12 months after the date of such notification.

## **ARTICLE 30**

### **Authentic Texts**

This Agreement shall be drawn up in duplicate in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each of these texts being authentic. In case of divergence, the English text shall prevail.

## **ARTICLE 31**

### **Entry into force**

1. This Agreement shall enter into force on the first day of the month following the date on which the Parties notify each other in writing of completion of their respective procedures necessary for this purpose.
2. Notification shall be sent to the General Secretariat of the Council of the European Union and to the Liberian Ministry of Foreign Affairs, which shall be the joint depositaries for this Agreement.

## LIST OF ANNEXES

Annex I	List of products subject to FLEGT licensing
Annex II	Legality assurance system of Liberia
Annex III	Conditions governing the release for free circulation in the Union of timber products exported from Liberia and covered by a FLEGT license
Annex IV	Requirements and technical specifications for FLEGT licenses
Annex V	Functions of the independent audit: terms of reference
Annex VI	Criteria for evaluation of the legality assurance system
Annex VII	Implementation schedule
Annex VIII	Supporting measures
Annex IX	Public information and transparency measures
Annex X	Functions of the Joint Implementation Committee

## ANNEX I

### LIST OF PRODUCTS SUBJECT TO FLEGT LICENSING

<b>HS CODES</b>	<b>COMMERCIAL DESCRIPTION</b>
4401	Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms; wood in chips or particles; sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms, including rubber wood chips
4403	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared
4406	Railway or tramway sleepers (cross-ties) of wood
4407	Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
4408	Sheets for veneering (including those obtained by slicing laminated wood), for plywood or for similar laminated wood and other wood, sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness not exceeding 6 mm
4409	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed
4410	Particle board, oriented strand board (OSB) and similar board (for example waferboard) of wood or other ligneous materials, whether or not agglomerated with resins or other organic binding substances
4411	Fibreboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances
4412	Plywood, veneered panels and similar laminated wood
4414	Wooden frames for paintings, photographs, mirrors or similar objects
4415	Packing cases, boxes, crates, drums and similar packings, of wood; cable-drums of wood; pallets, box pallets and other load boards, of wood; pallet collars of wood
4416	Casks, barrels, vats, tubs and other cooper's products and parts thereof, including staves
4417	Tools, tool bodies, tool handles, broom or brush bodies and handles, of wood; boot or shoe lasts and trees, of wood.
4418	Builders' joinery and carpentry of wood, including cellular wood panels, assembled flooring panels, shingles and shakes
9403.30	Wooden furniture of a kind used in offices
9403.40	Wooden furniture of a kind used in the kitchen
9403.50	Wooden furniture of a kind used in the bedroom
9403.60	Other wooden furniture



## ANNEX II

### **LEGALITY ASSURANCE SYSTEM OF LIBERIA**

#### **1. INTRODUCTION**

The legality assurance system (LAS) of Liberia aims to ensure the legality of the allocation of forest use rights and of harvesting, transport, processing and selling of timber. It is based on the national legislation in force and existing governmental control systems and was designed by a national multi-stakeholder process which included representatives of communities, civil society organisations (CSOs), government agencies and the private sector. These stakeholders have agreed, through a process of consultations and discussions, the elements of the LAS described below:

- Legality definition,
- Verification of compliance with the legality definition,
- Chain of custody system,
- FLEGT licensing,
- Independent audit.

The legality definition sets out the core requirements of legislation applicable to the forest sector. The legality definition was finalised and endorsed by national stakeholders during the Voluntary Partnership Agreement (VPA) negotiations.

Legality verification systematically determines compliance with the requirements of the legality definition. This is the responsibility of government bodies designated by the legislation and by the VPA.

The chain of custody system (COCS) is applied to control the timber supply chain from the forest to the point of export or sale on the domestic market. The COCS includes operational controls by companies, verification by the COCS manager and an information system where data from the operational control and verification activities are stored and analysed. A COCS that largely complies with the LAS requirements has been in operation since before the VPA negotiations started. It was built and is operated by an external service provider and will eventually be transferred to the Forestry Development Authority (FDA).

Liberia issues FLEGT licenses to all shipments of timber product exports that are produced in accordance with the legality definition and duly controlled by the COCS.

Independent audit adds credibility to the LAS by inspecting every component of the system to ensure that it is working as intended. The audit will be carried out by a competent body that is independent of Liberia's forest sector regulatory bodies and private-sector operators. The audit results are reported to the Joint Implementation Committee and reports are publicly available.

Legality verification, licensing and independent audit functions have been outlined by a stakeholder working group and will be further developed and put into practice during implementation of the VPA.

This Annex describes how, in principle, the LAS will work in practice.

## **2. SCOPE**

### **2.1. Timber Sources**

All domestically grown timber and timber products controlled by the LAS must originate from legally designated areas for which use rights have been allocated in accordance with the legal provisions. These timber sources can encompass both natural forests and plantation forests under one of the following types of permit granted by the Forestry Development Authority (FDA):

- Forest management contract (FMC),
- Timber sale contract (TSC),
- Private use permit (PUP),
- Forest use permit (FUP),
- Chainsaw permit.

The above-mentioned types of permit are provided for by the National Forestry Reform Law, the Community Rights Law, the Chainsaw Regulation and other related regulations. The Community Rights Regulations and Chainsaw Regulation are currently being drafted and, once they have been completed, amendments will be made to the LAS to reflect any additions.

Rubberwood and other timber products harvested under agricultural concession agreements will also be covered by the LAS.

Abandoned timber will be incorporated into the system once it has been auctioned and new legal ownership established.

At present, timber that has been confiscated due to violation cannot be entered into the system. Regulations concerning confiscated timber and how it will be incorporated into the LAS will be developed within two years and before FLEGT licensing becomes operational.

All imported timber products listed in Annex I will also be controlled by the LAS. Further details are given in Section 5.9 of this Annex.

### **2.2. Products**

The following products are controlled by the LAS:

- |                    |                       |
|--------------------|-----------------------|
| – Logs             | – Parquet flooring    |
| – Wood chips       | – Wooden frames       |
| – Railway sleepers | – Packing cases/boxes |
| – Sawn timber      | – Joinery             |
| – Veneer           | – Furniture           |
| – Plywood          |                       |

Annex I specifies the products covered by this Agreement and their Harmonised System (HS) codes used for classification of commodities in international trade.

As implementation proceeds, Liberia will consider adding other products, including charcoal, to the scope of the LAS.

### **2.3. Market Destinations**

Verification of legality is applied both to timber products sold on the domestic market and to exports, irrespective of the country of destination. Checks on products sold on the domestic market will be phased in, following a schedule that will depend on implementation of the Community Rights Law and Chainsaw Regulation and will take account of ECOWAS regional trade treaties and their integration into the LAS.

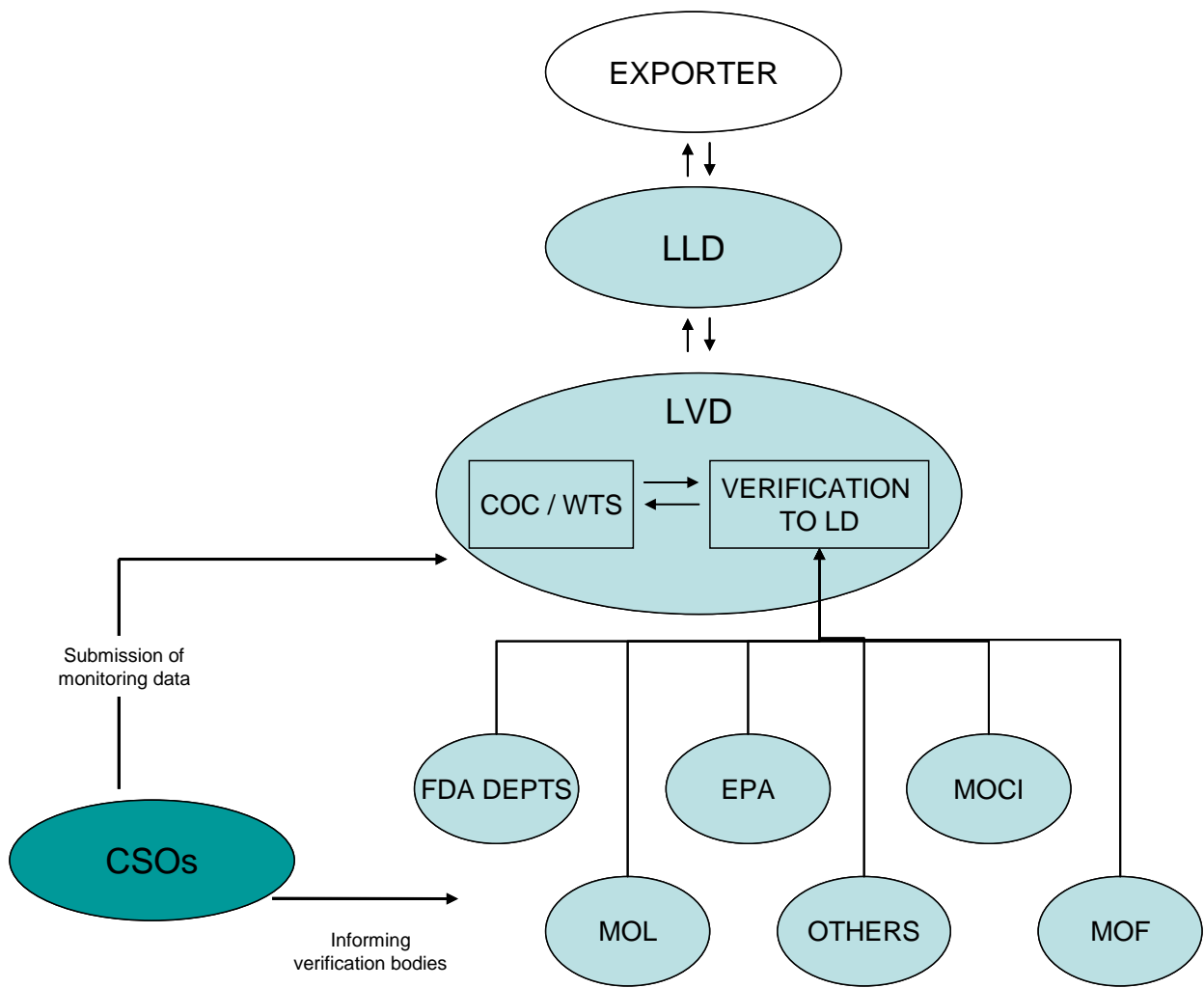
## **3. INSTITUTIONAL SET-UP**

In order to verify compliance with the legality definition (LD) and operate the COCS, the FDA will establish a new department called the Liberia Verification Department (LVD). A service provider will be contracted on a "build, operate and transfer" (BOT) basis for the first five years to develop the necessary verification methodology and to build the capacity of the FDA departments and divisions involved in implementing the LAS.

The LVD will collaborate with other departments and divisions of the FDA, the Environmental Protection Agency (EPA), the Ministry of Commerce and Industry, the Ministry of Finance, the Ministry of Labour and other relevant government agencies responsible for specific aspects of forest sector regulation. These government bodies will submit evidence to the LVD on operators' compliance with the legality definition. In addition, a channel of communication will be set up for civil society organisations (CSOs) to provide the LVD and other relevant authorities with monitoring data on operators' compliance with LAS requirements.

In order to issue FLEGT licenses for timber product exports, the FDA will establish a new department called the Liberia Licensing Department (LLD). Exporters will apply to the LLD for FLEGT licenses (see Figure 1).

**Figure 1. Institutional set-up for verification and licensing**



## **4. LEGALITY VERIFICATION**

### **4.1. Legality Definition and related Verification Procedures**

The legality definition consists of 11 *principles*, each of which is divided into a number of *indicators* representing the legal requirement that must be complied with. Each indicator is equipped with *verifiers* that are used for determining whether a private-sector operator or government agency complies with the legal requirements covered by the indicator concerned.

Appendix A contains the legality definition and outlines verification procedures to guide the responsible ministry, government agency and LVD in compliance assessment. This verification framework specifies the:

- Objective to describe the purpose of a verification procedure;
- Regulatory control to provide for the normative and/or regulatory requirements and the responsibility for a particular indicator;
- Verification method to provide for description and means of verification, which will consist of document review, field inspection, confirmation and/or consultation;
- Frequency to define how often compliance with an indicator or certain aspects thereof must be assessed by the LVD.

More detailed procedures, including checklists, to assess compliance with the legality definition will be developed during implementation of the VPA.

### **4.2. Data Management**

Verification results will be recorded in a data management system that allows immediate checks on whether an operator complies with the legality definition. The LVD will be in charge of data management, including updating records with the frequency set in the verification procedures.

The chain of custody information system (COCIS) contains certain data on legal compliance that will be collected to assess compliance with the legality definition along the product chain. These records are used as triggers to allow progress along the product chain, such as the start of harvesting operations or transfer of logs along the supply chain. It is envisaged that the COCIS will form part of the data management system necessary for verification purposes.

The data management system should be developed to allow real-time exchanges of information so that any non-compliant timber detected during verification can be prevented from progressing, with later checks further down the supply chain.

The architecture and technical specifications for the data management system and detailed procedures for data management will be developed during implementation of the VPA.

### **4.3. Legality Verification of Operators working under an Independent Forest Management Certification Scheme**

Operators working under an independent certification scheme approved by the Government of Liberia can demonstrate legal compliance with the Liberian legality definition by providing the LVD and the LLD with a valid scheme certificate.

Prior to acceptance of a certification scheme, the Government of Liberia will carry out a consistency assessment to make sure that all the indicators of the Liberian legality definition are included in the certification scheme, compliance with them is systematically audited and the entire certification process is reliable. Only schemes which have passed the consistency assessment can be integrated into the LAS of Liberia.

In keeping with Liberian legislation, all operators, including those with their own certified chain of custody systems, will still be subject to Liberia's national chain of custody system.

## **5. CHAIN OF CUSTODY SYSTEM**

### **5.1 Standard Operating Procedures**

A set of standard operating procedures (SOP) has been developed to lay down (a) how forest companies control their supply chains and (b) how these company activities are verified with the help of the COCS:

- (a) General standard operating procedure 01 (GSOP 01) provides a general description of how control and verification activities for timber and wood products sourced from TSCs, FMCs and PUPs are conducted;
- (b) Details of each activity are presented in a number of SOPs;
- (c) The GSOPs and SOPs will be amended to reflect any changes in the control and verification activities, including introduction of new sources of timber in the COCS.

Control and verification of timber from the following sources will be developed within two years of signature of the VPA:

- (a) Forests regulated by the Community Rights Law;
- (b) Chainsaw logging operations;
- (c) Imported timber;
- (d) Timber in transit;
- (e) Confiscated timber.

The next few sections and Appendix B describe the key control points and guiding principles of the COCS.

### **5.2. Pre-harvest**

Demarcation of the contract area and of the harvesting blocks and the enumeration of trees (stock survey) are the responsibility of the contract-holder. The LVD verifies that the block map and stock survey are accurate and provides the Commercial Department of the FDA with the information it needs in order to issue an acceptance of the block map survey work and the annual harvesting certificate (AHC).

FDA staff verify that the block map and stock survey have been properly undertaken and that the forms and maps have been filled in correctly by the contract-holders. This is a two-stage process, comprising first an office check to make sure that no simple administrative errors have been made and, second, if the first check is found to be satisfactory, a check conducted in the forest on a sample of at least 5 % of the stock survey area to verify tree location, diameter, species and height.

The COCIS automatically checks that:

- (a) The contract area reference matches the contract-holder ID;
- (b) The four corners of the block maps fall inside the gross contract area;
- (c) The tree ID numbers have been allocated to the contract-holder for use in this contract area as tree labels.

The block map is then manually checked by the COC field officer to confirm that:

- (a) The contract area reference and contract-holder ID match those on the stock survey forms submitted;
- (b) The dates surveyed match the dates on the stock survey forms;
- (c) The Universal Transverse Mercator (UTM) geographic coordinates match those on the stock survey forms;
- (d) The scale is correctly marked on the map, the distance between the cells is correct and the distances are correctly marked on the map;
- (e) The direction of the baseline has been correctly entered and the direction of the north arrow is correct in comparison with the baseline;
- (f) The survey line numbers and the distance numbers are correctly denoted;
- (g) The block border drawn on the block map corresponds to the contract area location map and fits within the overall boundaries of the contract area;
- (h) The tree numbers on the map are in the correct cells, as indicated by the stock survey forms;
- (i) The species codes are correct.

The COC field officer completes a standard COCIS form, which has a series of check boxes and which will be passed to the data entry clerk or COCIS operator for entry into COCIS.

If any of the checks on the stock survey forms or manual block map fail, then the COCIS operator will print the forms/maps that failed the checks. The COC data entry supervisor will send them to the contract-holder for corrections and the process is repeated with the corrected data.

### **5.3. Harvesting**

This process describes the labelling, measuring and recording procedures to be followed by the contract-holders during tree felling. Measuring and tagging logs and stumps is necessary to connect the original tree number (allocated during the stock survey) to the logs resulting from the tree harvest and to the stump left in the forest, thereby establishing traceability.

Once the annual harvesting certificate has been issued, the contract-holder is allocated bar-coded log tags and is permitted to commence harvesting at the locations indicated on the block map:

- (a) Before felling the tree, the contract-holder's log measurer records the tree ID tag number assigned during the stock survey;
- (b) On felling the tree, the log measurer affixes and records a new tag to the butt end of the log and another to the stump. The resultant tree-length log is measured: the diameters of both the butt and top ends and the length of the log to the crown break (to the nearest 10 cm). The log measurer records the data on a personal digital assistant (PDA) or the appropriate form.

Then the log measurer proceeds to the next tree to be felled and repeats the same procedure. The data collected are submitted to and processed by a COC data entry clerk who transfers them into COCIS.

#### **5.4. Forest log yard/landing**

This process describes how the contract-holder measures and labels felled trees once they have been extracted to the log landing and been cross-cut to length. The same procedure is also followed if, at a later stage, the logs are cross-cut again into smaller logs or are simply dressed (i.e. have the first few inches removed to make the log look better for sale or export). The main principle is that an ID tag is attached to each new log so that traceability back to the original log, tree and block map is possible.

COCS log scalers verify a sample to confirm that the logs have been accurately tagged and measured by the operator. The species, diameter and log length will be recorded in the COCIS, which automatically checks the log data against the information stored by the contract-holder.

#### **5.5. Transport of logs or Processed Wood**

This process describes the procedure to be followed when logs and/or wood products are loaded onto a truck at the log landing in the forest, when logs are loaded at a holding area outside the port and when sawn timber products are loaded prior to shipping to the port and then transported. Since the COCS is designed to have real-time data on where logs or wood products are in the supply chain, the following measures are applied:

- (a) When the shipment is ready for loading, the operator's staff (i.e. log measurer or sawmill tally man) complete a waybill form by:
  - Filling out the appropriate fields (barcode, species, diameter and length),
  - Sticking the bar-coded stickers to the waybill in the appropriate places,
  - Listing all the bar-coded tag numbers or the bar-coded labels affixed to the wood products making up the load — these numbers need to be copied in by hand,
  - Dating and signing the waybill.
  
- (b) Logs or wood products must be loaded in a way that enables the bar codes to be read by a PDA scanner without removing the load from the truck. Therefore either a space must be left between the end of the logs and the truck headboard (depending on the truck type) or all the logs will need to be loaded with the tags at the rear end, so they are clearly visible. This is to facilitate checking of the tag numbers by the COCS log scalers and the FDA when the truck is *en route*.

LVD does 100 % documentary verification of the waybills/delivery notes issued and received and has mobile teams of log scalers/inspectors who check a sample of all loads transported. The species, log diameter and length are recorded. At the same time, the Liberian police will check that all loads passing checkpoints have the required waybills with them.

#### **5.6. Processing of Timber**

Detailed procedures describing how sawmilling and other processing of wood products are assessed will be developed in the first three years of implementation of the VPA. In principle, the operational control by the operator and verification by the COCS will cover (i) entry of wood raw materials into the mill site, (ii) storing of wood raw materials, (iii) processing, (iv) storing of processed products and (v) exit of products from the mill site.



The following control and verification measures will be applied:

- (a) The operator keeps records of all wood raw materials entering the mill site and uploads the corresponding data into the COCIS;
- (b) The operator keeps records of all wood raw materials stored in the mill site and uploads the corresponding data into the COCIS. An inventory management system that records inputs and outputs of raw material from storage areas must be applied by the operator;
- (c) The operator's staff record the raw material going into the processing plant and all the products coming out by entering the data in standard forms. This will give the base data for recovery assessment (for sawmilling this would be the sawn timber volume coming out of the mill expressed as a percentage of the volume of logs going in; in other instances it may be a simple conversion ratio, e.g.  $x \text{ m}^3$  of sawn wood will be equal to  $y$  units of chair legs, etc.);
- (d) The operator keeps records of all processed wood products stored in the mill site and uploads the corresponding data into the COCIS. An inventory management system that records inputs and outputs of raw material to and from each warehouse must be applied by the operator;
- (e) The operator keeps records of all wood raw materials exiting the mill site and uploads the corresponding data into the COCIS;
- (f) A whole-sample batch of product processing (for example, one shift at a sawmill) must be monitored by LVD staff once the mill is ready to commence production. This sample will be the basis for the "approved conversion rate";
- (g) Periodically and randomly, LVD staff will reassess the "approved conversion rate". These visits to the processing plant should be unannounced;
- (h) The COCIS monitors the conversion rate based on the standard forms submitted by the operator against the "approved conversion rate". Any significant variation will trigger further investigation and/or issue of a failure report;
- (i) The LVD conducts random checks on all operations and bookkeeping systems used by the operator to control the flows of wood raw material and processed products within the mill site.

### **5.7. Export**

This process describes how the products already approved for export by the LVD are shipped to the port and then loaded onto the vessel.

At the point of export, the COCS checks 100 % of tag numbers and product specifications within the COCIS and physical inspections are conducted on a sample of the export consignment.

The exporter has to inform the COCS when the vessel is ready for loading, so that the COCS can perform its task of sending a team to oversee the final loading of the vessel. While each log or bundle is being loaded onto the vessel, the COCS inspector will check them against the specifications to make sure they are covered by the valid FLEGT license and will record them in a PDA or on the appropriate form. The records will be uploaded into the COCIS and reconciled with the earlier product specification data stored to keep track of which product has actually been exported.

### **5.8. Domestic Market**

The control and verification procedures described in Sections 5.2 to 5.7 of this Annex are applicable to the domestic market, when the timber originates from production areas covered by FMCs, TSCs and PUPs. Procedures to manage supply chains for timber from chainsaw logging operations will be developed within the period indicated in Annex VII.

## **5.9. Imported Timber**

The importer must demonstrate that imported timber comes from legal sources and is customs-cleared in accordance with the Liberian legislation. The legality of timber in the country of harvest can be demonstrated by certificates issued under certification schemes or other legality verification schemes that have been assessed and approved by the Government of Liberia in consultation with the governments concerned. Imported timber controlled by the LAS of another country covered by a VPA that has an operational FLEGT licensing scheme will be considered legal in the Liberian LAS. Imported timber demonstrated to be legal is included in the COCS at the border and is thereafter controlled and verified in the same way as domestically grown timber.

## **5.10. Timber in Transit**

Timber in transit has to be kept physically segregated from domestic or imported timber and transits Liberia under Liberian customs control. Timber in transit will not be integrated in the COCS and will not be subject to issue of a Liberian FLEGT license at the point of export. The country of origin and country of harvest must be clearly indicated in the bill of lading and other transport documents. Liberia will specify legal documents and related customs controls specific to timber in transit. Detailed procedures will be developed before the licensing system becomes operational.

## **5.11. Rubberwood**

The SOPs for controlling harvesting, transportation, chipping and exports of rubberwood products will be developed during implementation of the VPA.

