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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	22 October 2024
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.:	COM(2024) 485 final
Subject:	ANNEX to the Proposal for a COUNCIL DECISION on the position to be taken on behalf of the Union in the Joint Monitoring and Review Committee under the Voluntary Partnership Agreement between the European Union and the Cooperative Republic of Guyana on forest law enforcement, governance and trade in timber products to the European Union, regarding the establishment of the rules of procedure of the Joint Monitoring and Review Committee and the working procedures for arbitration

Delegations will find attached document COM(2024) 485 final.

Encl.: COM(2024) 485 final



Brussels, 22.10.2024
COM(2024) 485 final

ANNEX 1

ANNEX

to the Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the Union in the Joint Monitoring and Review Committee under the Voluntary Partnership Agreement between the European Union and the Cooperative Republic of Guyana on forest law enforcement, governance and trade in timber products to the European Union, regarding the establishment of the rules of procedure of the Joint Monitoring and Review Committee and the working procedures for arbitration

DECISION No

**of the JMRC on the adoption of the Rules of Procedure of the JMRC referred to in Article
20 of the Agreement between the EU and Guyana**

THE JMRC,

Having regard to the Agreement between the EU and the Guyana, signed in Montreal, Canada, on 15 December 2022, and entered into force on 1 June 2023, and in particular Article 20(3) thereof,

Whereas:

1. The JMRC shall adopt its own Rules of Procedure and shall execute its functions as described in Annex X of the Agreement.
2. Pursuant to Article 20(2) of the Agreement, the Rules of Procedure are to be adopted by consensus of the Parties.
3. The Rules of Procedure shall be binding on the Parties.

THE JMRC HAS DECIDED AS FOLLOWS:

1. The Rules of Procedure of the JMRC are established as set out in the Annex to this Decision.
2. This Decision shall enter into force on ...

Done at ...

ANNEX

RULES OF PROCEDURE OF THE JMRC

Article 1

Representation of the Parties

1. The JMRC shall be composed of representatives of the Parties at Ministerial and/or senior official level.
2. The representation of the EU to the JMRC shall be led by the Head of the Delegation of the European Union to Guyana (or responsible for Guyana) and shall comprise representatives from the European Commission up to a maximum number of 10 representatives.
3. The representation of Guyana to the JMRC shall be led by the Minister for Natural Resources and shall comprise the Commissioner for Forests, officials from the Ministry of Natural Resources, the Ministry of Finance, the Ministry of Trade, Ministry of Labor, Ministry of Amerindian Affairs, any other Ministries or Government Agencies as needed, and the Forestry Commission, up to a maximum number of 10 representatives.
4. Each Party shall notify in writing the Secretariat (referred to in Article 7) the names, contact details and functions of its representatives to the JMRC. The representatives are deemed to have the authorisation of representing the Party until the date the Party has notified the Secretariat of a new representative.

Article 2

Chairmanship

The JMRC shall be jointly chaired by the Minister of Natural Resources on behalf of Guyana and the Head of the Delegation of the European Union to Guyana (or responsible for Guyana) on behalf of the EU. The Chairpersons may arrange to be represented by respective designees. The designee shall exercise all the rights of that Chairperson.

Article 3

Stakeholder observers

1. National stakeholders in Guyana from civil society, local and international NGOs, private sector and indigenous peoples shall be invited to attend as observers the meetings of the JMRC

and the Technical Committee of the JMRC, hereafter referred to as “stakeholder observers”, except for any sessions deemed by the Chairpersons to be reserved only for the representatives of the Parties.

2. The Secretariat shall invite relevant national stakeholder organisations from the civil society, local and international NGOs, private sector and indigenous peoples to nominate/elect in accordance with their respective own procedures their observers and alternates to the JMRC and the Technical Committee of the JMRC for a period of two years, as follows:
 - Civil Society and non-governmental organisations (NGOs) active in the field of forest- or environment-related matters: two (2) observers.
 - Indigenous peoples’ organisations: two (2) observers.
 - Private sector: two (2) observers.
3. The stakeholder organisations shall notify in writing the Secretariat the names, organisation and contact details of their nominated/elected observers, as well as of their alternates to the Secretariat. The stakeholders will also share the selection procedure of the observers with the Secretariat.
4. Stakeholder observers may submit to the Secretariat documents in relation to specific items on the agenda no later than 7 calendar days before the JMRC meeting. If the Secretariat confirms the relevance and added value of the submitted documents it shall mark them ‘For information’ and circulate them to the representatives of the Parties.
5. Observers shall not have voting rights or any decision-making role in relation to the decisions and recommendation to be adopted by the JMRC or by one of its bodies.

Article 4

Technical Committee of the JMRC

1. The JMRC shall be assisted in the performance of its duties by a Committee composed of representatives of the Parties at official level, hereafter referred to as “Technical Committee of the JMRC”.
2. The Technical Committee of the JMRC, hereinafter called ‘Technical Committee’, shall prepare the meetings and the deliberations of the JMRC, implement the decisions of the JMRC where appropriate and, in general, ensure continuity of the JMRC and the proper functioning of the Agreement. It shall consider any matter referred to it by the JMRC as well as any other matter which may arise in the course of the day-to-day implementation of the Agreement.

3. The Technical Committee shall be chaired jointly by the Head of Cooperation of the Delegation of the European Union to Guyana (or responsible for Guyana) and the Commissioner for Forests or their designates.
4. The representatives of the EU to the Technical Committee shall be officials from the Delegation of the European Union to Guyana and the European Commission.
5. The representatives of Guyana to the Technical Committee shall be officials from:
 - Ministry of Natural Resources
 - Ministry of Finance
 - Guyana Forestry Commission (GFC)
 - Or any other Ministry or Agency relevant for the implementation of the Agreement
6. The Technical Committee shall meet regularly and at minimum in advance of each JMRC meetings.
7. In the event that the Technical Committee meets independently of a meeting of the JMRC, joint minutes summarizing the discussions shall be drawn upon by the Facilitator and signed by the Chairpersons. The Secretariat shall share these with the JMRC Chairpersons.
8. The JMRC Secretariat shall provide administrative support to the Technical Committee.
9. The present Rules of Procedures shall be applied *mutatis mutandis* by the Technical Committee
10. The Technical Committee has no decision-making power, but may submit its recommendations to the JMRC.

Article 5

Sub-committees to the JMRC

1. According to Article 3.11 of Annex V of the Agreement, the Parties may establish sub-committees to the JMRC , as appropriate, to deal with specific areas related to the implementation of the Agreement. The JMRC shall determine the purpose, composition, duration, tasks and working methods of such sub-committees. The Parties shall appoint its representatives to the sub-committees and inform the Secretariat. All relevant correspondences, documents and communications between the contact points of each sub-committee shall be forwarded also to the Secretariat.
2. At each regular meeting, the JMRC shall receive reports from each sub-committee on its activities and progress, including recommendations to the JMRC for review and appropriate action.

3. Unless otherwise agreed by the JMRC, the present Rules of Procedures shall be applied *mutatis mutandis* by the sub-committees.
4. The sub-committees will have no decision-making power, but may submit recommendations to the JMRC.

Article 6

Experts and implementation entities

1. The Chairpersons may invite experts to attend the meetings of the Technical Committee and/or the JMRC as well as sub-committees on an ad hoc basis to provide information on specific subjects, and only for the parts of the meeting where such specific subjects are discussed.
2. The Chairpersons may agree to invite entities involved in the implementation of the Agreement (“implementation entities”), to attend the meetings of Technical Committee of the JMRC and/or the JMRC meetings as well as sub-committees or parts thereof as appropriate on an ad hoc basis to provide information and updates, as well as to receive guidance and advice on their activities and contribution to the implementation of the Agreement and the attainment of its objectives.

Article 7

Secretariat

1. An official of the Delegation of the European Union to Guyana and an official of the Guyana Forestry Commission shall jointly act as Secretariat of the JMRC (“Secretariat”). Each Party shall notify to the other Party the name, function/position and contact details of the official who is the member of the Secretariat. This official is deemed to continue acting as member of the Secretariat for the Party until the date the Party has notified to the other Party a new member.
2. The Secretariat shall provide administrative support to the JMRC and the Technical Committee, as well as any sub-committees set up by the JMRC.
3. The Secretariat shall be assisted in its tasks by the Facilitator referred to in Article 8.