## **5.12. Data Reconciliation**

The COCIS is used for reconciling quantitative data between and within the various stages of the supply chain. The reconciliation processes aim to ensure that timber quantities by species and dimensions are consistent all along the supply chain, in particular to prove that the quantity dispatched does not exceed the quantity received and that during processing the ratio between the quantity of raw materials and the quantity of processed products is rational.

Protocols will be developed for reconciliation of consolidated data over several supply chains and over time with a view to providing evidence of the legality of the whole forest sector at regional or national level.

In addition to the reconciliation of quantitative data, the COCS checks with the LVD database that there is full compliance with the LD prior to each sale whether intended for export or sale in Liberia.

## **6. FAILURE TO COMPLY WITH THE LAS**

FLEGT licenses will not be issued unless all requirements of the LAS have been complied with. Any failure to comply with the LAS must be addressed. Existing legal procedures and sanctions apply for handling failures to comply with the LAS identified in the course of the verification activities. Depending on the breach, administrative fines, corrective action, suspension of activities and/or prosecution of the operator may apply.

Detailed guidance on how to handle breaches and to impose sanctions for non-compliance will be developed before the FLEGT licensing system becomes operational.

All failures to comply with the legality definition, COCS and corresponding sanctions will be recorded in the verification database (see Section 4.2).

## **7. LICENSING**

The Liberia Licensing Department (LLD) will be established to issue FLEGT licenses to export consignments of timber products complying with all the requirements of the LAS. The licensing process consists of the following phases:

- (a) The exporter applies to the LLD for a FLEGT license for each export consignment. A standard application form will be developed within two years of signature of the VPA to specify the information and documents required. The LLD will register the application and send a request for verification to the LVD.
- (b) The LVD verifies that the exporter and possible suppliers associated with the export consignment concerned comply with the Liberian legality definition and that the products for export originate from legal sources and are duly entered in the COCIS. The detailed procedures and checklists for the verification by the LVD will be developed within two years of signature of the VPA.
- (c) The LVD will then send a written communication to the LLD to confirm the outcome of the verification. The format and process for this communication will be developed within two years of signature of the VPA.
  - If the LVD confirms that there is full compliance with the LD, the LLD issues without delay a FLEGT license to the export consignment concerned. The detailed procedures for informing the applicant and issuing FLEGT licenses will be developed within two years of signature of the VPA.
  - If any non-compliance is detected at this stage, the LVD will notify the LLD that no FLEGT license can be issued, indicating the reasons for this rejection, and record the rejection in the COCIS. The LLD will notify the applicant that the application for a license has been rejected and of the reasons for this rejection. The detailed procedures for handling non-compliant consignments and informing the applicant will be developed within two years of signature of the VPA.
- (d) Once the FLEGT license has been issued, the exporter sends a copy of the license, including the specification, to the customs and port authority, with notification of the proposed date of loading. The customs and port authority checks that the license is consistent with the other official export documents and meets the standard formats. The LLD keeps records of all applications for FLEGT licenses received, including those that resulted in rejection.

The technical specifications for FLEGT licenses, including the license format and period of validity, are presented in Annex IV.

## **8. INDEPENDENT AUDIT**

The objective of the independent audit (IA) is to assess whether the LAS is functioning effectively, appropriately and with credibility and to identify potential weaknesses and risks in the structures and implementation of the system.

The terms of reference for the IA, including the tasks, qualifications required and method, are presented in Annex V.

## **Appendix A**

### **LEGALITY DEFINITION, MATRIX AND VERIFICATION PROCEDURES**

#### **1. PLAN FOR FORESTRY POLICY AND LAW REFORM**

The legality definition set out below has been developed through a participatory process with a wide range of stakeholders. During development of the legality definition, Liberian stakeholders identified a number of ambiguities, gaps and inconsistencies in the existing laws, regulations and policies that underlie the legality definition, which need to be addressed in order to achieve the good governance desired in the Liberian forestry sector. The Government of Liberia therefore plans to carry out legal and policy reforms in respect of the forestry sector in consultation with all relevant stakeholders. It is expected that such legal reforms would be completed by 2013, and that the legality definition will be updated thereafter to reflect these amendments. Areas that require policy and legal reforms include:

- (a) Social Agreements: Establishment of procedures to govern negotiations of Social Agreements, including (i) timing of negotiations; (ii) timeliness of both the payments and transfers of funds to communities; (iii) minimum content of social agreements and enforcement of provisions; (iv) community user rights in respect of concession areas, and (v) employment of non-skilled workers, etc;
- (b) Promulgation of Community forestry regulation to provide specific guidelines for community forest management;
- (c) Use of abandoned logs including procedures for their auction, registration of legal ownership and entry into the LAS;
- (d) Use of logs confiscated by the Government on grounds of being harvested in violation of the law;
- (e) Integration of Independent Certification Schemes into the LAS: discussion and agreement with stakeholders on the use of independent certification scheme(s) in Liberia and identification of the independent certification scheme(s) Liberia would recognize for the purpose of establishing the legal origin of logs imported from non-VPA countries;
- (f) Debarment List: The establishment of a debarment list identifying those individuals who contributed to the civil war of Liberia and are thus banned from working in the forest sector, as required by existing FDA Regulations;
- (g) Processing facilities: A regulation relating to (i) the establishment of processing facilities by holders of FMCs, and (ii) guidelines on operation of processing facilities;
- (h) Third Party Access and Use of Forest Products: Regulations on third party access and use of forest resources in another parties' concession area;
- (i) Validation and promulgation of Chainsaw Regulations: to guide new procedures for working with the informal sector.

## 2. LEGALITY MATRIX

In determining whether timber and or timber products being sold on the Liberian market or being exported from Liberia meet the legal standard set out in the definition of "legal timber", the principles and indicators as well as the detailed verification procedures as set out in the following table shall apply. The table describes the format of the Legality Matrix (Principles, Indicators, Verifiers, and Verification Guidance). The matrix is divided into 11 principles, with indicators and verifiers listed underneath each principle, and verification guidance outlining how the indicators should be checked for compliance. The verification guidance (indicating Objective, Regulatory Control, Verification Method, and Frequency) reflects current thinking but may be subject to change during further development of systems and procedures.

<b>The Legality Principle</b>	The Liberian legality definition is divided into 11 legality principles. Each legality principle consists of a number of legality indicators with verifiers under each indicator. A verification procedure has been developed for each indicator.
<b>Legality Indicators</b>	This outlines the norm or requirement the Liberian Verification Department (LVD) needs to check for compliance with the specific legality principle.
<b>Legality Verifiers</b>	Verifiers are evidence the LVD inspectors/or assessors will look for when evaluating if the specific norm or indicator has been met. This list is not exhaustive and the assessor may use additional means of verifying the relevant indicator if required.
<b>Verification Guidance</b>	<p>These principles guide LVD inspectors/or assessors in their evaluation of a particular indicator:</p> <ol style="list-style-type: none"> <li>1. <u>Objective</u>: The objective puts forward the purpose of the verification procedure.</li> <li>2. <u>Regulatory Control</u>: Provides for the normative and/or regulatory requirements in respect of a particular indicator and responsible government bodies.</li> <li>3. <u>Verification Method</u>: Provides for description and method of verification and will consist of document review, field inspection, confirmation and/or consultation.</li> <li>4. <u>Frequency</u>: Provides for the verification frequency of the indicator or certain aspects thereof by the LVD.</li> </ol>

**PRINCIPLE 1: LEGAL EXISTENCE/RECOGNITION AND ELIGIBILITY TO OPERATE IN FORESTRY SECTOR**

**The forest contract or permit holder is a legally recognized business, community or an individual eligible to operate in the forestry sector**

**Indicator 1.1 The Contract or permit holder is a natural or legal person duly registered with the Government of Liberia and/or recognized by the FDA**

Verifier		Contract or Permit Type	
1.1.1.	For corporations and partnerships, current annual Business Registration certificate and license issued by the Ministry of Commerce and Industry (MOCI)	All contract or permit types whose holder is a registered business	
1.1.2.	For corporate entities, articles of incorporation filed with Ministry of Foreign Affairs (MOFA)	All contract or permit types whose holder is a corporation.	
1.1.3.	For holders who are not registered businesses, a certificate or letter of recognition issued by FDA	FMC/TSC under Community Forestry law, FUP/PUP, and chain saw permits issued to natural person or sole proprietorship	
Verification Guidance		Verification method	Verification frequency
<p><b>Objective:</b> The objective of this procedure is to verify that a person seeking a forest contract or permit for harvesting, processing or exporting logs or any timber product in Liberia is either a duly registered business enterprise or one recognized by FDA as capable of obtaining and holding a forest contract or permit under Liberian law.</p> <p><b>Regulatory Control:</b> Liberian law requires that any person conducting and/or carrying out business must register the business with the MOCI. It is an offense not to register a business. To engage in community forestry the community must be recognized by the FDA. Business registration expires annually on the date of registration and must be renewed. The NFRL also provides that any eligible person may obtain and hold a forest contract. The term "person" is defined to include both natural and legal person, and incorporated and unincorporated entities.</p>		<p><b>Description:</b> The existence of a valid business registration document is verified by the LVD. In the event that clarity is required the LVD can obtain additional information from the MOCI and the FDA Commercial and Legal Departments. In case of community forestry, verification of FDA's recognition of the community may be obtained from the FDA Legal and Community Forestry Department.</p> <p><b>Verification means:</b></p> <ol style="list-style-type: none"> <li>Document review</li> <li>Consultation with MOCI and the FDA Commercial, Legal and Community Forestry Departments</li> </ol>	Annually
References: GBL (4.3 to 4.5); COCS SOP(4)			

<b>Indicator 1.2 The current owner(s) or shareholders of a contract or permit holder do not include the current President and the Vice President of Liberia, Members of the Legislature, Members of the cabinet, Directors and Managers of FDA, current county Superintendents or any other person specifically prohibited from owning a forest contractor or an interest in a forest contract</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
1.2.1 For a contract holder that is a registered business, a notarized affidavit executed by its CEO declaring that its owners do not include prohibited persons	All contract and permit types	
1.2.2 Current FDA-prepared list of current senior Government officials prohibited from holding forest license pursuant to Section 5.2(b) of NFRL	All contract and permit types	
1.2.3 Current List of shareholders and beneficial owners of corporate contract or permit holder	All contract and permit types	
<b>Verification Guidance/ Procedure (LAS-LVD-0.1.2)</b>	<b>Verification Method</b>	<b>Verification frequency</b>
<p><b><u>Objective:</u></b></p> <p>The objective of this procedure is to ensure that all applicants for forest licensing and/or concessions are eligible to hold a forest license.</p> <p><b><u>Regulatory Control:</u></b></p> <p>Holders of certain positions in Government are prohibited by Section 5.2b of the NFRL to conduct commercial forest operations because of actual or potential conflict of interest. A key regulatory interest is to cross check the current owner of a contract holder against the current list of prohibited senior government officials maintained by the FDA. Because the primary responsibility is on the contract holder to ensure that its owners are eligible persons, the contract holder is to execute an affidavit that it is in compliance.</p> <p>The veracity of the sworn affidavit will be checked against available records regarding the owners of the contract holder. The list of prohibited persons as well as the list of current shareholders of registered businesses holding contract or licenses shall be placed in the public domain, as is stated under Annex IX of this Agreement.</p>	<p><b><u>Description:</u></b></p> <p>In order to ensure that the above requirements have been met, the LVD must review the ownership records of the contract holder to verify that the applicant is not a prohibited person or an entity whose owner(s) include prohibited person(s).</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with the FDA</li> <li>2. Document review</li> </ol>	Per shipment
References: NFRL (5.2b); Regulation 103-7(21-22) Regulation 104-07(62); Sections 44, PPC Act		

<b>Indicator 1.3 The Contract holder is not barred from bidding or applying for a forest license or any other government contract/concession because of violations of the Public Procurement and Concessions Act (PPCA)</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
1.3.1 Public Procurement Concession Commission (PPCC) develops and maintains a Debarment List of persons found guilty of violating the PPC Act and or the rules and guidelines established thereunder	FMC, TSC and FUP having value of more than US \$ 10 000,00	
<b>Verification Guidance/ Procedure:</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The objective of this procedure is to ensure that all applicants for forest contracts or permits are not in violation of the PPC Act governing award of concessions and other contracts.</p> <p><b><u>Regulatory Control:</u></b> An applicant for forest licensing must not be barred from bidding for concession and other public contracts due to violations of tender rules established by the PPCC. Successful bidders must be checked against the current/updated debarment list that is produced and maintained by the PPCC under section 44 of the PPC Act, which precludes certain entities from being awarded a concession as a result of certain conditions being present after a successful application and/or bid.</p>	<p><b><u>Description:</u></b> In order to ensure the above requirements have been met, the LVD must verify that the applicant is not on the PPCC debarment list. The PPCC debarment list shall be one of the documents placed in the public domain as indicated in Annex IX of this Agreement.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with PPCC</li> <li>2. Document review</li> </ol>	Once during the contract period
References: Sections 44, PPC Act		



## PRINCIPLE 2: FOREST ALLOCATION

**The Forest Use Rights covered by the contract was awarded pursuant to the National Forestry Reform Law and the Community Rights Law**

Indicator 2.1 All communities within 3,0 kilometers of the proposed concession area (called "affected communities") have been consulted by FDA and have given their informed consent to the proposed concession

Verifier	Contract or Permit Type	
2.1.1 FDA-prepared socio-economic survey report	FMC,TSC, and FUP having a value of more than US \$ 10 000,00	
2.1.2 Written notices of the consultation meeting(s) (Radio or Newspaper announcements)	FMC,TSC, and FUP having a value of more than US \$ 10 000,00	
2.1.3 Minutes and attendance list of the meetings showing key points discussed and agreements reached	FMC,TSC, and FUP having a value of more than US \$ 10 000,00	
2.1.4 Letter of good faith signed by communities undertaking to negotiate in good faith with any eventual contract holder	FMC, TSC, and FUP having a value of more than US \$ 10 000,00	
Verification Guidance/ Procedure (LAS-LVD-0.2.1)	Verification Method	Verification Frequency
<p><b>Objective:</b></p> <p>The law emphasizes the vital role of public participation in participatory governance, transparency and the decision-making process. The purpose of this procedure is to ensure that adequate adherence is given to this aspect in the determination and allocation of forestry resources within Liberia.</p> <p><b>Regulatory Control:</b></p> <p>The FDA is mandated to decide on the use and allocation of forestry resources held in trust by the Government. In the decision of land use planning and validation of forestry resources, public participation fulfils a key role and there exists a duty on the FDA to engage with the relevant affected communities. With a view to ensuring adequate participation, requirements are placed on the FDA in terms of notifying, informing, conducting meetings, recording comments and considering the input of such communities. Such a participatory approach ensures that the views of relevant stakeholders are taken into consideration and that an informed decision is taken in terms of land use planning and the validation of forestry resources. Pursuant to an approved manual issued by the FDA following a participatory preparation process, the affected communities include those within 3,0 kilometers of the concession area.</p>	<p><b>Description:</b></p> <p>The LVD shall verify that FDA plans its forest land use through statutorily required consultations with communities and other stakeholders. In the case of consultation with communities, the LVD shall confirm the fact and quality of the consultations by review of documentation, including the report of the socio-economic survey and the timing and arrangements relating to the conduct and discussions at the meetings. If necessary, other government agencies such as the Ministry of Internal Affairs and the relevant affected communities may be consulted.</p> <p><b>Verification means:</b></p> <ol style="list-style-type: none"> <li>1. Consultation with the FDA and, if necessary, the Ministry of Internal Affairs and affected communities</li> <li>2. Document Review</li> </ol>	Once during the contract period
References: NFRL (4.1-4.5); Regulation 102-07(21-22) Regulation 104-07(62) Section 87 of the PPC Act		

<b>Indicator 2.2 Prior to allocation of the forest contract, FDA has obtained a Concession Certificate from the Ministry of Planning &amp; Economic Affairs, approving the concession plan submitted by FDA and confirming that the proposed concession is consistent with national development objectives</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
2.2.1 Concession plan submitted by FDA to the Ministry of Planning & Economic Affairs (MPEA) in respect of the contract holder's concession	FMC, TSC, and FUP having a value of US \$ 10 000,00 or more	
2.2.2 Concession certificate (or a written approval) issued by the MPEA to FDA, authorizing FDA to commence concession/ contract allocation activity for the specified forest area	FMC, TSC, and FUP having a value of US \$ 10 000,00 or more	
<b>Verification Guidance/ Procedure (LAS-LVD-0.2.2)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The procedure aims to verify that the forestry objectives of Liberia are captured in the overall development plan of the country as endorsed by the MPEA through the issuance of a concession certificate.</p> <p><b><u>Regulatory Control:</u></b> The FDA must ensure that the forest to be allocated is suitable for commercial forestry and that a concession plan has been developed to ensure compliance with all requirements provided for by the NFRL and the PPC Act, respecting protected areas and rights of affected communities especially for use of non timber forest products.</p>	<p><b><u>Description:</u></b> The LVD must verify that the MPEA indeed issued a concession certificate to the FDA based on a review of the concession plan developed and submitted by FDA to ensure that the requirements for competitive bidding are met as provided for by the NFRL and the PPC Act. This is done through consultation with the FDA Legal and/or Commercial Department.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with PPCC and/or FDA Legal and Commercial Departments</li> <li>2. Document review</li> </ol>	Once during the contract period
References: Regulation 104-07 (5.2(a)(i)) PPC Act (46)		

<b>Indicator 2.3 The Contract holder did comply with statutory prequalification requirements and was duly qualified by FDA to (i) operate in the forestry sector, and in the case of TSC and FMC, (ii) bid for the contract</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
2.3.1 Report of the prequalification committee regarding the prequalification process	FMC, TSC and FUP having a value of US \$ 10 000,00 or more	
2.3.2 Valid pre-qualification certificate issued the contract holder	FMC, TSC and FUP having a value of US \$ 10 000,00 or more	
2.3.3 Tax clearance showing no tax arrears at date of submission	FMC, TSC and FUP having a value of US \$ 10 000,00 or more	
2.3.4 Liquidity guarantee from reputable bank at date of submission	FMC, TSC and FUP having a value of US \$ 10 000,00 or more	
2.3.5 Business registration certificate predates pre-qualification certificate	FMC, TSC and FUP having a value of US \$ 10 000,00 or more	
<b>Verification Guidance/ Procedure (LAS-LVD-0.2.3)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b>Objective:</b></p> <p>The aim of this procedure is to verify that a company applying for licensing has complied with all the relevant prequalification requirements and as such meets the criteria of the bidding process.</p> <p><b>Regulatory Control:</b></p> <p>The FDA must ensure that all the pre-qualification requirements were met by a particular contract holder prior to the bidding process and/or obtaining the forest resource. The pre-qualification requirements inter alia include: (1) Articles of incorporation from the Ministry of Foreign Affairs (MOFA), (2) Business registration certificate by the MOCI, (3) Tax clearance from the Ministry of Finance (MOF), and (4) Liquidity guarantee from a reputable bank.</p>	<p><b>Description:</b></p> <p>The LVD must verify that the requirements were met in the time established by law. This means that the Prequalification Certificate must be predated by the contract holder or processor's business registration certificate, tax clearance, and required bank guarantee.</p> <p><b>Verification means:</b></p> <ol style="list-style-type: none"> <li>1. Consultation with FDA, MOF, MOFA and the MOCI</li> <li>2. Document Review</li> </ol>	<p>Once during the Contract period</p>
References: NFRL (5.2(a)(i); Regulation 103-07 (41-46)		

<b>Indicator 2.4 The forest contract was tendered in accordance with the competitive bidding process and rules established by the Public Procurement and Concessions Act and the Regulations issued by the FDA</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
2.4.1 Public tender notice	FMC, TSC and FUP having a value of more than US \$ 10 000	
2.4.2 Concession bid evaluation panel report	FMC, TSC and FUP having a value of more than US \$ 10 000	
2.4.3 Due diligence report by FDA	FMC, TSC and FUP having a value of more than US \$ 10 000	
2.4.4 Final report of bid evaluation panel to the Inter-Ministerial Concessions Committee (IMCC)	FMC, TSC and FUP having a value of more than US \$ 10 000	
2.4.5 IMCC recommendations to the President	FMC, TSC and FUP having a value of more than US \$ 10 000	
<b>Verification Guidance/ Procedure ( LAS-LVD-0.2.4)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The aim of this procedure is to verify that the forest license for commercial forest operations was granted based on a competitive bidding process as required by the law.</p> <p><b><u>Regulatory Control:</u></b> The law requires that once a bid is submitted, bids are evaluated by the concession bid evaluation panel, who then submit a bid evaluation report within 60 days to the concession entity (in this case the FDA). Thereafter FDA must conclude a due diligence report on all recommended bids. After that the concession bid evaluation panel will submit a final report to the IMCC. The IMCC will then review the report and submit its recommendations to the President for final decision.</p>	<p><b><u>Description:</u></b> The LVD must verify that the above requirements were met by firstly consulting and verifying the existence and validity of the required documents with the FDA Commercial Department and/or Legal Department. If further clarification is required, the LVD may consult with the Concession Bid Evaluation Committee and/or the IMCC.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with FDA, IMCC and PPCC</li> <li>2. Document review</li> </ol>	Once during the contract period
References: NFRL (3.3 &5.2(a)); PPC Act (115(1)&(2) and 116); and FDA Regulations 104, Section 31-36		

<b>Indicator 2.5: In case of a private use permit (PUP), the contract was awarded upon the written permission of the verified land owner</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
2.5.1 The valid deed of the private land owner	PUP	
2.5.2 The written permission of the private land owner	PUP	
<b>Verification Guidance/ Procedure ( LAS-LVD-0.2.5)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The aim of this procedure is to ensure that the PUP is only granted where private land ownership is clearly established and upon the written approval of the land owner.</p> <p><b><u>Regulatory Control:</u></b> The LVD is required to verify the owner of a private land intended to be the subject of a PUP. This will entail checking the submitted deed against public records at the Center for National Records and Documentation (CNDRA).</p>	<p><b><u>Description:</u></b> The LVD must verify that the above requirements were met by first reviewing the titled deed to the land, and then confirming that the written permission is in fact from the land owner.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with CNDRA</li> <li>2. Document review</li> </ol>	Once during the contract period
References: NFRL Section 5.6		

<b>Indicator 2.6 In consultation with stakeholders and based on its socio-economic survey report, the FDA has prepared an integrated map showing the contract area and adjacent land areas such as other concessions, protected forest areas and private land</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
2.6.1 FDA map showing the subject concession area and indicates adjacent lands	FMC, TSC, FUP	
2.6.2 FDA enforcement report (FDA compliance Audit Report)	FMC, TSC, FUP	
<b>Verification Guidance/ Procedure ( LAS-LVD-0.2.6)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The aim of this procedure is to verify that the concession area awarded to the contract holder does not encroach upon land owned by other contract holder(s) or protected forest area.</p> <p><b><u>Regulatory Control:</u></b> It is essential that every contract area is properly demarcated to avoid overlapping of concession areas or encroachment into protected forest areas.</p>	<p><b><u>Description:</u></b> The LVD should verify that these requirements were met checking the validity of the concession map with the FDA Research and Development Department and the Law Enforcement Department.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with FDA Research and Development and Law Enforcement Departments</li> <li>2. Document review</li> </ol>	Once during the contract period
References: COCS SOP (7, 8, 19, 20 & 21) Regulation 109-07		

<b>Indicator 2.7 The forest contract holder has submitted a bidder's bond along with its bid for the forest contract to the FDA</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
2.7.1 Bidder's bond receipt issued the contract holder by FDA	FMC and TSC	
<b>Verification Guidance/ Procedure ( LAS-LVD-0.2.7)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The aim of this procedure is to verify that the bidder has submitted the statutory required bond and met with the relevant requirements.</p> <p><b><u>Regulatory Control:</u></b> FDA Regulations 104-07 requires bidders for FMC and TSC to submit a bid bond together with its bid. The bond should be valid for at least 12 months and in the amount equal to 1/6 of the annual area fee determined for a particular contract. The bond must, moreover, be issued by a competent and authorized institution in Liberia.</p> <p>According to Section 43 of Regulation 104-07, within 30 days after the selection of the winning bidder, the winning bidder may reclaim the original bond by depositing the bond amount in cash with the Central Bank of Liberia or other bank officially designated to hold the FDA's accounts and presenting the proof of deposit to the FDA. The Regulation further provides that upon timely presentation of proof of deposit of the value of the bond with the Central Bank of Liberia, the FDA shall return the original bond to the winning bidder. However, if the winning bidder fails to offer proof of deposit within 30 days after selection, the FDA shall draw on the bond and deposit the funds with the Central Bank of Liberia or other bank officially designated to hold the Authority's accounts. Finally, if the winning bidder and the Government execute the contract in respect of which the bond was submitted, the FDA shall arrange to credit the deposited funds towards any amounts the winning bidder owes the Government under the contract.</p>	<p><b><u>Description:</u></b> The LVD must verify that the requirements were met by consulting with, and verifying the validity of the Bidders Bond Receipt with the FDA Commercial and/or Finance Department.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with FDA Commercial / Finance departments</li> <li>2. Document review</li> </ol>	Once during the contract period
References: Regulation 104-07 (43 & 61(b)) COCS SOP (9)		

<b>Indicator 2.8 The contract holder posts an initial performance bond within the period specified by law after conclusion of contract negotiations</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
2.8.1 Copy of performance bond posted within 90 days of conclusion of negotiations	FMC	
2.8.2 Copy of performance bond posted within 30 days of conclusion of negotiations	TSC	
<b>Verification Guidance/ Procedure (LAS-LVD-0.2.8)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The aim of this procedure is to verify that the required performance bond was posted within the required time period.</p> <p><b><u>Regulatory Control:</u></b> Regulation 104-07 requires contract holders of FMC and TSC (but not FUP or PUP) to submit a performance bond within the required period of time:</p> <ol style="list-style-type: none"> <li>1. FMC: performance bond must be submitted within 90 days in the amount of 150 000 USD (less than 10 0000 ha) or up to 250 000 USD (more than 100 000 ha).</li> <li>2. TSC: performance bond within 30 days in the amount of 25 000 USD.</li> </ol>	<p><b><u>Description:</u></b> The LVD must verify that the above requirements were met by consulting with, and verifying existence and validity of the performance bond with the FDA Commercial and/or Finance Department.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with FDA Commercial and/or Finance Departments</li> <li>2. Document review</li> </ol>	Once at start of contract period
References: Regulation 104-07(61(b)); COCS SOP (9)		



<b>Indicator 2.9 The forest contract has been signed by the contract holder and the FDA and, where applicable, duly ratified in keeping with the law</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
2.9.1 The Act ratifying the forest contract, which is signed by the President and printed into hand bills	FMC and agricultural concessions/plantations	
2.9.2 Contract signed by the contract holder and the Managing Director of FDA	TSC, FUP, PUP, Chainsaw permits	
<b>Verification Guidance/ Procedure (LAS-LVD-0.2.9)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b></p> <p>The aim of this procedure is to verify that all forest contracts are concluded in keeping with law. Regarding FMCs, the aim is to ensure that in addition to it being signed by the contract holder and the Government of Liberia, an act ratifying the FMC is also passed by both houses of the Legislature and approved by the President. In respect of all other contracts, the objective is to ensure that they are duly signed between the contract holder and the management of FDA.</p> <p><b><u>Regulatory Control:</u></b></p> <p>Once an FMC is signed with a successful bidder, the FMC should be ratified by the Legislature and the act of the Legislature ratifying the FMC approved by the President. All other forest contracts and licenses are signed between the contract holder and the FDA.</p>	<p><b><u>Description:</u></b></p> <p>The LVD verifies that (1) every FMC has been signed and ratified, and (2) all other forest licenses are signed by the relevant contract holder and the FDA Managing Director upon approval by the FDA Board. The LVD must verify that the above requirements were met by consulting with the FDA Commercial or Legal Departments.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Document review</li> <li>2. Consultation with FDA Commercial or Legal Department</li> </ol>	<p>Once at start of contract period</p>
References: NFRL (5.3); Regulations 104-07 (62); COCS SOP (5)		

### PRINCIPLE 3: SOCIAL OBLIGATIONS AND BENEFIT SHARING

**Contract holder is in compliance with the social obligations and benefit sharing requirements**

**Indicator 3.1 The contract holder has negotiated a social agreement with authorized representatives of affected communities within 3,0 kilometers of the proposed concession or permit area following advance notice to these affected communities**

Verifier	Contract or Permit Type	
3.1.1 Meeting minutes reflecting actual discussions and agreements reached by contract holder and authorized representatives of affected communities earlier identified by the FDA during its socio-economic survey	FMC, TSC, FUP having a value in excess of US \$ 10 000,00	
3.1.2 Delivered or published notice of intent to negotiate with affected communities (Radio announcement or Newspaper advertisements)	FMC, TSC, FUP having a value in excess of US \$ 10 000,00	
3.1.3 Evidence that no complaint has been filed with FDA by an affected community alleging exclusion from negotiation or failure of contract holder to negotiate	FMC, TSC, FUP having a value in excess of US \$ 10 000,00	
Verification Guidance/ Procedure (LAS-LVD-0.3.1)	Verification Method	Verification Frequency
<p><b>Objective:</b> The objective of this procedure is to ensure that a contract holder adheres to all the relevant statutory and FDA requirements pertaining to social obligations prior to obtaining its Annual Harvesting Certificate for the FMC, TSC, or FUP.</p> <p><b>Regulatory Control:</b> The NFRL and Regulations 105-07 promulgated under the NFRL both place a duty on holders of FMC, TSC and major FUPs to negotiate a "Social Agreement" with affected communities through their authorized representatives in respect of forests to be harvested.</p> <p>The Regulations defines affected communities as "a community comprising less than a statutory district (including chiefdoms, clans, townships, towns, villages, and all human settlements) whose interests are likely to be affected by operations carried out under a forest resources license. "Interests" for purposes of this definition may be of an economic, environmental, health, livelihood, aesthetic, cultural, spiritual, or religious nature." In practice, the affected communities are defined and identified by FDA during its pre-allocation forest use planning and socio-economic survey.</p> <p>According to Regulations 105-07 the duration of such social agreements are five (5) years for FMCs and FUPs, and three (3) years for TSCs. The signing of a social agreement is a pre-felling requirement for FMCs and TSCs.</p> <p>References: Regulation 105-07 (31&amp;32); NFRL, Section 5.6(d)(vi)</p>	<p><b>Description:</b> The LVD must verify that the requirements are met through consultation and verification with the FDA Community Forestry Department.</p> <p><b>Verification means:</b></p> <ol style="list-style-type: none"> <li>1. Consultation with FDA Community Forestry Department and affected communities</li> <li>2. Document review</li> </ol>	Per Cycle <sup>1</sup>

<sup>1</sup> Cycle: 5 years for FMC &FUP; 3 years for TSC.

<b>Indicator 3.2 A mutually negotiated social agreement has been signed between the contract holder and ALL affected communities through their authorized representatives, and the agreement becomes effective prior to the start of felling operations</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
3.2.1 Executed Social Agreement signed by contract holder and each affected community through its Community Forestry Development Committee (CFDC)	FMC, TSC, and FUP having value in excess of US \$ 10 000,00	
3.2.2 Social Agreement that predates Annual Harvesting Certificate of contract holder	FMC, TSC, and FUP having value in excess of US \$ 10 000,00	
3.2.3 List of CFDC identified by or registered with FDA	FMC, TSC, and FUP having value in excess of US \$ 10 000,00	
<b>Verification Guidance/ Procedure (LAS-LVD-0.3.2)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The objective of this procedure is to ensure that a holder of an FMC, TSC and/or FUP having a value in excess of US \$ 10 000,00 has signed a social agreement with all affected communities prior to logging operations.</p> <p><b><u>Regulatory Control:</u></b> The holder and/or company may only negotiate the Social Agreement with the CFDC who acts on behalf of the affected communities. The CFDC must be representative of all the communities affected by the contract holders logging activities. There may be more than one CFDC representing communities affected. Annual audits are conducted by the FDA to monitor, assess and ensure compliance with the conditions of a FMC, TSC and FUP having value in excess of US \$ 10 000,00.</p> <p>Section 31 (b) (1) of Regulations 105-07 states that the contract holder "shall ensure that at all times, for the duration of the forest resources license, a social agreement for the benefit of all affected communities is in force with respect to the area to be logged". Section 31 (b) (2) further provides that the contract holder "may not fell trees unless a social agreement for the benefit of all affected communities is in force with respect to the area to be logged under a forest resource License".</p>	<p><b><u>Description:</u></b> The LVD must verify that the above requirements were met through consultation with and verification of the executed social agreement with the FDA Community Forestry Department.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with FDA Community Forest Department and affected communities</li> <li>2. Document review</li> <li>3. Field inspection</li> </ol>	Per cycle
References: Regulation 105-07 (31)		

<b>Indicator 3.3. The terms of the social agreement between the contract/permit holder and the affected communities include a code of conduct governing parties to the agreement, a dispute resolution mechanism, plus (i) a description of amounts of financial benefits payable to the community by the contract holder and (ii) a requirement that the contract/permit holder pays the amounts quarterly in an interest-bearing escrow account that the contract/ permit holder shall maintain in trust on behalf of all affected communities</b>		
	<b>Verifier</b>	<b>Contract or Permit Type</b>
3.3.1	Code of conduct that governs the rights and responsibilities of affected communities and contract/permit holder	FMC, TSC, and FUP having a value in excess of US \$ 10 000,00
3.3.2	Description of the minimum cubic meter fee that the contract/ permit holder will pay on a quarterly basis to the affected communities (if there are others, specify)	FMC, TSC and FUP having a value in excess of US \$ 10 000,00
3.3.3	Bank book or other records of the required interest-bearing escrow account opened by the contract/permit holder in trust for the affected communities	FMC, TSC and FUP having a value in excess of US \$ 10 000,00
3.3.4	Dispute resolution mechanism established	FMC, TSC and FUP having a value in excess of US \$ 10 000,00
	Verification Guidance/ Procedure (LAS-LVD-0.3.3)	<b>Verification Method</b>
	<p><b>Objective:</b> The objective of this procedure is to ensure that all the statutory requirements are met and that all the prescribed conditions and/or elements are included in the social agreement negotiated.</p> <p><b>Regulatory Control:</b> Any social agreement negotiated between one or more CFDCs must inter alia contain:</p> <ol style="list-style-type: none"> <li>1. A description of the rights and responsibilities of members of affected communities as well as the holder;</li> <li>2. A description of the financial benefits an affected community will receive;</li> <li>3. Requirement that the contract/ permit holder would pay financial benefits on a quarterly basis into an interest bearing escrow account maintained in trust for the community.</li> <li>4. A requirement that funds only be released in benefit, upon written request of a CFDC, provided that such a request is approved by the FDA.</li> </ol> <p>Section 33 (a) of Regulations 105-07 provides that the FDA shall make model codes of conduct freely available on the Internet and shall, upon request, provide paper or electronic copies of model codes of conduct to contract/permit holders, CFDCs, and affected communities.</p>	<p><b>Description:</b> The LVD must verify that the above requirements were met through consultation with and verification of the contents of the signed social agreement with the FDA Community Forestry Department.</p> <p><b>Verification means:</b></p> <ol style="list-style-type: none"> <li>1. Document review</li> <li>2. Field visit with communities</li> </ol>
	References: NFRL (5.3(b) &5.6(d)), Regulation 105-07 (33)	<b>Verification Frequency</b>
		Per cycle <sup>1</sup>

<sup>1</sup> Cycle: 5 years for FMC &FUP; 3 years for TSC.

<b>Indicator 3.4 The social agreement between the contract holder and the community or communities has been attested to by the FDA</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
3.4.1 FDA-attested social agreement between contract holder and affected community	FMC, TSC, and FUP having value in excess of US \$ 10 000,00	
<b>Verification Guidance/ Procedure (LAS-LVD-0.3.4)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The objective of this procedure is to ensure and/or verify that the social agreement has been approved by the FDA.</p> <p><b><u>Regulatory Control:</u></b> Any social agreement negotiated must be submitted to the FDA for attestation. Upon receipt of the document, the FDA will review the agreement to determine its completeness, accuracy and conformity with the law. If the agreement does not meet the relevant criteria, the FDA must reject it and supply reasons for its decision. The holder may remedy any deficiencies and resubmit the social agreement to the FDA for reconsideration. The FDA will attest to the social agreement if it is satisfied that the agreement is complete, accurate and complies with the relevant laws.</p>	<p><b><u>Description:</u></b> The LVD must verify that the above requirements were met through consultation with and verification of the existence and validity of the attested social agreement with the FDA Community Forestry Department.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with FDA Community Forestry Department</li> <li>2. Document review</li> <li>3. Field visit with selected communities</li> </ol>	Per cycle
References: Regulation 105-07 (36) COCS SOP (9)		

<b>Indicator 3.5 The stipulated fees owed to the communities by the contract holder under the social agreement are paid by the contract holder (i) within the prescribed time periods and (ii) into an escrow account opened by the contract holder for this purpose</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
3.5.1 Authenticated quarterly bank statements of escrow account	FMC, TSC and FUP having a value in excess of US \$ 10 000,00	
3.5.2 FDA Compliance Audits	FMC, TSC and FUP having a value in excess of US \$ 10 000,00	
<b>Verification Guidance/ Procedure (LAS-LVD-0.3.5)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The objective of this procedure is to verify that the relevant fees due to the community have been paid in a timely manner.</p> <p><b><u>Regulatory Control:</u></b> The social agreement contains financial terms of the performance which are of essence to the agreements. It is therefore essential that the timely payment of the fees agreed and provided for in the social agreements is verified. At the operational level, control points may include statements of escrow account, and annual audit reports by the FDA measuring compliance of contract holders.</p>	<p><b><u>Description:</u></b> The LVD must verify that the above requirements were met through confirmation. In the event that further clarification is required, the FDA Commercial and Community Forestry Departments may be consulted.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with FDA Community Forestry department</li> <li>2. Document review</li> <li>3. Field inspections</li> </ol>	Per shipment
References: Regulation 105-07(36)10 Regulation 107-07 (33);		

## PRINCIPLE 4: FOREST MANAGEMENT OPERATIONS AND HARVESTING

Forest management operations and harvesting complies with all applicable laws

Indicator 4.1 The contract or permit holder has completed an annual operational plan and where applicable, a forest management plan		
Verifier	Contract or Permit Type	
4.1.1 Annual Harvesting Certificate	All Contract and permit types except agricultural concessions/plantations	
4.1.2 Approved annual operational plan	All Contract and permit types except agricultural concessions/plantations	
4.1.3 Approved Forest Management Plan	FMC	
4.1.4 Written permission from land owner	PUP	
Verification Guidance/ Procedure (LAS-LVD-0.4.1)	Verification Method	Verification Frequency
<p><b>Objective:</b> The aim of this procedure is to ensure that every contract holder complies with the relevant statutory pre-requisites before commencing felling operations.</p> <p><b>Regulatory Control:</b></p> <ol style="list-style-type: none"> <li>1. FMC: Contracts are awarded on forest land validated and in line with the requirements of the PPC Act. The FMC is a 25 year contract and subject to a management plan, Environmental Impact Assessment (EIA), business plan, Social Agreements, and annual operational plans.</li> <li>2. TSC: three year contracts awarded in line with the National Forest Management Strategy, validated and meet with the requirements of the PPC Act and subject to annual operational plans.</li> <li>3. In isolated cases, instances may arise where FUP exceeds the anticipated small scale requirements and are formally validated. In such instances the LVD may be required to evaluate any pre-harvest requirements that may attach to such FUP.</li> <li>4. PUP: for all commercial use of forest resources on private land, an operator must be the landowner or have permission of the landowner and hold a valid PUP issued by the FDA. A PUP holder may not commence felling until they have an approved annual harvesting certificate and annual operational plan.</li> </ol>	<p><b>Description:</b> The LVD must verify that the above requirements were met through consultation with FDA and EPA including Commercial and Community Forestry Departments.</p> <p><b>Verification means:</b></p> <ol style="list-style-type: none"> <li>1. Consultation with FDA and EPA</li> <li>2. Document Review</li> <li>3. Field inspection</li> </ol>	<p>Annually (for operational plan); Per cycle (Management plan)</p>
Reference: NFRL (4.5, 5.3,5.4, 5.6) Regulation 104-07 (62a); EPML (23); COCS SOP (9)		

Indicator 4.2 The contract or permit holder complies with the terms of its annual operational plan and requirements of law regarding the species and quantities it is permitted to harvest		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
4.2.1 Approved annual blocks	FMC	
4.2.2 Compartment and annual coupe	All forest contracts except FMC	
4.2.3 Felled trees data verification (SOP 11)	All contract and permit types except agricultural concessions/plantations	
4.2.3 Annual compliance audit report of FDA	All contract and permit types except agricultural concessions/plantations	
<b>Verification Guidance/ Procedure (LAS-LVD-0.4.3)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b></p> <p>The objective of this procedure is to ensure that a contract or permit holder complies with its annual harvesting allocations and obligations as approved by the FDA.</p> <p><b><u>Regulatory Control:</u></b></p> <ol style="list-style-type: none"> <li>1. The approved annual harvesting certificate provides the parameters in which a particular operator must work, and also the requirements to be complied with, within the specified annual period.</li> <li>2. The FDA has two operational control mechanisms: <ol style="list-style-type: none"> <li>2.1. Continuous field monitoring, and</li> <li>2.2 Annual compliance audits conducted by the FDA to monitor assess and ensure compliance with the conditions of a FMC, TSC, single FUP and/or a PUP.</li> </ol> </li> </ol>	<p><b><u>Description:</u></b></p> <p>This requirement is verified in detail by the LVD. The LVD must verify that the above requirements were met through consultation with the FDA Commercial Department.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with the FDA Commercial Department</li> <li>2. Field inspection</li> </ol>	Annually
References: NFRL (3.2;3.4) & COCS SOP (7-11)		



**PRINCIPLE 5: ENVIRONMENTAL OBLIGATIONS**

**Contract Holder and Timber Processor have met all environmental obligations required by law**

**Indicator 5.1 The Contract or permit holder and timber processor have completed an Environmental Impact Assessment that is approved by EPA**

Verifier	Contract or Permit Type	
5.1.1 Environmental Impact Assessment report prepared by or for the contract holder or timber processor	All contract and permit types	
5.1.2 Environmental Impact License issued by EPA to contract holder or timber processor prior to commencement of harvesting operations	All contract and permit types	
5.1.3 Environmental Impact Permit issued by EPA to the contract holder or timber processor stating the condition(s), if any, of the Environmental Impact License listed as Verifier 5.1.2	All contract and permit types	
Verification Guidance/ Procedure (LAS-LVD-0.5.1)	Verification Method	Verification Frequency
<p><b><u>Objective:</u></b> The objective of this procedure is to verify that the relevant requirements have been met in relation to the EIA application process.</p> <p><b><u>Regulatory Control:</u></b> An Environmental Impact Assessment (EIA) License is required by the Environmental Protection and Management Law (EPML) of 2002 for activities listed and/or identified in Annex 1 to the Act. In relation to forestry activities, the following require an EIA: (1) logging and/or timber processing, (2) plantation forestry. In addition to the Environmental License, the EPA issues an Environmental Impact Permit which states the conditions attending the License and which the environmental license holder must comply with.</p> <p>Prior to issuing the license, the FDA provides the necessary consideration and inputs into the EPA evaluation.</p>	<p><b><u>Description:</u></b> The LVD must confirm with the FDA and the EPA that the contract or permit holder has not only an EI license but also an EI permit that sets forth with specificity the conditions that the EI license holder must comply with.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with the EPA and the FDA</li> <li>2. Document review</li> </ol>	<p>Once during the validity of the EI License and Permit</p>
References: EPML (6,21-23); Reg (105-107) COCS SOP (9)		

<b>Indicator 5.2 The contract or permit holder or timber processor implements the mitigating measures identified in its EIA as indicated in the EI permit</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
5.2.1 EPA environmental monitoring reports	All contract and permit types	
5.2.2 FDA EIA inspection report	All contract and permit types	
<b>Verification Guidance/ Procedure (LAS-LVD-0.5.2)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The objective of this procedure is to ensure that any conditions and/or mitigation measures identified and imposed by the EPA are implemented by the contract or permit holder or timber processor and that there are no environmental transgressions inconsistent with the EI permit.</p> <p><b><u>Regulatory Control:</u></b> A record of decision and/or an environmental authorization must be issued to the contract or permit holder prior to commencement of logging operations. The EPA and FDA monitor compliance with the conditions of, and/or mitigations measures identified through regular and/or spot audits. The holder of EIA license is under a duty to submit notifications to EPA if there is a material change in project or activity that may impact on environment. The EPA may further institute enforcement action in the event of non-compliances.</p>	<p><b><u>Description:</u></b> The LVD must consult with, and verify with the FDA Environmental Impact Assessment Division, and the EPA Monitoring Department as well as the Outstation &amp; Inspectorate Department that the contract holder complies with the conditions of the EI permit.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with EPA and FDA</li> <li>2. Document review</li> <li>3. Field inspections</li> </ol>	Annually
References: EPML (24-27), EPAA		

<b>Indicator 5.3 Contract or permit holder or timber processor has disposed of equipment, fuel, wood refuse and related waste arising from its operations in a lawful and environmentally appropriate manner</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
5.3.1 EPA inspection report	All contract and permit types	
5.3.2 FDA Annual compliance audit report	All contract and permit types	
<b>Verification Guidance/ Procedure (LAS-LVD-0.5.3)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The objective of this procedure is to ensure that all waste is lawfully disposed of in an environmentally appropriate manner.</p> <p><b><u>Regulatory Control:</u></b></p> <ol style="list-style-type: none"> <li>1. Evidence of a record of decision and/or a positive environmental impact license was issued to the contract holder prior to commencement of operations.</li> <li>2. The EPA monitors compliance with the conditions of, and/or mitigation measures identified.</li> <li>3. The EPA conducts regular and/or periodic audits with the projects that may have a detrimental impact or affect.</li> <li>4. EPA may institute enforcement action in the event of non-compliance.</li> </ol>	<p><b><u>Description:</u></b> The LVD must consult with, and verify with the FDA Commercial Department and Law Enforcement Division. In addition the EPA Monitoring Department as well as the EPA Outstation &amp; Inspectorate Department must be consulted.  Additional information could be obtained from the contract or permit holder and timber processors directly.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with EPA</li> <li>2. Document review</li> <li>3. Field inspection</li> </ol>	Annually
References: EPML (24-27), EPAA		

<b>Indicator 5.4 Contract holder has maintained a buffer between its harvesting operations and water courses, and has specifically not felled trees that could threaten the flow or stability of the water course(s)</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
5.4.1 EPA inspection report	All contract and permit types	
5.4.2 FDA Annual Compliance Audit Report	All contract and permit types	
<b>Verification Guidance/ Procedure (LAS-LVD-0.5.4)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The objective of this procedure is to ensure that the permit holder is in compliance with the relevant requirements relating to water management and the prevention of pollution of water resources.</p> <p><b><u>Regulatory Control:</u></b> The objective is to ensure overall compliance in respect of water resource management. In this regard, the Code of Harvesting Practices (2007) prohibits logging in protected areas and water courses. It requires that adequate buffer strips be maintained between harvesting areas and water courses.</p> <p>In respect of measuring compliance, both the EPA and FDA are tasked with routine inspections and compliance audits which the LVD will review to determine compliance of the contract or permit holder.</p>	<p><b><u>Description:</u></b> The LVD must consult, and verify with the FDA Commercial Department and Law Enforcement Unit. In addition the EPA Monitoring Department as well as the Outstation &amp; Inspectorate Department must be consulted. Additional information can be obtained from the Contract Holder and/or timber processor directly.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with FDA and EPA</li> <li>2. Document review</li> <li>3. Field inspections</li> </ol>	Annually
References: EPML ( parts IV & V ), Code of Harvesting Practices (3.1; 3.2; 4 et al)		