Article 8

Facilitation

1. The JMRC shall engage the services of a person who shall be independent and impartial, to facilitate the interactions, dialogue and discussions between the Parties as well as between the Parties and the stakeholders in relation to the implementation of the Agreement, hereafter referred to as ‘Facilitator’.
2. The tasks of the Facilitator shall include the following:
 - support on all matters related to the organisation of the meetings of the JMRC, the Technical Committee, sub-committees including on the agenda, invitations, logistics and any other matter requested by the Secretariat.
 - facilitate the discussions during the meetings of the JMRC, the Technical Committee, sub-committees keep notes of the discussions and provide the draft Aide Memoire/Joint Minutes or summary of discussions as relevant.
 - Identify in association with the Parties all relevant stakeholders and support as necessary the processes for the nomination/election of the representatives as stakeholder observers.
 - Assist in the preparation of the Annual Report on the VPA implementation.
 - Identify and report to the Secretariat any issue in relation to the implementation of the Joint Implementation Framework and/or the VPA implementation at large.
 - Support upon request on issues related to funding, financing and donor coordination.
 - Identify and report to the Secretariat any issue in relation to synergies with other relevant initiatives, including but not limited to the Forest Partnership between Guyana and the EU and REDD+.
 - Respond to any request by the Secretariat and/or the Chairpersons of the JMRC, the Technical Committee, and sub-committees.
3. The Facilitator shall operate under the guidance and supervision of the Secretariat that shall remain at all times informed of the Facilitator’s activities.

Article 9

Documents

Where the deliberations of the JMRC and/or the Technical Committee are based on written supporting documents, such documents shall be numbered and circulated by the Secretariat as documents of the JMRC and shall be referred to in the Aide Memoire and/or Joint Minutes.

Article 10

Correspondence

1. The representatives of the Parties responsible for official communications concerning the implementation of the Agreement shall be the Head of the Delegation of the European Union to Guyana for the EU (or responsible for Guyana) and the Minister responsible for Finance (for Guyana) as set out in Article 22(1) of the Agreement
2. All correspondence to the JMRC shall be directed to the Secretariat. The Secretariat will inform how submissions can be done, for example, by written correspondence, email, other.
3. The Secretariat shall ensure that correspondence addressed to the JMRC is forwarded to the Chairpersons and, where appropriate, circulated as documents referred to in Article 9 to the representatives of the Parties. Correspondence from either of the Chairperson shall be sent to the recipients by the Secretariat and be numbered and circulated, where appropriate, to the other Party.
4. Either Party shall send all relevant documents to the Secretariat no later than 14 calendar days prior to the next JMRC meeting.

Article 11

Meetings

1. The JMRC shall meet at least twice a year, as provided for in Article 20(4) of the Agreement, or at the request of either Party.
2. By way of exception and if the Parties agree, the meetings of the JMRC, the Technical Committee, the sub-committees may be held virtually/by videoconference.
3. Each meeting of the JMRC shall be convened by the Secretariat at a date and place agreed by the Parties. The convening notice of the meeting shall be issued by the Secretariat to the representatives of the Parties no later than 28 calendar days prior to the start of the meeting, unless the Parties agree otherwise.
4. The Parties shall inform the Secretariat of the JMRC of the intended composition of the delegations attending the meeting no later than 14 calendar days before the start of the meeting.

Article 12

Agenda for the Meetings

1. A provisional agenda for each meeting shall be drawn up by the Secretariat on the basis of proposals made by the Parties. It shall be forwarded, together with the relevant documents, to the Chairpersons no later than 21 calendar days before the start of the meeting.
2. Additions or changes to the provisional agenda must be received by the Secretariat no later than 14 calendar days before the start of the meeting provided all relevant supporting documents are also received by the Secretariat together with the request for the additions or changes.
3. The agenda shall be adopted by the JMRC at the beginning of each meeting. Items other than those appearing on the provisional agenda may be placed on the agenda if the Parties so agree.
4. The Secretariat may with the agreement of the Chairpersons reduce the time periods specified in paragraphs 1 and 2 in order to take account of the requirements of a particular case.

Article 13

Aide-Mémoire

1. Draft minutes of each meeting shall be drawn up by the Facilitator.
2. The minutes shall, as a general rule, summarise each item on the agenda, specifying where applicable:
 - (a) The documents submitted to the JMRC
 - (b) Any statement the Chairpersons have agreed to be entered
 - (c) Conclusions in relation to specific items on the agenda. Conclusions reflect the outcome of discussion on a specific topic. They may, or may not, be linked to Recommendations.
 - (d) Recommendations adopted in accordance with Article 14 and
 - (e) Decisions adopted in accordance with Article 14.
3. The minutes shall also include a list of participants in the meeting.
4. The minutes shall be approved and signed by the Chairpersons at the end of the meeting (“Aide-Memoire”). The Secretariat shall share one original copy of those authentic documents with the Parties.