<b>Indicator 5.5 The Contract or permit holder has in place procedures (i) to ensure compliance with rules regarding wildlife conservation, and (ii) to avoid harvest or trade in endangered or threatened plants and animals species</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
5.5.1 EPA inspection report	All contract and permit types	
5.5.2 FDA Annual Compliance Audit Report	All contract and permit types	
<b>Verification Guidance/ Procedure (LAS-LVD-0.5.5)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The objective of this procedure is to ensure that the contract or permit holder is in compliance with the provisions of Sections 9.11(v) which requires "hunting and wildlife trading certificates and licenses" and the provisions of 9.12(i) of the NFRL which prohibit hunting, capturing or trading in endangered species.</p> <p><b><u>Regulatory Control:</u></b> The objective is to ensure compliance with the requirements of Section 9.11 of the NFRL regarding conserving, managing and controlling the use of wildlife as well as the prohibition of Section 9.12 that no person shall capture, harvest or trade any species that the FDA has designated as threatened or endangered.</p> <p>In respect of measuring compliance, both the EPA and FDA are tasked with routine inspections and compliance audits to verify adequate procedures are in place and there is no evidence of illegal harvest or trade.</p>	<p><b><u>Description:</u></b> The LVD must consult, and verify with the FDA Commercial Department and Law Enforcement Division. In addition the EPA Monitoring Department as well as the EPA Outstation &amp; Inspectorate Department must be consulted.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with EPA and FDA</li> <li>2. Document review</li> <li>3. Field inspections</li> </ol>	Annually
References: Sections 9.11 and 9.12 of the NFRL; EPML (parts IV & V), Code of Harvesting Practices (3.1;3.2 et al)		

**PRINCIPLE 6: TIMBER TRANSPORTATION AND TRACEABILITY**

**The Contract or permit holder or timber processor meets all of its obligations required by law for the transportation and traceability of timber and/or timber products**

**Indicator 6.1 Transportation of logs, timber and other timber products is accompanied by a waybill identifying chain of custody numbers/references and a named destination**

Verifier	Contract or Permit Type	
6.1.1 Completed Waybill indicating place of harvest, chain of custody ID numbers, date and place logs were loaded, and destination.	All contract and permit types	
6.1.2 Completed Waybill for imported logs or timber product indicating country of harvest, chain of custody ID numbers, date and place logs were loaded, and destination	Imported timber permit	
Verification Guidance/ Procedure (LAS-LVD-0.6.1)	Verification Method	Verification Frequency
<p><b>Objective:</b> The aim of this procedure is to ensure that a contract holder or processor is in compliance with the relevant statutory requirements pertaining to the transport of logs, timber and timber products.</p> <p><b>Regulatory Control:</b> The transport of logs, timber and timber products to either a processing facility or port is subject to the completion of a waybill that must accompany the load. Transporters must possess valid transporter registration issued by the FDA. Detailed procedures will be developed during first two years of VPA implementation to guide incorporation of imported timber into the COCS.</p>	<p><b>Description:</b> The LVD must confirm that the requirements relating to transport of timber products have been met through confirmation of control in the Chain of Custody Information System (COCIS) (linking waybill and bar codes).</p> <p><b>Verification means:</b></p> <ol style="list-style-type: none"> <li>Confirmation with COCIS</li> <li>Field inspection</li> </ol>	Per Shipment or load
References: COCS SOP (13-17, 19 & 20)		

<b>Indicator 6.2 All logs are properly marked and entered in the chain of custody system in accordance with standard operating procedures of the FDA</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
6.2.1 Log data form (SOP 13)	All contract and permit types	
6.2.2 Log data verification form (SOP 14)	All contract and permit types	
6.2.3 Waybill for transportation of logs and timber products (SOP 16)	All contract and permit types	
<b>Verification Guidance/ Procedure (LAS-LVD-0.6.2)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The aim of this procedure is to verify that a contract or permit holder is in compliance with the relevant COCS requirements and that all logs are integrated into the COCS.</p> <p><b><u>Regulatory Control:</u></b> As part of the COCS and in line with the Ten Core Regulations, various standard operational procedures and operational control documents have been developed that are checked by the COCS/FDA.</p>	<p><b><u>Description:</u></b> The LVD verifies that the Contract or permit holder has complied with COCS requirements by consulting with FDA and reviewing the log data in the COCIS.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with FDA Commercial Department</li> <li>2. Confirmation in COCIS</li> </ol>	Per shipment or load
References: COCS SOP (13-17, 19 and 20)		

<b>Indicator 6.3 All logs, timber and timber products harvested or transported by the contract or permit holder originate from the concession area of the contract or permit holder</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
6.3.1 Log data form (SOP 13)	All contract and permit types	
6.3.2 Standard form 14 (verification of cross cutting, dressing, and invoicing for Stumpage)	All contract and permit types	
6.3.3 Annual compliance audit of FDA	All contract and permit types	
<b>Verification Guidance/ Procedure (LAS-LVD-0.6.3)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The aim of this procedure is to verify that every contract or permit holder only harvest and transport timber or timber products from its approved contract/license area.</p> <p><b><u>Regulatory Control:</u></b> The FDA Ten Core Regulations requires that all timber or timber products are harvested from a licensed forest area and in compliance with the said license.</p>	<p><b><u>Description:</u></b> The LVD verifies this requirement by obtaining confirmation from review of the relevant standard forms and the FDA Compliance Audit Report.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with FDA Commercial Department</li> <li>2. Field inspections</li> </ol>	Per shipment or load
References: COCS SOP (13-15)		



<b>Indicator 6.4 All logs, timber, or timber products imported (not in transit) into Liberia have complied with applicable legislation and regulations of the country of harvest</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
6.4.1 Evidence of legal compliance with laws of country of harvest	Imported timber permit	
<b>Verification Guidance/ Procedure (LAS-LVD-0.6.4)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The aim of this procedure is to verify that logs and timber products imported into Liberia come from legal sources and are also custom cleared in accordance with Liberian legislation.</p> <p><b><u>Regulatory Control:</u></b> The key requirement of Liberian law is that all timber harvested or imported into the country comes from a legal source. The legality of timber in the country of harvest can be demonstrated by a certificate issued under a sustainable forest management certification scheme or legality verification scheme that have been assessed and approved by the Government of Liberia in consultation with concerned governments. Imported timber controlled by a LAS of another VPA country that has an operational FLEGT licensing scheme will be considered legal in the Liberian LAS.</p>	<p><b><u>Description:</u></b> The LVD must verify that timber imported into Liberia is legal under the laws of the country of harvest. In this regard, verification requires review of the document showing legality of the timber in the country of harvest.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with COCS and FDA Commercial Department</li> <li>2. Document review</li> </ol>	Per import consignment
References: Regulation 108-07 (44(d))		

<b>Indicator 6.5 All logs or timber products in transit are (i) physically segregated from domestic or imported timber, and (ii) custom-controlled at all times while in Liberia</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
6.5.1. Customs documents from country of harvest.	Timber in transit	
6.5.2. Completed waybill indicating country of harvest and country of export	Timber in transit	
<b>Verification Guidance/ Procedure (LAS-LVD-0.6.5)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The aim of this procedure is to verify that logs and timber products in transit through Liberia are not integrated in the chain of custody system or mixed with domestically harvested or imported timber.</p> <p><b><u>Regulatory Control:</u></b> A key regulatory requirement, which is also a cornerstone of the LAS is that timber in transit are not integrated in the COCS and that at the point of export it will not be subject to issuance of a Liberian FLEGT License. It is required that the country of harvest is clearly articulated in the bill of lading, customs documents and other transport documents.</p>	<p><b><u>Description:</u></b> The LVD must verify that timber products in transit are or were at all times physically segregated from imported and domestic log and timber products and under control of the Bureau of Customs.</p> <p><b><u>Verification means:</u></b> 1. Consultation with MOF, Customs Bureau</p>	Per unit of transport
References: Regulation 108-07 (44(a)-(c))		

<b>Indicator 6.6 The FDA has complied with legal requirements for (i) seizure and or (ii) auctioning of abandoned logs wherever found</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
6.6.1 FDA petition to Court of competent jurisdiction for seizure and Court decree authorizing seizure	FMC, TSC and FUP	
6.6.2 FDA Petition to Court of competent jurisdiction for auction and Court Decree of Auction	FMC, TSC, and FUP	
6.6.3 Auction certificate	FMC, TSC, and FUP	
6.6.4 Letter or statement verifying winning bidder.	FMC, TSC, and FUP	
6.6.5 Registration of abandoned logs (SOP 37).	FMC, TSC, and FUP	
<b>Verification Guidance/ Procedure (LAS-LVD-0.6.6)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b></p> <p>The aim of this procedure is to verify that any abandoned log and timber products found are seized and auctioned in keeping with procedures established by law. The lawful seizure and auctioning of abandoned logs re-establishes their legality.</p> <p><b><u>Regulatory Control:</u></b></p> <p>Upon discovery of abandoned logs the FDA shall petition a court in the specific county where the logs were found for authorization to seize and auction the logs. If the Court is satisfied that there is adequate legal reason to grant the petition, it will authorize the seizure and consequent auction which will all be carried out under its supervision.</p>	<p><b><u>Description:</u></b></p> <p>The LVD must verify that the above requirements were met through consultation with and verification of relevant documents with the FDA Commercial Department.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with FDA Commercial Department</li> <li>2. Document review</li> </ol>	<p>Every time abandoned logs are entered into the COCS</p>
References: Regulation 108-07(51(d)&(e))		

**PRINCIPLE 7: TRANSFORMATION AND TIMBER PROCESSING**

**Timber processors have complied with the relevant Liberian laws and regulation**

**Indicator 7.1 A timber processor has applied for and obtained required sawmill permit (either Class A, B, or C operator permit) following payment of required fees and prior to commencement of its operations**

Verifier	Contract or Permit Type	
7.1.1 Processor's application for sawmill permit	Sawmill permit	
7.1.2 Payment of initial annual sawmill registration fees that predates sawmill permit	Sawmill permit	
7.1.3 Environmental plan approved by the EPA	Sawmill permit	
7.1.4 Sawmill permit issued by FDA to the operator	Sawmill permit	
Verification Guidance/ Procedure (LAS-LVD-0.7.1)	Verification Method	Verification Frequency
<p><b><u>Objective:</u></b> The aim of this procedure is to verify that the timber processor has obtained the required permit prior to commencement of operations.</p> <p><b><u>Regulatory Control:</u></b> Timber processors are required to obtain a sawmill permit prior to commencement of operations. Applications for permits are submitted to the FDA and if requirements fulfilled, the FDA will issue the relevant permits (Class A, B, or C). In addition, the EPA must approve an environmental plan for sawmill operations.</p>	<p><b><u>Description:</u></b> The LVD must verify that every timber processor has a saw mill permit. The verification will be through consultation with FDA Commercial Department.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with FDA Commercial Department</li> <li>2. Document review</li> <li>3. Field inspection</li> </ol>	Annually
References: Regulation 107-07 (46); COCS SOP (26)		

<b>Indicator 7.2 All logs harvested in Liberia and logs imported from 3<sup>rd</sup> countries for processing are accompanied by their chain of custody ID numbers</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
7.2.1 Bar code issue report SOP 7	All contract and permit types, including imported log and timber products	
7.2.2 Verification of transported logs and wood products (SOP 17)	All contract and permit types, including imported log and timber products	
7.2.3 Sawn wood registration report (SOP 15)	All contract and permit types, including imported log and timber products	
<b>Verification Guidance/ Procedure (LAS-LVD-0.7.2)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The aim of this procedure is to verify that all logs entering processing facilities are well documented and the legal origin verified.</p> <p><b><u>Regulatory Control:</u></b> It is a key requirement of Liberian law that all processing facilities have effective control systems in place and only source legally harvested logs that are in the COCS.</p>	<p><b><u>Description:</u></b> The LVD must verify that all logs entering processing facilities are entered into the COCS. If further clarification is required, the FDA Commercial Department may be consulted.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with FDA Commercial Department and COCS</li> <li>2. Confirmation in COCIS</li> <li>3. Field inspection</li> </ol>	Per shipment or load
References: COCS SOP (15, 19 &20)		

<b>Indicator 7.3 The timber processor has in place a system of recording timber products through the mill or processing activity to ensure their traceability</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
7.3.1 Logging verification report	Sawmill permit	
7.3.2 Production report	Sawmill permit	
7.3.3 Sawmill log input form and sawmill output form (SOPs 31 and 32)	Sawmill permit	
<b>Verification Guidance/ Procedure (LAS-LVD-0.7.3)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The aim of this procedure is to ensure that traceability is maintained through processing that will verify that timber products originating from a processing facility can be linked to a source of verifiable legal origin.</p> <p><b><u>Regulatory Control:</u></b> The FDA requires adequate measures are in place to ensure that products are duly entered into the COCS and can be traced through the processing chain.</p>	<p><b><u>Description:</u></b> The LVD must verify that the requirements were met through confirmation of effective COCS in the processing facility. If further clarification is required, the FDA Commercial Department may be consulted.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Field inspections</li> <li>2. Consultation with FDA Commercial Department</li> </ol>	Per shipment or load
References: NFRL 13.5; COCS SOP (15)		

**PRINCIPLE 8: WORKERS RIGHTS, HEALTH SAFETY AND WELFARE**

**The contract/ permit holder or timber processor meets its obligation under the Labour Law and any collective bargaining agreements of the timber industry**

**Indicator 8.1 Liberian nationals are given preference by contract/permit holders and timber processors in the employment of skilled and unskilled workers in keeping with Liberian Labour Law**

Verifier	Contract or Permit Type	
8.1.1 Employment records or quarterly reports submitted evidencing local employment and preference to Liberian workers	All contract and permit types	
8.1.2 Quarterly report submitted by contract holder or timber processor to the Ministry of Labour	All contract and permit types	
8.1.3 Employment records, including register or employees along with their nationalities	All contract and permit types	
8.1.4 Attestation of compliance issued by the Ministry of Labour in favour of contract holder or timber processor	All contract and permit types	
Verification Guidance/ Procedure (LAS-LVD-0.8.1)	Verification Method	Verification Frequency
<p><b><u>Objective:</u></b> The objective of this procedure is to verify that persons hired by the contract holder and/ or timber processor have been employed following Legislative requirements.</p> <p><b><u>Regulatory Control:</u></b> All aspects of employment are regulated by the Liberian Labour Law (LLL). These laws require that only Liberian nationals are preferred in all employment decisions, and that a non Liberian may be hired only if it is demonstrated that no Liberian national is competent and available to fill a post requiring specialized skills. Labour agents and/or inspectors monitor implement and evaluate compliance with the legislative requirements relating to hiring of employees, conditions of work, etc.</p>	<p><b><u>Description:</u></b> The purpose of this indicator is not to evaluate specific aspects of employment (which are dealt with elsewhere), but to verify overall compliance with the law on preferred employment of Liberians. The LVD needs to crosscheck and/or verify the compliance with MOL Employment Section and also Labour Inspectorate Section.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with the MOL</li> <li>2. Document review</li> </ol>	Per shipment
References: LLL (54 to 60,75, 1503) Code of Harvesting Practices (12.2)		

<b>Indicator 8.2 The contract/permit holder or timber processor pays to all its employees no less than the minimum wage established by law</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
8.2.1 Published minimum wage	All contract and permit types	
8.2.2 Payroll	All contract and permit types	
8.2.3 Annual inspection reports and/or letter of compliance	All contract and permit types	
8.2.4 Workers payslips	All contract and permit types	
<b>Verification Guidance/ Procedure (LAS-LVD-0.8.2)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The objective of this procedure is to verify whether employees receive fair wages as provided for by the Law.</p> <p><b><u>Regulatory Control:</u></b> All employees are entitled to receive adequate wage which must not be below the minimum prescribed wage. In addition to this duty placed on employers, Labour inspectors will also investigate compliance. Moreover, employees should be aware of this requirement. The Minimum wage is set from time to time by a minimum wage Board and duly communicated upon establishment.</p>	<p><b><u>Description:</u></b> The LVD needs to crosscheck and/or verify that fair wages are paid by liaising with the MOL Labour Inspectorate Section.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with MOL</li> <li>2. Document review</li> </ol>	Per shipment
References: LLL(500-513) Code of Harvesting Practices (12.2)		



<b>Indicator 8.3 The contractor/permit holder or timber processor complies with the maximum hours of work, leave and rest periods laid out in law</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
8.3.1 Working hour schedule	All contract and permit types	
8.3.2 Leave records	All contract and permit types	
8.3.3 Payment of overtime	All contract and permit types	
<b>Verification Guidance/ Procedure (LAS-LVD-0.8.3)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The objective of this procedure is to verify whether employees' working hours comply with the provisions of LLL.</p> <p><b><u>Regulatory Control:</u></b> The Law provides for the maximum working hours per day (8 hours) or per week (48 hours). Certain variations are in respect of certain activities and also seasonal work. In addition to the maximum prescribed hours, LLL provides for overtime of 50 % above normal rate where such hours are exceeded. LLL also provides for an hour rest where five hours are exceeded, which hour is included in the working hours. Moreover, specific leave requirements are provided for.</p>	<p><b><u>Description:</u></b> The LVD needs to crosscheck and/or verify that prescribed working hours are complied with by liaising with the MOL Labour Inspectorate Section.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with MOL</li> <li>2. Document review</li> <li>3. Field inspection</li> </ol>	Annually
References: LLL (700-706,906)		

<b>Indicator 8.4 The contract/permit holder or timber processor has neither employed anyone under the age of sixteen nor engaged in the practice of forced labour</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
8.4.1 Quarterly reports submitted to Ministry of Labour	All contract and permit types	
8.4.2 Ministry of Labour inspection report	All contract and permit types	
<b>Verification Guidance/ Procedure (LAS-LVD-0.8.4)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The objective of this procedure is to verify whether the minimum age of employment (and prohibition on forced labour) is complied with.</p> <p><b><u>Regulatory Control:</u></b> Section 74 of the Labour law says that it "shall be unlawful for any person to employ or hire any child under the age of sixteen during the hours when he is required to attend school". The Constitution of Liberia and the LLL also prohibit forced labour.</p>	<p><b><u>Description:</u></b> The LVD needs to crosscheck and/or verify that the minimum age is respected by liaising with the MOL Labour Inspectorate Section.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with the Ministry of Labour</li> <li>2. Document review</li> <li>3. Field inspection</li> </ol>	Annually
References: LLL (74)		

<b>Indicator 8.5 The contract/permit holder or processor pays its (employer's) contributions to the employee pension and social security funds established by Liberian Law</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
8.5.1 Quarterly report submitted to Ministry of Labour	All contract and permit types	
8.5.2 Ministry of Labour inspection reports	All contract and permit types	
8.5.3 Attestation from National Social Security & Welfare Corporation (NSSWC)	All contract and permit types	
<b>Verification Guidance/ Procedure (LAS-LVD-0.8.5)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The objective of this procedure is to verify whether employers meet their obligations in respect of retirement pension and social security pension.</p> <p><b><u>Regulatory Control:</u></b> LLL and the National Social Security Law (NSSL) place an obligation on employers to contribute to two schemes established and operated by the National Social Security and Welfare Corporation of Liberia for purpose of protecting employees. The first scheme is the Retirement Pension Scheme while the second is an insurance scheme. Every employer having five or more employees must contribute to these schemes; the social security scheme is to provide for pension payments for employees who have retired while the insurance scheme is to address matter of occupational injuries.</p>	<p><b><u>Description:</u></b> The LVD needs to crosscheck and/or verify that there has been compliance with the above verifiers through consultation with the MOL Labour Inspectorate Section as well as the NSSWC.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with MOL and NSSWC</li> <li>2. Document review</li> </ol>	Annually
References: LLL (2500 to 2501) NSSL (89.9)		

<b>Indicator 8.6 The contract/permit holder or timber processor has observed legal requirements concerning housing and sanitation as well as operational hygiene and general workers safety pursuant to the code of harvesting practices and guidelines issued by the FDA</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
8.6.1 FDA Compliance Audit Report	All contract and permit types	
<b>Verification Guidance/ Procedure (LAS-LVD-0.8.6)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The objective of this procedure is to ensure that a contract holder or company applying for FLEGT licensing complies with the relevant statutory and FDA requirements in respect of workers health and safety.</p> <p><b><u>Regulatory Control:</u></b> The Code of Forest Harvesting Practices (2007) was developed by the FDA to regulate, inter alia, operational hygiene and workers safety. The code outlines operational requirements. Annual audits are conducted by the FDA to monitor, assess and ensure compliance with the conditions of the various forest contracts and permits.</p>	<p><b><u>Description:</u></b> The LVD must verify that workers health, sanitation and shelter are properly addressed by the contract holder. This is to be done through consultation with the FDA and a review of the Compliance Audit Reports by the FDA Law Enforcement Unit.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with FDA</li> <li>2. Document review</li> </ol>	Annually
Reference: Code of Harvesting Practices (3.0 and 4.0)		

**PRINCIPLE 9: TAXES, FEES AND OTHER PAYMENTS**

**The contract holder or timber processor is current in its compliance with all fiscal obligations including payment of taxes and fees**

**Indicator 9.1 The contract/permit holder or timber processor has settled all tax arrears prior to the signing of the contract or the issuance/renewal of the saw mill permit**

Verifier	Contract or Permit Type	
9.1.1 Tax clearance by the Ministry of Finance evidencing settlement of all tax arrears at the time of signing of the contract or the issuance/renewal of saw mill or timber processor permit	All contract and permit types	
9.1.2 Report of any authorized representative of FDA	All contract and permit types except agricultural concessions/plantations	
Verification Guidance/ Procedure (LAS-LVD-0.9.1):	Verification Method	Verification Frequency
<p><b><u>Objective:</u></b> The aim of this procedure is to verify that the contract holder or timber processor has cleared all tax arrears prior to signing contract.</p> <p><b><u>Regulatory Control:</u></b> The law requires that a bidder or contract holder has met all fiscal obligations prior to commencement of operations.</p>	<p><b><u>Description:</u></b> The LVD must verify that the above requirements were met through consultation with the FDA Commercial and Finance Departments and verification of valid tax clearance.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with FDA Commercial and Finance Departments</li> <li>2. Document review</li> </ol>	Once during the effective period of the contract or permit type
References: Regulation 107-07		

<b>Indicator 9.2 The contract/permit holder or timber processor has paid the initial annual area fee (in case of contract holder) or annual registration fee (in case of timber processor) prior to the signing of the contract or the issuance/renewal of the permit</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
9.2.1 Receipt of payment for area fee by any authorized representative of FDA	FMC, TSC	
9.2.2 Receipt of bid premium payment	FMC, TSC, FUP having value of more than US \$ 10 000	
9.2.3 Receipt of annual registration fee payment	Timber processors, chain saw operators	
9.2.4 Copy of manager's check	FMC, TSC, FUP, chain saw operators, timber processors	
<b>Verification Guidance/ Procedure (LAS-LVD-0.9.2)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The aim of this procedure is to verify that the contract/permit holder has paid the annual area fee and that the timber processor has paid their annual registration fee.</p> <p><b><u>Regulatory Control:</u></b> The FDA or an authorized representative of FDA has, as part of the COCS, provided for mechanisms to ensure the implementation and payment of all forest related taxes and fees.</p>	<p><b><u>Description:</u></b> The LVD must verify that the above requirements were met through confirmation with an authorized representative of FDA.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Document review</li> <li>2. Consultation with COCS and FDA Commercial Department</li> </ol>	Annually
References: COCS SOP (9)		

<b>Indicator 9.3 The contract or permit holder has been cleared by the Ministry of Finance upon paying all taxes and fees required of it by law and in keeping with the terms of its contract</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
9.3.1 Tax clearance from the Ministry of Finance	All contract and permit types	
9.3.2 Receipt of stumpage fees	All contract and permit types	
9.3.3 Receipts of payment of contract administrative fees	All contract and permit types except agricultural concession/plantations	
9.3.4 Receipts of payments of annual coupe inspection fees	All contract and permit types except agricultural concession/plantations	
9.3.5 Receipts of payment of waybill fees	All contract and permit types	
9.3.6 Proof of payment of chain of custody fees	All contract and permit types	
<b>Verification Guidance/ Procedure (LAS-LVD-0.9.3)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The aim of this procedure is to verify that all relevant forest taxes are paid.</p> <p><b><u>Regulatory Control:</u></b> Section 2108 of Phase One of the Reform Tax Code, as amended, and Section 14.2 of the NFRL, as well as Regulations 107-07 of the FDA established stumpage fees, land rental fees and forest product fees as some of the fees that contract holders are required to pay in addition to corporate income tax and other duties. Regulation 107-07 requires that all taxes and fees be paid on their due date, and that failure to pay such fees on their due date shall attract penalties after a thirty-day grace period.</p>	<p><b><u>Description:</u></b> The LVD must verify that the above requirements were met through confirmation in COCIS. In the event that clarification is required, the LVD may check with the Registration Return Services Division at the Ministry of Finance.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Confirmation in COCIS</li> <li>2. Consultation with MOF</li> </ol>	Annually
References: Regulation 107-07 61-63; COCS SOP (9)		

<b>Indicator 9.4 Contract/permit holder or timber processor has filed its annual tax return with the Ministry of Finance no later than March 31st of each year</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
9.4.1 Tax return	All contract and permit types	
Verification Guidance/ Procedure (LAS-LVD-0.9.5)	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The aim of this procedure is to verify that a contract or permit holder or timber processor has filed its annual tax return as specified by law.</p> <p><b><u>Regulatory Control:</u></b> The law requires that companies file annual tax returns between 31 December and 31 March of the following year.</p>	<p><b><u>Description:</u></b> The LVD must verify that the requirements were met by consulting with the Registration Return Service Section within the Large Income Tax Division (Ministry of Finance) to ensure that the return was filed.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with MOF</li> <li>2. Document review</li> </ol>	Annually
References: Revenue Code of Liberia 109(c)(d)(e)		



**PRINCIPLE 10: EXPORT, PROCESSING AND TRADE REQUIREMENTS**

All contract and permit holders as well as timber processors have complied with export, processing and trade requirements

**Indicator 10.1** Any person exporting logs, timber and/or timber products is duly registered with the FDA annually

Verifier	Contract or Permit Type	
10.1.1 Valid Exporter Registration	All exporters of logs, timber and timber products	
Verification Guidance/ Procedure (LAS-LVD-0.10.1)	Verification Method	Verification Frequency
<p><b><u>Objective:</u></b> The aim of this procedure is to verify that exporters have complied with the statutory requirements/registration for exporting logs, timber and/or timber products.</p> <p><b><u>Regulatory Control:</u></b> Section 41 of Regulations 108-07 provides that before "exporting logs, timber, or wood products, a person shall register with the Authority as an exporter and renew the registration annually".</p>	<p><b><u>Description:</u></b> The LVD must verify annually with the FDA Commercial Department that a particular company and/or permit holder is registered as an exporter.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with the FDA Commercial Department</li> <li>2. Document review</li> </ol>	Annually
References: Regulation 108-07 (41)		

<b>Indicator 10.2 All shipments of logs, timber, or timber products loaded for export have been entered into the chain of custody system</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
10.2.1 Application for a FLEGT license	All exported logs and timber products	
10.2.2 Export shipment specification log (SOP 20)	All exported logs and timber products	
10.2.3 Export specification-sawn timber (SOP 21)	All exported sawn timber	
10.2.4 Log export volume report	All exported logs and timber products	
10.2.5 Proof of payment of export fees (SOP 26)	All exported logs and timber products	
Verification Guidance/ Procedure (LAS-LVD-0.10.3)	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b>Objective:</b> The aim of this procedure is to verify that all export shipments have been included in the COCS.</p> <p><b>Regulatory Control:</b> Section 42 of Regulation 108-07 provides that Government officials in charge of ports and customs shall not allow bulk shipments of logs, timber, or timber Products to be loaded on vehicles, vessels, or aircraft for export unless the officials verify all of the following:</p> <ol style="list-style-type: none"> <li>All logs, timber and timber products have been entered into the COCS; and</li> <li>The COCS/ COCIS confirm that logs (or timber products) have not already been exported.</li> </ol>	<p><b>Description:</b> The LVD must verify through inspection of each consignment.</p> <p><b>Verification means:</b></p> <ol style="list-style-type: none"> <li>Confirmation in the COCIS</li> </ol>	Per shipment
References: Regulation 108-07 (42); COCS SOP (20-21)		

<b>Indicator 10.3 Any load of logs, timber, or timber products has been priced according to current market information gathered, sorted and maintained by the LVD</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
10.3.1 Reference price as found in market intelligence data base (MIDB) maintained by LVD	All contract and permit types	
<b>Verification Guidance/ Procedure (LAS-LVD-0.10.3)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The aim of this procedure is to verify that all export shipments have been priced according to the relevant and/or accepted market prices.</p> <p><b><u>Regulatory Control:</u></b> Regulation 108-07 of the FDA requires that no under-priced timber or timber products will be loaded for export.</p>	<p><b><u>Description:</u></b> The LVD must verify through confirmation with LVD databases that none of the contract and/or reference prices of a particular shipment were indicative of under-pricing. If clarification is needed, the Ministry of Commerce can also be consulted.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Confirmation in LVD database</li> <li>2. Consultation with Ministry of Commerce</li> </ol>	Per load or shipment
References: Regulation 108-07 (43); COCS SOP (18 &21)		

**PRINCIPLE 11: TRANSPARENCY AND GENERAL DISCLOSURE**

**Indicator 11.1: The contract or permit holder has published bi-annually in a newspaper of general circulation, a list of the amounts and dates of all payments and considerations provided the Government of Liberia in respect of specified contract area**

Verifier	Contract or Permit Type	
11.1.1 Copy of newspaper containing the publication	FMC, TSC, PUP, FUP and Chain Saw Permit	
Verification Guidance/ Procedure (LAS-LVD-0.11.1)	Verification Method	Verification Frequency
<p><b><u>Objective:</u></b> The objective of this procedure is to verify that holders of forest licenses publish the required data in a newspaper circular as a mechanism of transparency and accountability.</p> <p><b><u>Regulatory Control:</u></b> The NFRL requires holders to biannually (no later than 15 March and 15 September) publish notices containing the following information in a newspaper in circulation in Monrovia:</p> <ol style="list-style-type: none"> <li>1. The name of the contract holder</li> <li>2. Description of area covered by logging operations of the contract holder</li> <li>3. List of payments and other considerations provided to government by the contract holder.</li> </ol>	<p><b><u>Description:</u></b> The LVD needs to crosscheck and/or verify that the publication of the aforesaid information took place and that the notices contained the required information with the FDA Commercial Department.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Document review</li> <li>2. Consultation with FDA Commercial Department</li> </ol>	Semi-annually
References: NFRL (5.8)		

<b>Indicator 11.2      The contract or permit holder is currently participating in the Liberia Extractive Industries Transparency Initiative (LEITI)</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
11.2.1 LEITI Report	All contract and permit types	
11.2.2 LEITI Attestation	All contract and permit types	
<b>Verification Guidance/ Procedure (LAS-LVD-0.11.2)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The objective of this procedure is to verify whether a contract or permit holder is compliant with LEITI. LEITI which includes forest resources aims to ensure transparent and accountable resource governance.</p> <p><b><u>Regulatory Control:</u></b> LEITI publishes and/or disseminates widely the details of all payments made by inter alia the forestry sector to the Government, and the corresponding revenues received by the Government.</p>	<p><b><u>Description:</u></b> The LVD needs to crosscheck and/or verify the publication of the LEITI report with the FDA Commercial Department.</p> <p><b><u>Verification means:</u></b></p> <ol style="list-style-type: none"> <li>1. Consultation with LEITI and FDA Commercial Department</li> <li>2. Document review</li> </ol>	Annually
References: LEITI Act (4.1 & 5.4)		

<b>Indicator 11.3 Copies of the contract, license, permits, records of payments made to Government as well as the bid evaluation report of its successful bid are made publicly accessible by FDA in keeping with the Freedom of Information Act of Liberia</b>		
<b>Verifier</b>	<b>Contract or Permit Type</b>	
11.3.1 FDA publication scheme listing the contracts and other documents of contract or permit holders it holds and are available for public access	All contract and permit types	
11.3.2 Evidence of the publication of the contract holder's contract on the LEITI website	All contract and permit types	
<b>Verification Guidance/Procedure (LAS-LVD-0.11.3)</b>	<b>Verification Method</b>	<b>Verification Frequency</b>
<p><b><u>Objective:</u></b> The objective of this procedure is to verify whether the contract or license of the contract or permit holder as well as other documents pertaining to the concession of the contract holder are published or publicly available in keeping with the LEITI Act and the Freedom of Information Act.</p> <p><b><u>Regulatory Control:</u></b> LEITI requires publications of all concessions in the forestry sector. The Freedom of Information Act requires publication and or public accessibility of all documents affecting public interest. Because the concession and the underlying document submitted for the concession implicate public interest, the objective is to ensure their availability to the public especially civil society.</p>	<p><b><u>Description:</u></b> The LVD needs to crosscheck and/or verify the Publication Scheme with the FDA Commercial Department and check the LEITI website for publication of the contract.</p> <p><b><u>Verification means:</u></b> 1. Consultation with LEITI and FDA Commercial Department</p>	Annually
References: LEITI Act (4.1 & 5.4); Freedom of information Act (Section 2.6)		

## LIST OF ACRONYMS

AHC	Annual Harvesting Certificate
BOT	Build, Operate, Transfer contract type
CEO	Chief Executive Officer
CFDC	Community Forestry Development Committee
CNDRA	Center for National Records and Documentation
COCIS	Chain of Custody Information System
COCS	Chain of Custody System
CSO	Civil Society Organisation
EIA	Environmental Impact Assessment
EI	Environmental Impact License
EIP	Environmental Impact Permit
EPA	Environmental Protection Agency
EPAA	Environmental Protection Agency Act
EPML	Environmental Protection and Management Law
FDA	Forestry Development Authority
FMC	Forest Management Contract
FUP	Forest Use Permit
GBL	General Business Law
GSOP	General Standard Operating Procedure
IMCC	Inter-Ministerial Committee on Concessions
LAS	Legality Assurance System

LEITI	Liberia Extractive Industries Transparency Initiative
LLD	Liberia Licensing Department
LLL	Liberian Labour Law
LVD	Liberia Verification Department, FDA
MIDB	Market Intelligence Data Base
MOCI	Ministry of Commerce and Industry
MOF	Ministry of Finance
MOFA	Ministry of Foreign Affairs
MOL	Ministry of Labour
MPEA	Ministry of Planning & Economic Affairs
NFRL	National Forestry Reform Law
NSSL	National Social Security Law
NSSWC	National Social Security & Welfare Corporation
PDA	Personal Digital Assistant
PPCA	Public Procurement and Concessions Act
PPCC	Public Procurement and Concessions Commission
PUP	Private Use Permit
SOP	Standard Operating Procedure
TSC	Timber Sale Contract
UTM	Universal Transverse Mercator
WTS	Wood Tracking System



## **LEGISLATION REFERENCED IN LIBERIAN LEGALITY DEFINITION**

### **Referenced in the legality definition:**

Environmental Protection and Management Law (2002)  
Environmental Protection Agency Act (2002)  
FDA Code of Forest Harvesting Practices (2007)  
FDA Regulation 111-10  
FDA Ten Core Regulations (2007) (Regulations 101-07 to 110-07)  
Freedom of Information Act (2010)  
General Business Law  
LEITI Act (2009)  
Liberia COC Standard Operating Procedures  
Liberia Labour Law  
National Forestry Reform Law (2006)  
National Social Security Law  
Public Procurement and Concessions Commission Act (2005)  
Revenue Code of Liberia, as Amended (2009)

### **Additional Relevant Documents:**

Community Rights Law (2009)  
Liberia Forest Policy (2007)  
National Forest Management Strategy  
Protected Forest Areas Network Law (2003)

**Appendix B: OVERVIEW OF THE CHAIN OF CUSTODY SYSTEM (COCS)**

STAGE	RESPONSIBILITIES OF OPERATORS			VERIFICATION BY THE FDA		
	ACTIVITIES	DATA ENTERED IN COCIS	KEY OUTPUTS	ASSESSMENTS AND FIELD INSPECTIONS	DATA VALIDATION WITHIN COCIS <sup>1</sup>	RECONCILIATION BETWEEN AND/OR WITHIN STAGES OF THE SUPPLY CHAIN <sup>2</sup>
<b>Pre-harvest</b>	<p>Registration of contract holder's business unit in COCIS</p> <p>Delineation and block cutting (GPS located grid system) of contract areas allocated by the FDA</p> <p>Enumeration of all trees of commercial size and affixing of COCIS barcode tags on trees</p> <p>Forest mapping: Location of tree and natural features</p>	<p>Contract holder TIN (Registration number issued by Ministry of Commerce)</p> <p>Coordinates of blocks</p> <p>Stock survey data, including tree ID, tree species, diameter at breast height, height and location in the block of 2 500 m<sup>2</sup></p>	<p>Block maps</p> <p>Sketch maps</p> <p>Stock survey results and request for crop trees</p> <p>Annual operational plan</p>	<p><b>Office:</b></p> <ul style="list-style-type: none"> <li>- Block maps/ compartment maps,</li> <li>- Stock survey forms,</li> <li>- Sketch maps,</li> <li>- Validation of tree requested for harvesting.</li> </ul> <p><b>Field:</b></p> <ul style="list-style-type: none"> <li>- 5 % of block area: tree location, diameter, height species.</li> <li>- Coordinates of block corners</li> </ul>	<p>ID numbers of trees, tree species, diameter at breast height, height and location</p> <p>Use of barcode tags</p>	

<sup>1</sup> Between declaration by contract-holder and verification by COCIS.

<sup>2</sup> On the basis of data provided by the contract-holders.

STAGE	RESPONSIBILITIES OF OPERATORS			VERIFICATION BY THE FDA		
	ACTIVITIES	DATA ENTERED IN COCIS	KEY OUTPUTS	ASSESSMENTS AND FIELD INSPECTIONS	DATA VALIDATION WITHIN COCIS	RECONCILIATION BETWEEN AND/OR WITHIN STAGES OF THE SUPPLY CHAIN
<b>Harvesting</b>	<p>Felling of trees, production of tree lengths or logs</p> <p>Affixing of COCIS barcode tags to logs and stumps</p> <p>Measurement of tree lengths or logs</p> <p>Hauling to forest log yard (at roadside)</p> <p>Identifying proposed road alignment and inventory of trees on proposed route</p>	<p>Contract holder TIN</p> <p>Tree data: ID number, species, diameters and length</p> <p>Stump ID numbers</p>	<p>Tree data forms</p> <p>Road alignment forms</p>	<p>Felling site:</p> <p>- 5 % verification of tree data</p> <p>- sample checking that tree data are consistent between the log, stump and felled tree</p>	<p>Tree data (while standing): ID number, species, diameters and estimated length</p> <p>Felled tree location, species and log dimensions;</p>	<p>Between stock survey and tree data forms<sup>1</sup>:</p> <p>- comparing number of crop trees and number of trees actually harvested by species</p> <p>- comparing volume of crop trees and volume of tree lengths (or logs) by species</p> <p>ID link between stump, tree and tree length/log</p>

<sup>1</sup> Tree data forms are completed when trees are felled, prior to cutting into initial long logs.

STAGE	RESPONSIBILITIES OF OPERATORS			VERIFICATION BY THE FDA		
	ACTIVITIES	DATA ENTERED IN COCIS	KEY OUTPUTS	ASSESSMENTS AND FIELD INSPECTIONS	DATA VALIDATION WITHIN COCIS	RECONCILIATION BETWEEN AND/OR WITHIN STAGES OF THE SUPPLY CHAIN
<b>Forest log yard/any other log yard</b>	<p>Cross-cutting or dressing of tree lengths or logs</p> <p>Affixing of COCIS barcode tags to cross-cut or dressed logs</p> <p>Scaling of logs</p>	<p>Contract holder TIN</p> <p>Log data: ID number, species, diameters, length, volume and quality of log</p> <p>Link between tree lengths or long log and cross-cut or dressed logs</p>	Log data form	<p>At log landing:</p> <p>- Sample verification of Log Data (Sample intensity based on the performance of the company)</p>	Log data: ID number, species, diameters, length and volume of log	<p>Between tree data forms and log data forms:</p> <p>- comparing number of tree lengths/logs and crosscut and dressed logs by species</p> <p>- comparing volume of tree lengths/each log</p> <p>- comparing tree lengths/each log for consistency of diameter and species</p> <p>ID link between stump, tree, tree length/log and crosscut or dressed logs</p> <p>Harvested volume and paid stumpage fee</p>

STAGE	RESPONSIBILITIES OF OPERATORS			VERIFICATION BY THE FDA		
	ACTIVITIES	DATA ENTERED IN COCIS	KEY OUTPUTS	ASSESSMENTS AND FIELD INSPECTIONS	DATA VALIDATION WITHIN COCIS	RECONCILIATION BETWEEN AND/OR WITHIN STAGES OF THE SUPPLY CHAIN
<b>Ownership transfer</b>	Request from owner of the logs for change of ownership  Registration of timber product ID numbers by the new owner	ID numbers of previous and current owners  Timber product ID numbers subject to change of ownership	Declaration on change of ownership			Consistency of the log ID numbers and log data between the previous and current owner
<b>Transport</b>	Loading of logs onto truck  Transport of logs  Unloading of logs	Unique waybill ID  Origin and destination  Log owner  Transporter  List of logs transported, including ID number, species, dimensions, and volume	Waybills (origin and destination)	Random waybill inspections along the transport route (e.g. in the log yard, or at roadside checkpoints)		Between log data form and waybill  - comparing log ID numbers  - comparing number of logs by species  - comparing volume of logs by species

STAGE	RESPONSIBILITIES OF OPERATORS			VERIFICATION BY THE FDA		
	ACTIVITIES	DATA ENTERED IN COCIS	KEY OUTPUTS	ASSESSMENTS AND FIELD INSPECTIONS	DATA VALIDATION WITHIN COCIS	RECONCILIATION BETWEEN AND/OR WITHIN STAGES OF THE SUPPLY CHAIN
<b>Processing site</b>	<p>Reception of logs or other timber products (raw materials)</p> <p>Storing of raw materials</p> <p>Dressing of logs and affixing of new barcode tags</p> <p>Feeding of raw materials into processing</p> <p>Handling of processed goods, including affixing of COCIS barcode tag to product batches</p> <p>Storing of processed goods</p>	<p>Data on raw material received and stored at mill site: ID number, species, dimensions, volume</p> <p>Input product data: ID number, species, dimensions, volume</p> <p>Date</p> <p>Output product data: Batch ID number, species, dimension and volume (quantity)</p> <p>Data on processed products stored at mill site: Batch ID number, species, dimensions, volume and grade</p>	<p>Sawmill entry form</p> <p>Raw material inventory bookkeeping</p> <p>Production form specifying inputs and outputs by production lines</p> <p>Warehouse bookkeeping</p>	<p>Monitoring of sample production batches</p> <p>Random audits of mill operations and bookkeeping systems</p>	<p>Recovery rates/yields of processing lines</p>	<p>Between sawmill entry form, raw material inventory bookkeeping and production form</p> <ul style="list-style-type: none"> <li>- comparing raw material ID numbers</li> <li>- comparing number of raw materials by species</li> <li>- comparing volume of raw materials by species</li> </ul> <p>Between inputs and outputs declared in the production form</p> <p>Between production form and warehouse bookkeeping</p> <ul style="list-style-type: none"> <li>- comparing ID numbers</li> <li>- comparing number of products by species</li> <li>- comparing volume of products by species</li> </ul>

STAGE	RESPONSIBILITIES OF OPERATORS			VERIFICATION BY THE FDA		
	ACTIVITIES	DATA ENTERED IN COCIS	KEY OUTPUTS	ASSESSMENTS AND FIELD INSPECTIONS	DATA VALIDATION WITHIN COCIS	RECONCILIATION BETWEEN AND/OR WITHIN STAGES OF THE SUPPLY CHAIN
<b>Transport</b>	<p>Loading of bundled processed products onto truck</p> <p>Transport of the bundles</p> <p>Unloading of the bundles</p>	<p>Unique waybill ID</p> <p>Origin and destination</p> <p>Log owner</p> <p>Transporter</p> <p>Data on processed products stored at mill site: Batch ID number, species, dimensions, volume</p>	Waybills	Random waybill inspections along the transport route (e.g. roadside checkpoints)		<p>Between warehouse bookkeeping and waybills</p> <p>- comparing bundle ID numbers</p> <p>- comparing number of products by species</p> <p>- comparing volume of products by species</p> <p>Between waybill origin copies and destination copies</p> <p>Between previous control points earlier along the chain</p>

STAGE	RESPONSIBILITIES OF OPERATORS			VERIFICATION BY THE FDA		
	ACTIVITIES	DATA ENTERED IN COCIS	KEY OUTPUTS	ASSESSMENTS AND FIELD INSPECTIONS	DATA VALIDATION WITHIN COCIS	RECONCILIATION BETWEEN AND/OR WITHIN STAGES OF THE SUPPLY CHAIN
<b>Pre-export</b>	Grading Trimming and marking Tax payment Customs declaration Commerce declaration Phytosanitary treatment	Product IDs Product specifications: type, species, and dimension Sales contract information: buyer, and prices	FLEGT License application Products specifications Sales contract	At point of export: Sample inspection of products for exports (Verification of specification data)	Number, volume and grades	Between waybills and FLEGT License - comparing bundle ID numbers - comparing number of products by species - comparing volume of products by species
<b>Loading and export</b>	Loading of the products covered by the FLEGT license			At point of export: Overseeing the final loading of the vessel Checking specifications of products loaded onto the vessel	Product specifications of export consignment (IDs, product type, species and, dimensions)	Between FLEGT license and physical verification of loaded products.



## ANNEX III

### **CONDITIONS GOVERNING THE RELEASE FOR FREE CIRCULATION IN THE UNION OF TIMBER PRODUCTS EXPORTED FROM LIBERIA AND COVERED BY A FLEGT LICENSE**

#### **GENERAL FRAMEWORK**

Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community<sup>1</sup> and its Implementing Regulation<sup>2</sup> govern the conditions for entry into the Union market for timber and derived products covered by a FLEGT license from Liberia. These Regulations provide for adaptation of detailed procedures to national conditions and, in particular, envision different possibilities for the competent authorities responsible for accepting FLEGT licenses on entry into the Union market, which may be a customs authority or another national authority. For this reason, the description of the process divides verification into two steps: (1) checks on license documents and (2) physical checks for the conformity of the actual shipment to the license.

This procedure is intended to supplement the checks carried out by Liberia and to verify that FLEGT licenses presented on entry into the Union are indeed those duly issued and registered by the Liberian licensing authority and cover the shipments intended by the Liberian authorities. The competent authorities have no mandate to challenge the Liberian legality assurance system or the validity of licenses. Such concerns may be dealt with by the Joint Implementation Committee (JIC), in accordance with Articles 10, 19 and 24 of this Agreement.

#### **ARTICLE 1 Lodging of the license**

1. The license shall be lodged with the competent authority of the Union Member State in which the shipment covered by that license is declared for release for free circulation<sup>3</sup>. This may be done electronically or by other expeditious means.
  
2. The competent authorities referred to in paragraph 1 shall, in accordance with the applicable national procedures, inform the customs authorities as soon as a license has been accepted.

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<sup>1</sup> OJ EU L 347, 30.12.2005, p. 1.

<sup>2</sup> Commission Regulation (EC) No 1024/2008 of 17 October 2008 laying down detailed measures for the implementation of Council Regulation (EC) No 2173/2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community (OJ EU L 277, 18.10.2008, p. 23).

<sup>3</sup> Release for free circulation is an Union customs procedure. Under Article 129(2) and (3) of Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code), release for free circulation entails: (a) the collection of any import duties due; (b) the collection, as appropriate, of other charges, as provided for under relevant provisions in force relating to the collection of those charges; (c) the application of commercial policy measures and prohibitions and restrictions insofar as they have not been applied at an earlier stage (in this case, it is among these measures that the existence of a FLEGT license will be verified); and (d) completion of the other formalities laid down in respect of the importation of the goods. Release for free circulation confers on non-Community goods the customs status of Community goods.

## **ARTICLE 2**

### **Checks on validity of license documentation**

1. Paper licenses shall conform to the model described in Annex IV. Any license that does not meet the requirements and specifications set out in Annex IV shall be invalid.
2. A license shall be considered void if it is lodged on a date later than the expiry date indicated in the license.
3. Any erasures from or alterations to a license shall not be accepted unless such erasures or alterations have been validated by the licensing authority.
4. Extension of the validity of a license shall not be accepted unless that extension has been validated by the licensing authority.
5. A duplicate or replacement license shall not be accepted unless it has been issued and validated by the licensing authority.

## **ARTICLE 3**

### **Requests for additional information**

1. In case of doubt concerning the validity or authenticity of a license, a duplicate or a replacement license, the competent authorities may request additional information from the licensing authority.
2. A copy of the license, the duplicate or the replacement license in question may be forwarded together with the request.
3. If necessary, the licensing authority shall withdraw the license and issue a corrected copy, which shall be authenticated by the stamped endorsement "Duplicate" and forwarded to the competent authority.

## **ARTICLE 4**

### **Verification of the conformity of the license with the shipment**

1. If further verification of the shipment is considered necessary before the competent authorities can decide whether a license can be accepted, checks may be carried out to establish whether the shipment in question conforms to the information provided in the license and to the records relating to the relevant license which are held by the licensing authority.
2. Where the volume or weight of the timber products contained in the shipment presented for release for free circulation does not deviate by more than 10 % from the volume or weight indicated in the corresponding license, the shipment shall be considered to conform to the information provided in the license as far as volume or weight is concerned.
3. In case of doubt about whether the shipment conforms with the FLEGT license, the competent authority concerned may seek further clarification from the licensing authority.
4. The licensing authority may request the competent authority to send a copy of the license or the replacement in question.

5. If necessary, the licensing authority shall withdraw the license and issue a corrected copy, which shall be authenticated by the stamped endorsement "Duplicate" and forwarded to the competent authority.
6. If the competent authority receives no answer within 21 calendar days of the request for further clarification, as provided for in Article 10 of this Agreement, the competent authority shall not accept the license and shall act in accordance with the applicable legislation and procedures.
7. A license shall not be accepted if it has been established, where necessary after provision of additional information in accordance with Article 3 of this Annex or a further investigation in accordance with Article 4 of this Annex, that the license does not correspond to the shipment.

## **ARTICLE 5**

### **Verification prior to the arrival of the shipment**

1. A license may be lodged before the arrival of the shipment it covers.
2. A license shall be accepted if it meets all the requirements set out in Annex IV and no further verification in accordance with Articles 3 and 4 of this Annex is deemed necessary.

## **ARTICLE 6**

### **Other Matters**

1. Costs incurred while the verification is being completed shall be at the expense of the importer, except where the applicable legislation and procedures of the Member State of the Union concerned determine otherwise.
2. Where persistent disagreements or difficulties arise from verification of FLEGT licenses, the matter may be referred to the JIC.

## **ARTICLE 7**

### **Release for free circulation**

1. In box 44 of the Single Administrative Document on which the customs declaration for release for free circulation is made, reference shall be made to the number of the license that covers the timber products subject to the declaration.
2. Where the customs declaration is made by computerised means, the reference shall be provided in the appropriate box.
3. Timber products shall be released for free circulation only after completion of the procedures described in this Annex.

## **ANNEX IV**

### **REQUIREMENTS AND TECHNICAL SPECIFICATIONS FOR FLEGT LICENSES**

#### ***ARTICLE 1***

##### ***General requirements relating to FLEGT Licenses***

1. FLEGT licenses may be in paper or electronic form.
2. Both licenses on paper and electronic licenses shall provide the information specified in Appendix 1, in accordance with the notes for guidance set out in Appendix 2.
3. FLEGT licenses shall become valid on the date on which they are issued.
4. FLEGT licenses shall be numbered in a manner that distinguishes between licenses intended for the Union and those intended for non-Union markets.
5. The period of validity of FLEGT licenses shall not exceed six months. The expiry date shall be indicated on the license.
6. After the license expires, it shall be considered void. The licensing authority may, at its discretion, extend the period of validity for an additional three months period. Upon such extension, the licensing authority shall insert and validate the new expiry date.
7. FLEGT licenses shall cease to be valid and shall be returned to the licensing authority if the timber products covered by the license are lost or destroyed during shipment prior to arrival in the Union.

#### ***ARTICLE 2***

##### ***Technical specifications with regard to FLEGT Licenses on paper***

1. Licenses on paper shall conform to the format set out in Appendix 1.
2. The paper size shall be standard A4. The paper shall have watermarks showing various logos, including a Liberian emblem that shall be embossed on the paper in addition to the seal.
3. The licenses shall be completed using a typewriter or computer. They may be completed by hand, if necessary.
4. The stamps of the licensing authority shall be applied by means of a metal stamp, preferably made of steel. However, an embossing press combined with letters or figures obtained by means of perforation may replace the licensing authority stamp.
5. The licensing authority shall use a tamper-proof method to record the quantity allocated in such a way as to make it impossible to insert figures or references.
6. The form shall contain no erasures or alterations, unless those erasures or alterations have been authenticated by the stamp and signature of the licensing authority.
7. The licenses shall be printed and completed in English.

### **ARTICLE 3**

#### ***Copies of FLEGT Licenses***

1. The licenses shall be drawn up in five copies using the colour paper indicated as follows:
  - (a) White, form number 1, marked "Original";
  - (b) Yellow, copy number 2, marked "Copy for EU customs authority";
  - (c) Pink, copy number 3, marked "Copy for the licensing authority";
  - (d) Green, copy number 4, marked "Copy for Liberia customs";
  - (e) Blue, copy number 5, marked "Copy for licensee".
2. The "Original" shall be given to the licensee to be forwarded to the importer for submission to the competent authority of the Union Member State in which the shipment covered by that license is declared for release for free circulation.
3. The second copy, marked "Copy for EU customs authority", shall be given to the licensee to be forwarded to the importer for submission to the customs authorities of the Union Member State in which the shipment covered by that license is declared for release for free circulation.
4. The third copy, marked "Copy for the licensing authority", shall be retained by the licensing authority for its records and future verification of licenses issued.
5. The fourth copy, marked "Copy for Liberia customs", shall be given to the Liberia customs authorities for their records and for exportation purposes.
6. The fifth copy, marked "Copy for the licensee", shall be given to the licensee for its records.

### **ARTICLE 4**

#### ***FLEGT licenses lost, stolen or destroyed***

1. In the event of loss, theft or destruction of the "Original" and/or of the "Copy for EU customs", the licensee or its authorised representative may apply to the licensing authority for a replacement, providing justification of the loss of the original and/or copy.
2. The licensing authority shall issue a replacement within one month following receipt of the request from the licensee.
3. The replacement shall contain the information and entries appearing on the license it replaces, including the license number. The replacement license shall bear the endorsement "Replacement license".
4. In the event that the lost or stolen license is retrieved, it shall not be used and must be returned to the licensing authority.

### **ARTICLE 5**

#### ***Technical specifications with regard to electronic FLEGT licenses***

1. FLEGT licenses may be issued and processed using electronic systems.
2. In Member States of the Union which are not linked to an electronic system, a license on paper shall be made available.

## **ARTICLE 6**

### ***Treatment of doubts regarding the validity of a license***

1. In case of doubt concerning the validity or authenticity of a license, a duplicate or a replacement license, the competent authority in the Union may request additional information from the licensing authority.
2. If considered necessary, the licensing authority may ask the competent authority to send a copy of the license or the replacement in question.
3. If the licensing authority considers it necessary, it shall withdraw the license and issue a corrected copy, which shall be authenticated by the stamped endorsement "Duplicate" and forwarded to the competent authority.
4. If the validity of the license is confirmed, the licensing authority shall notify the competent authority forthwith, preferably by electronic means. The copies returned shall be authenticated by the stamped endorsement "Validated on".
5. In the event that the license in question is not valid, the licensing authority shall notify the competent authority forthwith, preferably by electronic means.

## **APPENDICES**

1. License form.
2. Notes for guidance.

## Appendix 1

### FORMAT OF THE FLEGT LICENSE

<b>1</b>	<b>1 Issuing authority</b> Name		<b>2 Tax identification number</b>					
	Address		Destination					
	<b>3 FLEGT licence number</b>		<b>4 Expiry date</b> <table border="1" style="width: 100%; height: 20px; border-collapse: collapse;"><tr><td style="width: 25%;"></td><td style="width: 25%;"></td><td style="width: 25%;"></td><td style="width: 25%;"></td></tr></table>					
	<b>5 Country of export</b>		<b>7 Means of transport</b>					
	<b>6 ISO code</b>							
	<b>8 Licensee (name and address)</b>							
	<b>9 Commercial description of the timber products</b>			<b>10 HS heading</b>				
	<b>11 Common or scientific names</b>		<b>12 Countries of harvest</b>		<b>13 ISO codes</b>			
	<b>14 Volume (m3)</b>	<b>15 Net weight (kg)</b>	<b>16 Number of units</b>					
<b>17 Distinguishing marks</b>								
<b>18 Signature and stamp of issuing authority</b>								
Place and date								

Copy for EU customs	<b>2</b>	1 Issuing authority Name		2 Tax identification number		
	Address		Destination			
	3 FLEGT licence number			4 Expiry date		
				_ _ _ _		
	5 Country of export			7 Means of transport		
	6 ISO code					
	8 Licensee (name and address)					
	9 Commercial description of the timber products				10 HS heading	
	<b>2</b>		11 Common or scientific names		12 Countries of harvest	13 ISO codes
	14 Volume (m3)		15 Net weight (kg)		16 Number of units	
17 Distinguishing marks						
18 Signature and stamp of issuing authority						
Place and date						



Copy for the licensing authority	3	1 Issuing authority Name		2 Tax identification number					
		Address		Destination					
		3 FLEGT licence number		4 Expiry date <table border="1" style="width: 100px; height: 20px; margin-left: 50px;"><tr><td style="width: 20px;"> </td><td style="width: 20px;"> </td><td style="width: 20px;"> </td><td style="width: 20px;"> </td></tr></table>					
		5 Country of export		7 Means of transport					
		6 ISO code							
		8 Licensee (name and address)							
		9 Commercial description of the timber products			10 HS heading				
	3	11 Common or scientific names		12 Countries of harvest		13 ISO codes			
		14 Volume (m3)	15 Net weight (kg)		16 Number of units				
	17 Distinguishing marks								
	18 Signature and stamp of issuing authority  Place and date								

Copy for Liberia customs	<b>4</b>	1 Issuing authority Name		2 Tax identification number		
	Address		Destination			
	3 FLEGT licence number			4 Expiry date		
				_ _ _ _		
	5 Country of export			7 Means of transport		
	6 ISO code					
	8 Licensee (name and address)					
	9 Commercial description of the timber products				10 HS heading	
	<b>4</b>		11 Common or scientific names		12 Countries of harvest	
14 Volume (m3)		15 Net weight (kg)		16 Number of units		
17 Distinguishing marks						
18 Signature and stamp of issuing authority						
Place and date						

Copy for licensee	5	1 Issuing authority Name		2 Tax identification number					
		Address		Destination					
		3 FLEGT licence number		4 Expiry date <table border="1" style="width: 100px; height: 20px; margin-left: 40px;"><tr><td style="width: 20px;"> </td><td style="width: 20px;"> </td><td style="width: 20px;"> </td><td style="width: 20px;"> </td></tr></table>					
		5 Country of export		7 Means of transport					
		6 ISO code							
		8 Licensee (name and address)							
		9 Commercial description of the timber products			10 HS heading				
	5	11 Common or scientific names		12 Countries of harvest		13 ISO codes			
		14 Volume (m3)	15 Net weight (kg)		16 Number of units				
	17 Distinguishing marks								
	18 Signature and stamp of issuing authority								
	Place and date								

## Appendix 2

### NOTES FOR GUIDANCE

**General:**

- Complete in capital letters.
- ISO codes refer to the international standard two-letter country code.

Box 1	Issuing authority	Indicate the name and address of the licensing authority.
Box 2	Tax identification number and destination	Indicate the Liberian tax identification number and the destination of the export. Licenses will be issued for all market destinations, not only the Union.
Box 3	FLEGT license number	Indicate the license number.
Box 4	Expiry date	Period of validity of the license.
Box 5	Country of export	This means the partner country (Liberia) from where the timber products were exported to the Union.
Box 6	ISO code	Indicate the two-letter code for Liberia.
Box 7	Means of transport	Indicate the means of transport at the point of export.
Box 8	Licensee	Indicate the name and address of the exporter.
Box 9	Commercial description	Indicate the commercial description of the timber product(s).
Box 10	HS heading	The four- or six digit commodity code established pursuant to the Harmonised Commodity Description and Coding System and described in Annex I of this Agreement.

Box 11	Common or scientific name	Indicate the common or scientific name of the species of timber used in the product. Where more than one species is included in a composite product, use separate lines. May be omitted for a composite product or component that contains multiple species whose identity has been lost (e.g. particle board).
Box 12	Countries of harvest	Indicate the countries where the timber referred to in box 10 was harvested. In the case of composite products, include all sources of wood used. May be omitted for a composite product that contains multiple species which are no longer identifiable.
Box 13	ISO codes	Indicate the ISO code of the countries referred to in box 12. May be omitted for a composite product or component that contains multiple species whose identity has been lost.
Box 14	Volume (m <sup>3</sup> )	Give the overall volume in m <sup>3</sup> . May be omitted unless the information referred to in box 15 has been omitted.
Box 15	Net weight (kg)	Give the weight in kg. This is defined as the net mass of the timber products without immediate containers or any packaging, other than bearers, spacers, stickers, etc. May be omitted unless the information referred to in box 14 has been omitted.
Box 16	Number of units	Indicate the number of units, if this is the best way to quantify a manufactured product. May be omitted.
Box 17	Distinguishing marks	Indicate any distinguishing marks where appropriate, e.g. lot number or bill of lading number. May be omitted.
Box 18	Signature and stamp of issuing authority	This box must be signed by the authorised official and stamped with the official stamp of the licensing authority.  The signatory's name and the place and date must also be indicated.

## ANNEX V

### **FUNCTIONS OF THE INDEPENDENT AUDIT: TERMS OF REFERENCE**

#### **1. INTRODUCTION**

These terms of reference (ToR) describe the framework for checking the systems of legality assurance established for the Voluntary Partnership Agreement (VPA) between the Government of Liberia and the Union. The ToR describe the functions of the independent audit (IA) of the Legality Assurance System (LAS), which provides assurance that timber harvested, processed and exported or sold on the domestic market complies with the legality definition, verifies that it complies with the chain of custody requirements and verifies that the licensing authority has issued FLEGT licenses only to consignments that are produced in accordance with the LAS requirements.

The ToR therefore set out a detailed list of tasks and a protocol for gathering information and reporting; they also establish a list of primary sources of information and describe the qualifications required of the independent auditor.

#### **2. OBJECTIVES**

The objectives of the IA include:

- (a) Assess the efficiency and effectiveness of the LAS; and
- (b) Improve the credibility of the LAS established under the VPA.

#### **3. TASKS**

The overall task of the independent auditor is to monitor implementation of the systems established to verify legal compliance with all aspects of the LAS. The key issues to check will include compliance with the legal requirements established in the legality definition, the chain of custody and verification by the Liberia Verification Department (LVD) and the Liberia Licensing Department (LLD), all described in Annexes II and IV respectively. The method to be used must be evidence-based and include documentary checks and field or on-site visits. Specific tasks of the independent auditor will be to:

- (a) Check that systems are functioning effectively and that timber harvested, processed and traded complies with the requirements of these systems. This includes legal requirements for pre-contract timber rights allocation, contract allocation, pre-felling requirements, felling, processing and deliveries;
- (b) Verify that the chain of custody system, a key component of the LAS, is effective and functioning appropriately, confirming that requirements are fulfilled from pre-harvesting operations to export or sale on the domestic market;
- (c) Assess the performance and effectiveness of the LVD and associated Government agencies involved in the verification process to ensure compliance with the LAS requirements;
- (d) Assess the system established to ensure that the LLD issues FLEGT licenses only to consignments which are produced or exported in full compliance with the LAS;
- (e) Assess the process for determining the validity of licenses in order to ensure that the

license verification system is efficient and does not unduly delay or burden the license-holder;

- (f) Assess how reported infractions are addressed or not addressed by the relevant authorities;
- (g) Evaluate the effectiveness of any measures taken to correct those weaknesses;
- (h) Identify gaps and weaknesses in the overall LAS, i.e. the functioning of the chain of custody, legality verification and licensing components of the LAS, and the level of impact on the credibility of the LAS;
- (i) Report its findings and recommendations to the Joint Implementation Committee (JIC), that is required to publish these audit reports regularly.

#### **4. METHODOLOGY:**

##### **METHODS FOR GATHERING AND ASSESSING INFORMATION AND REPORTING**

The independent auditor is required to demonstrate professionalism and integrity in the discharge of its responsibilities. The independent auditor shall prepare a manual of procedures outlining methods for gathering information, assessing evidence and reporting. The manual proposed by the independent auditor will be reviewed and agreed by the JIC. The independent auditor shall use the procedures established in the IA Manual to conduct audits, field visits and investigations, to seek feedback from stakeholders and to document and report its findings to the JIC for subsequent publication.

##### **4.1. Work Schedule**

- (a) In the first year of operation of the FLEGT licensing scheme, the independent auditor shall conduct two audits. The first audit shall aim to establish that all the requirements of the LAS are in place and ready to be put into full operation. The second audit, and all other future audits, shall assess or evaluate the performance of the LAS.
- (b) In subsequent years the independent auditor shall conduct at least annual audits of the LAS.
- (c) The independent auditor may also conduct impromptu audits and spot checks as necessary.

##### **4.2. Scope of Work**

- (a) The activities of the independent auditor shall cover all aspects of the LAS, including compliance with the legality definition, the chain of custody system, verification and licensing, and any certification scheme that the Government has approved as providing evidence of compliance with the LAS.
- (b) The independent auditor shall audit the relevant activities of all institutions, including State agencies, responsible for different aspects of Liberia's LAS.
- (c) The independent auditor shall check systems implemented by EU competent authorities to verify FLEGT licenses issued by Liberia.

### **4.3. Evidence Gathering**

The IA Manual of Procedures shall describe procedures and practices for gathering evidence which will include field checks, investigations, interviews, documentation and how the independent auditor will respond to complaints.

### **4.4. Assessment**

During the course of investigations, the independent auditor will ensure that evidence is assessed in accordance with ISO 19011 or an equivalent standard.

### **4.5. Audit Systems**

In documenting audit evidence, diagnosing failures and infractions in any part of the LAS and following up corrective action taken, the independent auditor shall:

- (a) Keep appropriate records of audit evidence detailing performance, compliance, non-performance and non-compliance;
- (b) Record and assess a sample, selected on the basis of risk assessment, of detected non-performance or non-compliance with the different aspects of the LAS, including licensing requirements, and the action taken to address the non-performance or non-compliance;
- (c) Record observed system-related weaknesses, gaps and areas requiring improvement in the LAS and ensure that each is appropriately distinguished from the others;
- (d) Record and assess the effectiveness of all corrective measures implemented by the parties concerned, including the Forestry Development Authority (FDA), other State authorities and private bodies responsible for other aspects of the LAS.

## **5. REPORTS AND DISSEMINATION**

5.1. The independent auditor shall adhere to a structure and protocol for preparing its reports as agreed with the JIC. The independent auditor shall:

- (a) Report on activities in line with the work schedule agreed with the JIC;
- (b) Prepare its report in accordance with internationally accepted auditing principles and as specified in its agreement with the JIC;
- (c) Present all reports to the JIC, which shall comment on them;
- (d) Prepare final reports which reflect the JIC's comments.

**5.2. Reports validated by the JIC will become public documents.**

## **6. SOURCES OF INFORMATION**

Primary sources of information shall include document reviews, field visits and consultations/meetings with relevant stakeholders who are identified in the legality definition of the legality verification matrix (cf. Annex II).

The Government of Liberia and the Union will ensure that the independent auditor has access to all necessary information, including documents and databases that it deems relevant, especially those that are needed to assess the efficacy of systems established to verify compliance with the LAS. This shall include access to information produced and/or held by branches and agencies of the public authorities as well as private bodies recruited by those public authorities.



The independent auditor shall also have full access to all forest management areas prior to, during and after forest operations. This will include access to logging sites and other areas where forest resources are being extracted or processed and to points of export. This broad access is designed to enable the independent auditor to uncover weaknesses wherever they exist in the LAS.

Specifically, the independent auditor shall have access to the following Government agencies, other bodies appointed or recruited by the Government to perform functions related to any part of the LAS and other parties who may be able to provide relevant information about the functioning of the LAS.

### **6.1. Government of Liberia and bodies appointed by the Government**

- (a) Departments of the FDA that are involved in different aspects of commercial logging. This shall include departments involved in pre-allocation processes, including validation of proposed concession areas, pre-qualification of logging and other companies interested in the commercial forestry sector and announcing, receiving and opening bids.
- (b) Departments of the FDA involved in law enforcement in the commercial sector.
- (c) Departments of the FDA and other relevant institutions involved in implementing the legality assurance system and related law enforcement activities.
- (d) Other Government agencies and appointed citizens involved in the bid evaluation processes, including the Bid Evaluation Panel, the Due Diligence Committee and the Inter-Ministerial Committee on Concessions (IMCC).
- (e) The Legislative Committees on Forestry, the House of Representatives and the Senate with respect to their roles in the process of ratifying forest resource licenses.
- (f) The Environmental Protection Agency (EPA) of Liberia.
- (g) Government ministries responsible for exports of forest products, including the Ministry of Finance, the Ministry of Commerce and the National Port Authority and their internal departments directly responsible for various aspects of the process.
- (h) The service-provider contracted to operate the legality assurance system.

### **6.2. Civil Society and Communities**

- (a) Local, national, regional and international civil society organizations involved in monitoring forestry activities in Liberia.
- (b) Communities and individuals involved in monitoring forestry activities.
- (c) Community Forestry Management Bodies and Community Forestry Development Committees involved in various aspects of the commercial forestry sector.

### **6.3. Other sources**

- (a) Forestry companies, including outcomes of private certification processes.
- (b) Academic institutions.
- (c) Local authorities.
- (d) Local communities and populations.
- (e) Sustainable forest management (SFM) certification bodies.
- (f) Complainants.
- (g) Competent authorities.
- (h) Stakeholders and parties that register a complaint or request an impromptu audit of certain aspects of the LAS.
- (i) Any other source that the independent auditor considers relevant.

## **7. QUALIFICATIONS REQUIRED**

The independent auditor must possess integrity and have a track record of conducting similar audits, be objective and have the capacity to conduct systematic analysis. The independent auditor must be independent from Liberian operators and Liberian institutions that have a commercial or regulatory role in the forestry sector and be credible. It is the responsibility of the independent auditor to ensure that its personnel declare any potential conflict of interests and, where these exist, to state what measures it will take to mitigate such conflicts. In addition to this requirement, the independent auditor shall meet the following other requirements:

- (a) Having a documented internal quality management system that meets the requirements of ISO 17021<sup>1</sup> or equivalent standards and conduct audits in accordance with procedures that meet ISO 19011<sup>2</sup> or equivalent standards;
- (b) Having experience in audits of management systems;
- (c) Having in place a mechanism for transparently handling complaints or grievances;
- (d) Having a range of competencies including audit, preferably in forest management, and sufficient expertise and experience in performing similar functions in other parts of the world, preferably in Africa;
- (e) Being able to demonstrate that its teams include experts with sufficient experience in Liberia and/or elsewhere in West Africa. The involvement of experts from the sub-region is to be encouraged alongside international experts;
- (f) Having a thorough understanding of the commercial forestry sector, preferably in Africa;
- (g) Having personnel with expertise in various fields of forestry, including forest management, processing, traceability and chain of custody systems, and international trade in timber and timber products.

The independent auditor may consider a partnership or joint venture with a Liberian organization.

## **8. SELECTION PROCESS AND INSTITUTIONAL ARRANGEMENTS**

The independent auditor will be recruited by competitive bidding (open to national and international entities). Bid evaluation will be transparent and all stakeholders will be informed of the criteria that will be applied. Due diligence conducted on the competing entities and the bid evaluation report will be made public.

## **9. OTHER REQUIREMENTS**

This section covers additional responsibilities of the independent auditor that are not addressed in other parts of these terms of reference.

### **9.1. Accessibility**

The independent auditor is expected to have a contact point in Liberia to make it accessible to the private sector, Government and civil society organisations.

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<sup>1</sup> ISO/IEC 17021:2006. Conformity assessment - Requirements for bodies providing audit and certification of management systems.

<sup>2</sup> ISO 19011:2002. Guidelines for quality and/or environmental management systems auditing.

## **9.2. Capacity-building and sustainability**

The independent auditor shall also:

- (a) Engage with civil society, the private sector and Government agencies in ways that enable Liberians to acquire a fair understanding of the independent auditor's work, for example from occasional workshops and briefing sessions;
- (b) Recruit qualified Liberians and build their individual capacity in how to conduct IAs of the LAS.

## **ANNEX VI**

### **CRITERIA FOR EVALUATION OF THE LEGALITY ASSURANCE SYSTEM**

This Agreement provides for implementation of a legality assurance system (LAS) intended to guarantee that all timber and derived products specified in this Agreement and exported from Liberia to the Union are produced entirely legally. The LAS should include:

- a definition of legally produced timber that lists the laws that must be complied with in order for a license to be issued,
- control of the supply chain to track timber from the forest to the point of export,
- verification of compliance with all elements of the definition of legality and control of the supply chain,
- the procedures for issuing FLEGT licenses, and
- the independent audit to ensure that the system is working as intended.

The LAS will be subject to an independent technical evaluation before the FLEGT licensing scheme becomes operational; the terms of reference will be jointly agreed between the Parties, via the Joint Implementation Committee (JIC) for this Agreement. These evaluation criteria describe what the LAS is expected to produce and will provide the basis for the terms of reference for the evaluation. The evaluation will:

- review any revisions made to the system after this Agreement was signed, and
- examine the functioning of the system in practice and whether it delivers the intended result.

## **1. DEFINITION OF LEGALITY**

Legally produced timber needs to be defined on the basis of the laws applicable in Liberia. The definition used must be unambiguous, objectively verifiable and operationally workable and, as a minimum, include those laws which cover:

- (a) Harvesting rights: granting of legal rights to harvest timber within legally gazetted boundaries;
- (b) Forestry operations: compliance with legal requirements regarding forest management, including compliance with relevant environmental and labour legislation;
- (c) Fees and taxes: compliance with legal requirements concerning taxes and fees directly related to timber harvesting and harvesting rights;
- (d) Other users: respect for other parties' legal tenure or rights of use of land and resources that may be affected by timber harvesting rights, where such other rights exist;
- (e) Trade and customs: compliance with legal requirements for trade and customs procedures.

Is it clear which legal instrument underpins each element of the definition?

Are criteria and indicators that can be used to test compliance with each element of the definition specified?

Are the criteria/indicators clear, objective and operationally workable?

Do the indicators and criteria clearly identify the roles and responsibilities of the various parties and does verification of legal compliance assess the performance of all relevant parties?

Does the definition of legality include the main areas of existing law outlined above? If not, why were certain areas of law left out of the definition?

In drawing up the definition, did the parties concerned consider all the main areas of applicable law?

Does the legality assurance system incorporate the main legal provisions identified by prior discussion between the various parties involved?

Does the legality definition account for all possible sources of timber that enter the supply chain intended for the Union and are appropriate indicators developed for different sources/rights allocation procedures?

Have the definition of legality and the legality assurance matrix been amended since this Agreement was concluded? Have indicators and criteria been defined to ensure verification of these changes? Were all relevant stakeholders consulted about these changes in a process that took adequate account of their viewpoints?

## **2. CONTROL OF THE SUPPLY CHAIN**

Systems to control the supply chain must provide credible assurance that timber products can be traced throughout the supply chain from harvesting or the point of import to the point of export. It will not always be necessary to maintain physical traceability for a log, log load or timber product from the point of export back to the forest of origin, but it is always needed between the forest and the first point of possible mixing (e.g. a timber terminal or a processing facility).

### **2.1. Logging rights**

There is clear delineation of areas where forest resource rights have been allocated and the holders of those rights have been identified.

Does the control system ensure that only timber originating from a forest area with valid and permissible rights of use enters the supply chain?

Does the control system ensure that enterprises carrying out harvesting operations have been issued appropriate logging rights for the forest areas concerned?

Have the procedures for issuing logging rights and information on logging rights issued and their holders been published as required by Liberian legislation?

## 2.2. Systems for controlling the supply chain

There are effective mechanisms for tracing timber throughout the supply chain from harvesting to the point of export.

The approach for identifying timber may vary, ranging from use of labels for individual items to reliance on documentation accompanying a load or batch. The method selected must reflect the type and value of the timber and the risk of contamination with illegal or unverified timber.

Are all the supply chain alternatives identified and described in the control system?

Are all stages in the supply chain identified and described in the control system?

Are methods defined and documented to (a) identify the product origin and (b) prevent mixing with timber from unknown sources in the subsequent stages of the supply chain, i.e.:

- timber in the forest,
- transport,
- interim storage,
- arrival at the primary processing facility,
- processing facilities,
- interim storage,
- transport,
- arrival at the point of export?

Which organisations are in charge of controlling the timber flows? Do they have adequate human and other resources for carrying out the control activities?

Is there a protocol for verifying the results of the control procedures set up and applied?

Are the application procedures clearly defined and communicated to all interested parties?

## 2.3. Quantities

There are robust and effective mechanisms for measuring and recording the quantities of timber or timber products at each stage of the supply chain, including reliable and accurate pre-harvest estimates of the volume of standing timber in each harvesting site.

Does the control system produce quantitative data on inputs and outputs at the following stages of the supply chain:

- standing timber,
- logs in the forest,
- transported and stored timber,
- arrival at the primary processing facility,
- control within the processing facilities,
- arrival at the point of export?

Which organisations are responsible for feeding the quantitative data into the control system? How are these organisations linked? Are the staff of these organisations given standard training in data management? Do the organisations have adequate resources in terms of personnel and equipment?

What is the quality of the data control?

If different organisations are responsible, how is it ensured that control performance and data management are conducted in the same way and with the same standard by each organisation?

## **2.4. Data Gathering**

All data are recorded in a way which makes it possible to reconcile them with the prior and subsequent links in the chain in a timely manner. Reliable reconciliation is carried out for the entire supply chain.

Are all quantitative data recorded in a way which makes it possible to reconcile quantities quickly with the prior and subsequent stages in the supply chain?

Are there methods for assessing correspondence between standing timber, harvested logs and timber entering the plant/point of export?

Are there methods to assess coherence between inputs of raw materials and outputs of processed products at sawmills and other plants?

Is reliable reconciliation by individual item or by batch of timber products possible throughout the supply chain?

Which information systems and technologies are applied for storing, reconciling and recording data? Are robust systems in place for securing the data?

How is unauthorised access to the system avoided (system security)?

How is the viability of the security systems guaranteed?

Which organisation is responsible for data reconciliation? Does it have adequate human and other resources for carrying out the data management activities?

What information on the supply chain control is made publicly available?

How can the interested parties access this information?

## **2.5. Imported Timber Products**

There are adequate controls to ensure that imported timber and derived products have been imported in line with legal requirements and procedures established to ensure imports have been legally harvested following the legal requirements of the country of harvest.

How is the legality of imported timber products demonstrated?

What evidence is required to demonstrate that imported products originate from trees harvested legally in a third country?

Does the LAS identify imported timber products throughout the supply chain?

Where imported timber is used, can the country of origin be identified on the FLEGT license, including that of components in composite products?

Does the use of bar codes on imported timber guarantee that only forestry products that have been legally logged and processed will be exported with a FLEGT license?

### **3. VERIFICATION**

Verification provides adequate checks to ensure the legality of timber. It must be sufficiently robust and effective to ensure that any non-compliance with requirements, either in the forest or within the supply chain, is identified and corrective action is taken in good time.

#### **3.1. Organisation**

Verification is carried out by a Government, a third-party organisation or some combination of these, which has adequate resources, management systems and skilled and trained personnel, as well as robust and effective mechanisms to control conflicts of interest.

Has the Government appointed a body or bodies to undertake the verification tasks? Is the mandate (including associated responsibilities) clear and in the public domain?

Are the responsibilities clearly allocated and are the required competences associated with the responsibilities clearly defined? How are they implemented?

How do the departments responsible for verifying legality guarantee the highest possible level of rationalised collaboration and data management between the administrations involved in forestry sector control?

Does the verification body have adequate resources for carrying out the verification of the legality definition and the systems for controlling the timber supply chain?

Does the verification body have a fully documented management system that:

- ensures adequate competence/experience amongst the personnel of the verification body,
- applies internal control/supervision,
- includes mechanisms to control conflicts of interest,
- ensures the transparency of the system,
- defines and applies a verification method,
- uses a publicly accessible complaints management system?

#### **3.2. Verification against the Definition of Legality**

There is a clear definition setting out what has to be verified. The verification method is documented and ensures that the process is systematic, transparent and evidence-based, is carried out at regular intervals and covers everything included within the definition.

Does the verification method cover all elements of the legality definition and include tests of compliance with all the indicators specified?

Does verification require:

- checks of documentation, operating records and field operations (and spot checks),
- collection of information from external interested parties,
- recording of verification activities that allows checking by internal auditors and the independent auditor?

Are institutional roles and responsibilities clearly defined and applied?

Are the verification results against the definition of legality made publicly available? How can the interested parties access this information?

### **3.3. Verification of systems for controlling the supply chain**

There is a clear scope setting out what has to be verified, which covers the entire supply chain from harvesting to export. The verification method is documented and ensures that the process is systematic, transparent, evidence-based, carried out at regular intervals and covers everything included within the scope, and includes regular and timely reconciliation of data between each stage in the chain.

Does the verification method fully cover checks on supply chain controls?

Is this clearly spelt out in the verification method?

What evidence is there to demonstrate application of verification of supply chain controls?

Are institutional roles and responsibilities clearly defined and applied?

Are the verification results on supply chain control made publicly available? How can the interested parties access this information?

### **3.4. Non-compliance**

The non-compliance mechanism makes it possible to deal with any cases of non-compliance with the requirement of legality verification. There is an effective and functioning mechanism for enforcing appropriate corrective action where offences are identified.

Does the verification system define the above requirement?

Have mechanisms been developed for handling non-compliance? Are these applied in practice?

Are there adequate records available on the offences identified and corrective action taken? Is the effectiveness of corrective action evaluated?

What information on identified breaches goes into the public domain?

### **3.5. Complaints**

A complaints mechanism makes it possible to deal with any complaint relating to legality verification.

Is there a complaints mechanism available to all interested parties? Do the verification bodies have mechanisms in place to receive and respond to objections from stakeholders or independent observation? Do the verification bodies have mechanisms in place to receive and respond to infringements/breaches detected by Government officials?

Is it clear how complaints are received, documented, escalated (where necessary) and responded to?

## **4. LICENSING**

Liberia has assigned a licensing authority overall responsibility for issuing FLEGT licenses. FLEGT licenses are issued on the basis of individual shipments.



#### **4.1. Organisation**

Which body is assigned responsibility for issuing FLEGT licenses?

Are the roles of the licensing authority and its personnel with regard to issuing FLEGT licenses clearly defined and publicly available?

Are the competence requirements defined and internal controls established for the personnel of the licensing authority?

Does the licensing authority have adequate resources for carrying out its task?

#### **4.2. Issuing of FLEGT Licenses**

Does the licensing authority have documented procedures for issuing licenses?

Are these publicly available, including any fees payable?

What evidence is there that these procedures are properly applied in practice?

Are adequate records available on licenses issued and refused?

Do the records clearly show the evidence on which the issuing of licenses is based?

Are the requirements for licenses clearly specified and available to the exporter?

Do exporters fully understand the criteria for issuing FLEGT licenses?

Which information on licenses issued goes into the public domain?

#### **4.3. Procedures to handle queries on licenses issued**

Can the competent authorities of Union Member States obtain clarification on FLEGT licenses issued?

Have clear procedures been established for communication between the licensing authority and competent authorities in the Union?

Are there channels for other national or international stakeholders to inquire about the FLEGT licenses issued?

#### **4.4. Mechanism for handling complaints**

There is a mechanism for handling complaints and disputes that arise from licensing. This mechanism makes it possible to deal with any complaint relating to operation of the licensing scheme.

Is there a documented complaints mechanism available to all interested parties?

Is it clear how complaints are received, documented, escalated (where necessary) and responded to?

### **5. INSTRUCTIONS ON THE INDEPENDENT SYSTEM AUDIT**

The independent audit (IA) is a function that is independent from Liberia's regulatory bodies for the forestry sector. It aims to provide credibility to the FLEGT licensing scheme by checking that all aspects of the LAS are operating as intended.

## **5.1. Institutional Arrangements**

### **5.1.1. Designation of Authority**

Liberia has formally authorised the IA function and allows it to operate effectively and transparently.

### **5.1.2. Independence from other elements of the LAS**

There is a clear separation between organisations and individuals that are involved in management or regulation of forest resources and those involved in the IA.

Does the Government have documented requirements for the independence of the independent auditor?

Do provisions state that organisations or individuals from both Parties with a commercial interest or an institutional role in the forestry sector are not eligible to perform the independent auditor function?

### **5.1.3. Designation of the Independent Auditor**

The independent auditor was appointed by a transparent mechanism and there are clear and publicly available rules regarding its activities.

Has the Government made the terms of reference for the independent auditor publicly available?

Has the Government documented the procedures for appointing the independent auditor and made them publicly available?

### **5.1.4. Mechanism for handling complaints**

There is a mechanism for handling complaints and disputes that arise from the IA. This mechanism makes it possible to deal with any complaint relating to operation of the licensing scheme.

Is there a documented mechanism for handling complaints that is available to all interested parties?

Is it clear how complaints are received, documented, escalated (where necessary) and responded to?

## **5.2. The Independent Auditor**

### **5.2.1. Organisational and Technical Requirements**

The independent auditor is independent from the other components of the legality assurance system and operates in accordance with a documented management structure, policies and procedures that meet internationally accepted best practice.

Does the independent auditor operate in accordance with a documented management system that meets the requirements of ISO Guide 17021 or similar standards?

### **5.2.2. Audit Method**

The method of the IA is evidence-based and verifications are carried out at specific and frequent intervals.

Does the method specify that all findings must be based on objective evidence concerning the functioning of the LAS?

Does the method of the IA specify the maximum intervals at which each element of the LAS will be verified?

Does the Government provide assurance that the IA can access information and resources which enable it to perform its function effectively?

### **5.2.3. Scope of the Audit**

The independent auditor operates in accordance with terms of reference that clearly specify what has to be audited and that cover all agreed requirements for issuing FLEGT licenses.

Does the method of the IA cover all elements of the LAS and specify the main tests of effectiveness?

### **5.2.4. Reporting Requirements**

The IA shall submit a preliminary report to the Joint Implementation Committee (JIC). The reports of the independent auditor and any corrective action required will be discussed in the JIC.

Do the independent auditor's terms of reference specify the reporting requirements and reporting intervals?

Do the terms of reference of the auditor and the procedures of the JIC describe the procedure for publishing audit results?

## **6. EVALUATION CRITERIA OF THE SYSTEM ESTABLISHED IN THE UNION TO ACCEPT FLEGT LICENSES**

The FLEGT Regulation and the associated implementing measures lay down procedures for establishing the FLEGT licensing scheme, including procedures to verify that Liberian timber products intended for release for free circulation within the Union are properly covered by a FLEGT license. These procedures also require the Member States of the Union to designate a competent authority to take on this responsibility.

Since these are new measures introduced specifically to implement the FLEGT scheme, the evaluation will examine the degree of preparedness of the Union for verification of the FLEGT licenses.

Have the competent authorities been identified in each Member State of the Union? Has this information been made public?

Have the procedures for processing the FLEGT licenses been established in every Member State of the Union? Have these procedures been made public?

Have appropriate laws and regulations been established where deemed necessary by the Member States of the Union?

Have the means of communication between the competent authorities and the customs authorities been determined?

Have procedures been established to enable the Union, or any person or body designated by the Union, to gain access to relevant documents and data and to avoid any problems arising that could hamper the proper functioning of the FLEGT licensing scheme?

Have procedures been established to enable the independent auditor to gain access to all relevant documents and data?

Have reporting methods been negotiated between the Member States of the Union and the European Commission? Have procedures for publication of these reports been adopted?

Do procedures cover cases where goods accompanied by a FLEGT license are not accepted? Have procedures been established to report any contradictions in the licenses and to deal with offences?

Has the information relating to fines for various offences been published?



## ANNEX VII

### IMPLEMENTATION SCHEDULE

This schedule indicates major milestones on the path in implementing the Voluntary Partnership Agreement (VPA). Development of systems, further development of the legal framework, capacity-building and other supporting measures required to establish an effective, fully functioning national legality assurance system will all start once the VPA has been agreed and initialled. However, ratification of the VPA could take some time and the formal structure of the Joint Implementation Committee (JIC) and consequent reporting and monitoring obligations will not be put in place until the VPA has been ratified by both Parties and enters into force, as described in Article 31 of this Agreement. In the mean time a mechanism for dialogue will be created (Article 19). As shown in the indicative schedule, activities planned for 2011 will commence once the VPA is initialled.

Key outputs	Milestones (Activities)	2011	2012	2013	2014	2015	2016	2017
		Preparatory Phase			Operational Phase			
VPA implementation structures established	Interim VPA Union-Liberia dialogue structure (pre-JIC) established	X						
	Interim stakeholder committee established (e.g. Steering Committee for VPA negotiations)	X						
	JIC established		X					
	JIC reporting established		X					
	Annual reports produced		X	X	X	X	X	X
	JIC procedures established		X					
	National implementation structures:							
	Cross department coordination mechanism(s) established		X					
National stakeholder committee for monitoring implementation of the VPA established		X						
Liberia Licensing Department (LLD) fully equipped, staffed and operational				X				

<b>Key outputs</b>	<b>Milestones (Activities)</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
		Preparatory Phase			Operational Phase			
Capacity improved	A comprehensive five-year training and investment plan	X						
	Implementation of capacity-building investment plan			X	X	X	X	X
	Training for commercial private sector		X	X	X			
	Outreach to small-scale chainsaw operators		X	X	X	X	X	
	Outreach by civil society to build capacity of communities	X	X	X	X	X	X	
Financial mechanism established and resources secured for effective implementation of the VPA	Mechanism established to coordinate and deliver external donor and national support for implementation of the VPA	X	X					
	Development of short-term and long-term implementation plan targeting potential sources of support for VPA action	X	X					
	Support secured		X	X				
	Long-term sustainable national financing secured for operation of the LAS						X	X

Key outputs	Milestones (Activities)	2011	2012	2013	2014	2015	2016	2017
		Preparatory Phase			Operational Phase			
Legality assurance system: legality verification established	Systems developed							
	COCS revised to incorporate VPA requirements		X	X				
	Legality verification procedures incorporating new regulatory requirements developed		X	X				
	Data management systems developed to incorporate VPA requirements		X	X				
	Detailed procedures and guidance developed for abandoned logs and confiscated timber		X	X				
	Detailed procedures and guidance for imported timber		X	X				
	Domestic market and informal sector integrated into the LAS					X		
	Agriculture-sourced products integrated into the LAS (rubber and other plantation wood)			X				
	Institutions strengthened							
	External service provider (ESP) contracted		X					
	Government body established to oversee service contract	X						
	ESP building and operating the LVD (including working with FDA staff seconded to ESP)		X	X	X	X	X	
ESP building capacity of different government agencies for legality verification as prescribed in detailed procedures			X	X				
Transfer of verification functions to the LVD in the FDA (detailed transfer in key stages to be integrated into contract)						X	X	



Key outputs	Milestones (Activities)	2011	2012	2013	2014	2015	2016	2017
		Preparatory Phase			Operational Phase			
Legality assurance system: licensing established	Licensing procedures developed by the LLD		X					
	Export permits phased out and application of the new licensing system by LLD			X				
	FLEGT licensing for exports to Union and other markets				X	X	X	X
	Mechanisms to communicate with Union competent authorities established			X				
Legality assurance system: independent audit established	Independent auditor contracted		X					
	Operating procedures developed and agreed with the JIC			X				
	Independent audits initiated and reports published			X	X	X	X	X
FLEGT licenses accepted in the Union	External evaluation of functioning of the LAS and Union procedures; adjustments made if necessary (see Annex VI)			X				
	JIC confirms date when Union starts to accept FLEGT licenses			X				
	LAS operational and Union accepting licenses				X			
Civil society monitoring established	Capacity-building for civil society (CS) to conduct monitoring		X	X				
	CS monitoring designed in detail		X					
	CS monitoring established			X	X	X	X	X

Key outputs	Milestones (Activities)	2011	2012	2013	2014	2015	2016	2017
		Preparatory Phase			Operational Phase			
Law enforcement and regulatory framework improved	Community forest regulations adopted		X					
	Legality definition (LD) updated			X				
	Chainsaw regulations adopted		X					
	LD updated			X				
	Regulation on abandoned logs in concession areas adopted			X				
	Regulations on transit timber adopted			X				
	Detailed procedures and guidance for timber in transit adopted		X	X				
	Regulations on timber imports adopted			X				
	Regulations for confiscated timber adopted			X				
	Refinement of procedures for social agreements and other social and environmental provisions in place		X	X				
	Amendments to the LD			X				X
Review of regulations framed in the LD, based on practical experience of implementation of the LAS							X	
Law enforcement capacity strengthened			X	X	X			

<b>Key outputs</b>	<b>Milestones (Activities)</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
		Preparatory Phase			Operational Phase			
Regulation and monitoring of domestic market established	Procedures for legal verification for the domestic market established in the LAS (integration in the legality verification and in COCS)			X	X			
	Establishment of information-gathering system				X			
	Assessment of contribution by the informal sector to the national (local) economy (regular monitoring will be established subsequently)						X	
	Training of chainsaw operators to work with new regulations and procedures			X	X	X	X	X
Monitoring the impact of the VPA	Monitoring organisation(s) for baseline studies engaged		X					
	Monitoring framework agreed by the JIC		X					
	Routine monitoring, with reporting to the JIC			X	X	X	X	X

Key outputs	Milestones (Activities)	2011	2012	2013	2014	2015	2016	2017
		Preparatory Phase			Operational Phase			
Communication	A costed communication plan for raising public awareness prepared (P) and implemented (I)		P	I	I	I	I	I
	Trade shows with trading partners to promote the benefits of FLEGT-licensed timber			X		X		X
	Public information sites and capacity established (see Annex IX)	X	X	X				
	Guidelines for developing social agreements	X	X				X	
	Targeted guidance for LAS compliance for different stakeholders		X	X	X	X		
	VPA monitoring and JIC reports published		X	X	X	X	X	X

## ANNEX VIII

### SUPPORTING MEASURES

#### 1. BACKGROUND

The forestry sector in Liberia is in a process of recovery and redevelopment following the lifting of the UN sanctions against logging in 2006. The new legislative framework is in place and areas of forest have been identified for conservation and for commercial and community forest operations. New regulations are being developed to regulate the informal sector, known as "chainsaw logging", which supplies mainly the domestic market.

A review of the capacity of government services, private-sector operators and civil society to perform functions prescribed in the new legal and policy frameworks, carried out in December 2010 in preparation for the Voluntary Partnership Agreement (VPA), points to a large gap between the intended functions and the actual capacity. Effective operation of the legality assurance system (LAS) described in this Agreement will require strengthened capacity for core regulatory functions alongside the upgrading of systems described in Annex II.

Liberia will take a range of supporting measures, as indicated in Article 15(1) of this Agreement, in cooperation with the Member States of the Union, the European Commission and other development partners in order to implement this Agreement effectively. These include measures to:

- (a) Establish implementing structures to ensure effective coordination;
- (b) Build capacity of key stakeholders;
- (c) Establish the legality assurance system;
- (d) Strengthen the legal and regulatory framework;
- (e) Monitor domestic trade in timber and its importance to the national economy;
- (f) Monitor the impact of the VPA, including on communities and private-sector operators;
- (g) Monitor implementation of the VPA;
- (h) Communicate with national and international stakeholders;
- (i) Update the strategic framework for the forest sector.

Possible supporting measures are outlined below. These will be further developed into detailed action plans, including investment schedules, at an early stage of implementation of the VPA.

#### 2. IMPLEMENTING STRUCTURES

Institutional structures will be established to enable smooth operation and coordination between government and non-government bodies involved in implementing the VPA. In particular, drawing on existing structures two new departments will be created within the Forestry Development Authority (FDA), the Liberia Verification Department (LVD) and the Liberia Licensing Department (LLD). A mechanism for coordination between government agencies and increasing capacity in existing departments to take on new functions will be one priority for the first year. In particular, a structure to manage the outsourced verification/chain of custody system (COCS) contract will be established in the first year of implementation. In preparation for implementation, technical support to plan for and build capacity needed will be a priority (e.g. staff job descriptions, recruitment, engagement of experts and inter-agency communications between the FDA and other line agencies e.g. the Environmental Protection Agency and the Ministries of Commerce and Industry, Labour, Agriculture and Finance (Bureau of Concessions and Bureau of Customs)).

### **3. CAPACITY-BUILDING**

Capacity-building will be required for all parties involved in implementing the VPA. Planning for this should take into consideration on-going and planned sector support, as indicated in Article 15 of this Agreement. Capacity-building encompasses: (a) technical training for government agencies, in particular the FDA, the Environmental Protection Agency and Customs; (b) training for FDA staff working with the external service provider; (c) training for civil society groups to enable them to monitor LAS operations and help communities to participate in forestry-related action; (d) assistance for chainsaw loggers' groups in cooperative formation and technical skills; (e) training in information management for the LAS and capacity routinely to analyse and publish information on the sector; and (f) increased capacity with the aid of technology, including provision of adequate equipment, software and communication equipment.

In order to guide the significant capacity-building task and drawing on the capacity gap analysis carried out in December 2010, Liberia will develop a comprehensive costed five-year training plan, reflecting ongoing or planned initiatives, differentiating between on-the-job training by the verification/COCS service provider and other training required and identifying training that can be covered by existing initiatives and that for which additional training tailored to VPA requirements is needed.

Furthermore, Liberia will develop a five-year investment plan, identifying the needed equipment and its operating costs, facility construction or refurbishment and maintenance, investments that will be procured by the service provider for eventual handover, those procured under existing funded initiatives and those which will need additional funding. As indicated in Article 15 of this Agreement, the Parties will work together under existing arrangements to secure the resources needed for this capacity-building.

### **4. FINANCING MECHANISMS**

Detailed budgets for all the measures described in this Annex will need to be developed and financing arranged. The latter will include determining the contribution that Liberia can provide from its own resources, establishing what will be required from donors and identifying and engaging potential donors. Key measures may include:

- (a) Establishing the financial delivery mechanism;
- (b) Developing a comprehensive short-term and long-term budget and detailed proposals and sources for funding implementation of the VPA;
- (c) Identifying support from Liberia's resources and support needed from the Union and other development partners, including coordination of existing donor support where relevant;
- (d) Securing funds.

### **5. ESTABLISHING THE LAS**

The LAS will build on existing systems and structures already operating in Liberia. Support is required to upgrade systems to ensure verification of compliance with the legality definition referred to in Annex II, by means of the procedures outlined in that Annex. The supporting measures will focus on action needed to establish the functional capacity across a number of different government agencies and on introducing independent audit. They involve establishing the legality verification function, the FLEGT licensing system and the independent audit function, and upgrading the existing COCS to meet LAS requirements.

### **5.1. Establishing the Legality Verification System**

Liberia will contract an external service provider to build, operate, and transfer the legality verification and COCS over a five-year period. A central part of the task will be building the capacity of line government agencies to deliver the functions needed. The external service provider will work directly with staff of the FDA seconded into their service who, in the long run, will become the LVD. Key measures may include:

- (a) Engage a qualified client's representative to assist with drawing up detailed specifications and contract documents for the service provider and with selection procedures;
- (b) Advertising for receiving, shortlisting and evaluating proposals for the service provider;
- (c) Negotiating a contract with the service provider on a build-operate-transfer basis;
- (d) Transferring relevant FDA staff to the service provider;
- (e) Establishing an oversight structure to monitor the service provider;
- (f) Building and operating the LAS described in Annex II to this Agreement;
- (g) Integrating mill processes and production of rubber-wood chips into the COCS;
- (h) Integrate imported timber and confiscated timber into COCS;
- (i) Extending the LAS to include timber produced for the domestic market;
- (j) Transferring systems operated by the service provider to the FDA.

### **5.2. Establishing the Liberia Licensing Department**

The FDA will establish a Licensing Department that will be responsible for FLEGT licensing all exports. It will develop the detailed procedures for FLEGT licensing and ensure coherence with export procedures, phasing out the current system of export permits as the FLEGT licensing system becomes operational. To this end, key measures may include:

- (a) With expert assistance as appropriate, developing additional routines to adjust the current export permit system for FLEGT licensing;
- (b) Establishing the Department within the FDA;
- (c) Recruiting staff and a technical advisor;
- (d) Drafting regulations on export licensing;
- (e) Phasing out export permits;
- (f) Issuing FLEGT licences;
- (g) Establishing mechanisms for communication with Union competent authorities.

### **5.3. Establishing Independent Audit mechanism**

As indicated in Annex V, Liberia will contract an independent auditor (IA) to ensure smooth operation of the LAS and to lend credibility to the systems, for international markets in particular. Liberia will contract the IA in consultation with the Union following Liberia's procurement procedures and following the guidance established in Annex V. To this end, key actions may include:

- (a) Advertising for, short-listing, selecting and negotiating with IA;
- (b) Developing detailed procedures for the Independent Audit to be agreed with the Joint Implementation Committee (JIC);
- (c) Initiating independent audits;
- (d) Establishing capacity for reviewing and reporting.

#### **5.4. External review of the operational LAS**

As indicated in Annex VI, the LAS will be subject to an independent technical evaluation before the licensing scheme becomes fully operational and before the Union authorities will accept FLEGT licenses. Key measures may include:

- (a) Conducting an independent evaluation of the LAS, reviewing results and adjusting systems if necessary;
- (b) Informing the JIC of evaluation results and agreeing on a date when the licensing scheme will "go live" and the Union authorities will be required to verify FLEGT licenses before entry to the Union market.

### **6. STRENGTHENING LAW ENFORCEMENT AND THE REGULATORY FRAMEWORK**

Parallel to implementation of the LAS, Liberia will examine the efficiency of the regulatory and enforcement system and the coherence of the legal framework applicable to the forestry sector and introduce improvements where necessary. Development of the legality definition and the consultations and field testing that took place during its development have brought to light some areas of the regulations that need further amendment to provide clear guidance to economic operators. Key measures may include:

- (a) Providing for a regulatory review after five years of implementation of the LAS that will allow time to identify practical concerns in application and verification of legal compliance;
- (b) Improving the following areas of the legal framework; guidelines for negotiation of Social Agreements; community forestry regulations; procedures for handling abandoned logs; procedures for handling timber confiscated due to violation of the law; guidelines on how independent certification schemes will be integrated into the LAS; procedures for producing the debarment list; procedures for tracking timber through processing facilities; regulations on third-party access and use of resources in a concession area; regulation of chainsaw logging; regulations for timber import and timber in transit; improvement of EIA processes and environmental management within timber contract areas;
- (c) Strengthening the regulations on the safety and welfare of workers involved in the logging industry;
- (d) Any necessary readjusting of the legality verification matrix described in Annex II as a result of changes to laws and regulations.

### **7. MONITORING THE DOMESTIC TIMBER MARKET**

The domestic market for timber is very important for the national economy, but poorly understood and largely unregulated. Liberia will adopt new regulations, to help it work with small-scale chainsaw operators. Production for the domestic trade will be integrated into the LAS and regulatory measures will be adopted to ensure better regulation, fair trade and environmental safeguards in what is currently an informal sector operating outside the regulatory system. Key measures may include:



- (a) Organising of the domestic timber market;
- (b) Improving of the legal framework relating to the domestic timber market;
- (c) Establishing an information system;
- (d) Establishing a suitable traceability system for timber sold on the domestic market;
- (e) Integrating domestic timber sales into the LAS.

## **8. MONITORING THE IMPACT OF THE VPA IMPACTS**

Monitoring the social, environmental and market impact of the VPA, in general and with particular emphasis on forest-dependent communities is necessary to ensure that the VPA is delivering its intended aims. To this end, key measure may include: designing a monitoring framework, including baselines and agreed indicators covering elements such as improvements in governance structures, allocation of forest use right, social agreements and benefit-sharing with affected communities, volumes of regulated timber compared with volumes still unregulated, evidence of law enforcement, volumes of timber confiscated and its disposal, efficiency of revenue capture, efficiency of revenue disbursement to affected communities, markets for Liberia's timber and the impact of the VPA impact on its competitiveness. The JIC will establish effective monitoring as indicated in Annex X.

## **9. MONITORING IMPLEMENTATION OF THE VPA**

The JIC will have overall responsibility for monitoring implementation of the VPA. This will include review and action in response to the Independent Audit reports, and reviews of the impact monitoring described above. In addition, other stakeholders including civil society will monitor implementation of the VPA and, in so doing, contribute to effective implementation of the LAS. The JIC will receive reports from stakeholders and ensure that an effective complaints mechanism is in place for addressing problems identified. Key measures may include:

- (a) Supporting the national multi-stakeholder monitoring committee described in Article 16 to this Agreement in holding regular open public consultations on implementation of the VPA, where stakeholders will be able to give feedback;
- (b) Monitoring by civil society, including ensuring that community-level concerns are articulated and communicated to the LVD, LLD and IA, the national multi-stakeholder monitoring committee and to the JIC.

## **10. COMMUNICATION**

Communication supports implementation of the VPA and is essential to redress the negative image of the sector given the difficult historical background of Liberia and its timber industry. The VPA is an opportunity to work towards transparency, accountability and legality. The value of communicating about the government efforts to improve governance in the forest sector cannot be overemphasised. The VPA will affect not only the administration, but also different stakeholder groups and the broader public and therefore requires a comprehensive communication strategy that will provide all the necessary information on the VPA, its impact and its benefits, not only in economic, but also environmental and social terms. Communication on action planned and achievements under the VPA will aim to:

- (a) Encourage involvement and guarantee the coherence of actions by various stakeholders;
- (b) Ensure public access to information to facilitate monitoring;
- (c) Promote the image of Liberian timber on the international market;

- (d) Secure public support for the action taken by Liberia to promote sustainable forest resource management and development of the communities that depend on it; and
- (e) Promote the benefits of a VPA among the stakeholders and the wider public.

To this end, Liberia will support measures to ensure effective communication of the ambition and results of the VPA. Key measures may include:

- (a) Preparing and implementing a communication strategy with the goal of raising public awareness via modern and traditional media to keep the public and the timber trade informed about implementation of the VPA and its impact and benefits;
- (b) Identifying appropriate target groups and designing specific printed and electronic messages concerning the VPA for each target audiences with regular updates;
- (c) Establishing an information exchange platform for consistent dissemination of information to domestic and international partners, including considering where it should be located in the overall implementing structure;
- (d) Organising trade shows involving prospective trading partners to promote the benefits of FLEGT-licensed timber;
- (e) Putting systems in place for the appropriate government authorities to publish information and to respond to requests for information under the Freedom of Information Act, as indicated in Annex IX.

## **ANNEX IX**

### **PUBLIC INFORMATION AND TRANSPARENCY MEASURES**

In line with the desire of the Government of Liberia to adopt transparent and accountable natural resource management, as exemplified by the scrupulous implementation of the Extractive Industries Transparency Initiative (EITI), the Parties agree that publication of information and other transparency measures are essential for successful implementation of the Voluntary Partnership Agreement (VPA) as indicated in Article 21 of this Agreement. In this light, both Parties are committed to regularly publishing all information of interest to stakeholders and information to facilitate implementation and monitoring of the VPA. This Annex describes the information to be published by the Government of Liberia or that can be made available to the public under the Freedom of Information Act by the Government of Liberia.

#### **1. CATEGORIES OF INFORMATION THAT WILL BE ROUTINELY PUBLISHED**

The following information described below will be made available to the public by regular publication, as described in Sections 2.5 and 2.6 of the Freedom of Information Act 2010. The information may be provided by various means depending on the nature of the information and the target audience, for example:

- (a) Websites;
- (b) Multi-stakeholder implementation platform;
- (c) Public meetings;
- (d) Press conferences;
- (e) National radio and newspapers;
- (f) Brochures and newsletters.

As indicated in Annex VIII, a comprehensive communication strategy will be developed to support dissemination of information to all stakeholders using the most appropriate means.

### **1.1. Information relating specifically to the VPA**

- (a) The VPA and all its Annexes.
- (b) Reports produced by the Joint Implementation Committee (JIC), which must include the following information:
  - Number of FLEGT licenses issued by Liberia,
  - Number of rejected applications for FLEGT license applications,
  - Instances of non-compliance with the FLEGT licensing process in Liberia and measures taken to address such cases,
  - Annual quantities of timber and timber products exported to the Union,
  - Number of FLEGT licenses received by the Union,
  - quantities of timber and timber products imported into the Union under the FLEGT licensing scheme, by the Union Member State in which importation took place.
- (c) Reports produced by the independent auditor.
- (d) Procedures guiding the functioning of the JIC.
- (e) Aide-memoires and other reports by the JIC, including monitoring and impact studies as indicated in Annex X.
- (f) Procedures and terms of reference guiding the functioning of the national stakeholder committee for monitoring the VPA.
- (g) Guidelines for LAS compliance targeting different stakeholders.
- (h) Guidelines for social agreements.

### **1.2. Information on Management of the Forestry Sector**

- (a) Information about and documents from government agencies that exercise oversight over the forestry sector and that are required under the publication arrangements outlined in Sections 2.1–2.3 of the Freedom of Information Act 2010, to make such information routinely available, including:
  - Enabling legislation of the government agency or authority,
  - Its existing policy, procedures and rules,
  - Its budgets,
  - The financial accounts of the agency or authority,
  - Its organisation chart, including lines of reporting,
  - Material contracts,
  - Procedure for appealing against decisions by the authority or its officers,
  - Resolutions of the board of directors,
  - Audit reports,
  - Public comments, reports, strategies and manuals relating to the forest sector, pursuant to Section 18.15 of the National Forestry Reform Law.
- (b) All legislation, regulations and operating procedures that have been enacted by the Government of Liberia. This includes all aspects of the regulatory framework that are referred to in the Liberian legality definition in Annex II.

### **1.3. Information on Forest Resource Allocation**

- (a) Forest licenses issued, including timber sales contracts (TSC), forest management contracts (FMC), agreements and permits for operations and for processing wood products, including forest use permit (FUP) and private use permit (PUP).
- (b) Agricultural concession contract agreements pertaining to products listed in Annex I.
- (c) Documents relating to competitive bidding: pre-qualification evaluation panel report.
- (d) Concession contracts awarded.
- (e) Social agreements between forest communities and all contract or permit holders.
- (f) Maps of communal forests and their areas.
- (g) List and maps of all TSCs, PUPs, FUPs and FMCs awarded.

### **1.4. Information on Forest Resource Production**

- (a) Volumes and monetary values (as determined by approved FOB price lists) of harvested forest resources, processed forest products and exported forest products, reported as:
  - Total annual production,
  - By species produced under each forest resources licence.
- (b) Annual volume of timber and derived products imported into Liberia or transited through Liberia.

### **1.5. Information on Forest Fees and Revenues**

- (a) Schedule of all forestry-related fees and taxes.
- (b) FOB prices.

### **1.6. Information on Law Enforcement in Concession Areas**

- (a) Penalties imposed and the list of those who actually paid and those who did not pay or complied.
- (b) Annual volume of timber products sold at public auction and the monetary value of the sales.

## **2. INFORMATION AVAILABLE TO THE PUBLIC WHEN REQUESTED UNDER THE FREEDOM OF INFORMATION ACT**

The procedures for granting access to information, records or documents under this Annex will follow the procedures outlined in Chapter 3, Sections 3.1-3.14, of the Freedom of Information Act.

### **2.1. Information on Forest Resource Allocation**

- (a) Documents relating to pre-qualification which will be made available upon request after completion of the pre-qualification process:
  - List of pre-qualified companies.
- (b) Documents relating to competitive bidding which will be available upon request after the winning bid have been selected and all who submitted a bid have been notified:
  - bid documents,
  - bid evaluation panel report.

- (c) List of prohibited persons (i.e. persons prohibited from holding interests in commercial logging companies due to currently holding public office).
- (d) List of debarred persons (i.e. persons debarred from the Liberian logging industry due to involvement in use, management or harvesting of forest resources while aiding or abetting civil disturbances involving use of weapons).
- (e) List of suspended persons (i.e. persons suspended due to default on financial obligations related to forest use).
- (f) All documents, records and information relating to approved business and forest management plans.
- (g) Location and ownership of land subject to Forest Resources License.
- (h) Names of forest resource holders and brief description of the areas covered by the holder's forest resource licence (size of the area and type of forest resources).

## **2.2. Information on Forest Resource Production**

- (a) Volume and location of wood available for harvest under the annual coupe per concession.
- (b) Information held on the Liberian LAS database.
- (c) Annual volume of timber products consumed on the domestic market by type of product and species.

## **2.3. Information on Processing**

- (a) List of registered processing companies and their contact details.
- (b) Production capacity per processing unit by company.
- (c) Annual volume of logs processed by species and type of product per processor.

## **2.4. Information on Forest Fees and Revenues**

- (a) Amount of fees and taxes assessed on business entities in the forestry sector assessed by the Ministry of Finance and the amounts paid per forest resource contract-holder.
- (b) Amount of money received and disbursed by the Government to the Community Forestry Development Funds.
- (c) Amount of money received and disbursed by the National Community Benefit Sharing Trust.
- (d) Amount of money received and disbursed by the Trust to Community Forestry Development Committees, with a breakdown by project, date and affected community.
- (e) Outcomes of complaints from the public in connection with the County Forestry Development Fund and the National Benefit Sharing Trust or any Community Forestry Development Committee.

## **2.5. Information on Law Enforcement in Concession Areas**

- (a) Charges of violations, arrests, settlements and convictions associated with the operations under the forest resources licence as recorded by the FDA.
- (b) Forest resources license fee invoices and payment information.

### **3. PROCEDURE FOR ACCESS TO PUBLIC INFORMATION, RECORDS OR DOCUMENTS**

This Annex is in line with Liberia's Freedom of Information Act which makes it mandatory for every public institution and private entity that receives public resources and benefits or engages in a public function to outline how the public can gain access to different pieces of information.

The FDA and all other public agencies have developed, or are developing, procedures for making information available to the public.

To make this Annex operable, the procedures/guidelines/or instructions for responding to requests for information need to be developed and approved. In addition, the reporting and public disclosure provisions that apply to the LLD and the LVD will be further developed during the implementation of this Agreement.

## **ANNEX X**

### **FUNCTIONS OF THE JOINT IMPLEMENTATION COMMITTEE**

In application of Article 19 of this Agreement, the Parties shall establish a monitoring and decision-making structure designated the "Joint Implementation Committee" (JIC). The JIC shall be responsible for oversight and monitoring implementation of this Agreement. The JIC shall facilitate dialogue and exchanges of information on the functioning of this Agreement. In particular, the JIC shall:

- (a) as regards to the management of this Agreement:
  - 1. Publish a yearly report on implementation of this Agreement in accordance with Annex IX;
  - 2. Following the evaluation of the functioning of the legality assurance system (LAS) and based on the assessment criteria outlined in Annex VI, recommend the date on which the FLEGT licensing scheme will start operating;
  - 3. Review progress towards achieving the objectives and the time-bound action in this Agreement and matters relating to the implementation of this Agreement;
  - 4. Propose and/or take measures to improve the performance of this Agreement;
  - 5. Amend Annexes in accordance with Article 26 of this Agreement;
  - 6. Address matters of concern raised by either of the Parties and attempt to resolve any conflict that may arise in the course of the implementation of Article 10 of this Agreement;
  - 7. Address matters of concern raised by either of the Parties and attempt to resolve any conflict that may arise in the event of differences of opinion between the Parties in accordance with Article 24 of this Agreement;
  - 8. Publish reports and *Aide-Mémoire* making the workings of the JIC as transparent as possible;

(b) as regards monitoring and assessment of this Agreement:

1. monitor overall progress on the implementation of this Agreement, including the functioning of the LAS;
2. conduct regular joint missions to review the effectiveness of this Agreement and its impact, based on the information available;
3. monitor and report on the market situation at regular intervals, commissioning studies as necessary and recommending action to be taken in response to market intelligence reports;
4. assess the social, economic and environmental impact of this Agreement, in accordance with relevant good practice and criteria to be agreed by the Parties and address problems raised by these reviews and assessments;
5. identify difficulties associated with implementation of this Agreement and suggest suitable measures to address them;

(c) as regards the independent audit of this Agreement:

1. approve the independent auditor's procedural manual in accordance with Annex V;
2. review reports issued by the independent auditor and any complaint about the operation of the FLEGT licensing scheme on the territory of either of the Parties;
3. review reports or complaints relating to the working of the independent auditor and agree appropriate action to be taken;
4. publish reports of the independent auditor, as provided for in Annexes V and IX;
5. monitor, when applicable, action taken to address the problems identified by the independent auditor;

(d) as regards involving stakeholders in implementing and monitoring this Agreement:

1. provide recommendations on capacity-building needs for successful implementation of this Agreement and, if applicable, on the need to increase the capabilities of and participation by the private sector and civil society in monitoring compliance with laws and regulations relating to forest management in Liberia;
2. take appropriate measures to promote participation of concerned stakeholders in the implementation of this Agreement;
3. if necessary, establish working groups or other subsidiary bodies for areas of work requiring specific expertise or stakeholder perspectives.