5. A Technical Committee of the JMRC convening independently of a JMRC, shall issue its own minutes summarizing discussions on each item of its agenda. These discussions will be incorporated in the relevant JMRC meetings.

The Aide-Memoire shall be made public.

Article 14

Decisions and Recommendations

1. The JMRC may adopt Decisions and/or Recommendations in respect of all matters where the Agreement so provides. As provided for in Article 20(2) of the Agreement, decisions and recommendations shall be adopted by consensus.
2. Decisions and/or Recommendations shall be binding on the Parties and shall enter into force after completion of the respective internal procedures of each Party.
3. In the period between meetings, the JMRC may adopt decisions or recommendations by written procedure if the Parties so agree. A written procedure shall consist of an exchange of notes between the Parties. The Chairpersons shall have the power to exchange such notes and to confirm the agreement on any decision, as necessary. The written procedure shall have a time limit of no more than 21 calendar days within which other Party must make known any reservations or amendments it has.

Within 21 days after receipt of the written procedure, a Party may request in writing to the other Party that the proposal be discussed in the next JMRC meeting. Such request automatically suspends the written procedure.

A proposal on which there have been no reservations within the time limit set for a written procedure shall be considered adopted by the JMRC.

Adopted proposals shall be recorded in the Aide Memoire of the next meeting of the JMRC.

4. Decisions or recommendations shall be entitled 'Decision' or 'Recommendation' respectively and shall be followed by a serial number, the date of adoption and a description of their subject-matter. Each decision shall provide for the date of its entry into force.
5. Decisions and recommendations adopted by the JMRC shall be authenticated by making an authentic copy signed by the Chairpersons of the JMRC available for each Party.

Article 15

Languages

1. The official language of the JMRC shall be English.
2. Unless otherwise decided, the JMRC shall base its deliberations on documentation and proposals prepared in English.

Article 16

Publicity and Confidentiality

1. Unless otherwise decided, the meetings of the JMRC shall not be public.
2. When a Party submits information considered as confidential under its laws and regulations to the JMRC, Technical Committee, and sub-committees, the Parties shall treat that information as confidential.
3. Each Party may decide on the publication of the decisions and recommendations of the JMRC in its respective official publication.

Article 17

Expenses

1. Each Party shall meet any expenses it incurs as a result of participating in the meetings of the JMRC, the Technical Committee, and sub-committees with regard to staff, travel, and subsistence expenses, and with regard to postal and telecommunications expenses.
2. The Parties will endeavour to split the costs in connection with the organization of meetings and the reproduction of documents evenly. Ad hoc discussions between the Parties will be held in this regard.

Article 18

Field Missions

If either Party requests to conduct a field mission related to the Agreement, both Parties shall agree on the Terms of Reference and timing of the mission.

Article 19

Mediation

1. A Party may request, in writing and at any time, that the Parties enter into a mediation proceeding. The request must be sufficiently detailed to present clearly the issue at hand and the concerns of the complaining Party. Where a Party requests mediation pursuant to paragraph 1, the other Party shall consider the request and reply in writing within seven calendar days of the request. Failing this, the request for mediation shall be considered to have been dismissed.
2. Where Parties agree to seek recourse to mediation pursuant to Article 25(4) of the Agreement, the Parties shall jointly select a mediator at the beginning of the mediation proceeding, and no later than 14 calendar days after receipt of the reply to the mediation request. Failing to do so, the Parties may jointly request the Secretary-General of the Permanent Court of Arbitration to appoint a mediator within 7 days.
3. A mediator shall not be a citizen of either Party, unless the Parties agree otherwise. The mediator assists the Parties in an independent and impartial manner in their attempt to reach an amicable settlement of their dispute. The mediator will be guided by principles of objectivity, fairness and justice, giving consideration to, among other things, the rights and obligations of the Parties and the circumstances surrounding the dispute, including any previous practices between the Parties. The mediator may conduct the mediation proceedings in such a manner as he/she considers appropriate, taking into account the circumstances of the case, the wishes the Parties may express, including any request by a Party that the mediator hears oral statements, and any special need for a speedy settlement of the dispute.
4. The mediator may organise meetings between the Parties, consult the Parties jointly or individually, seek the assistance of, or consult, relevant experts and stakeholders, and provide any additional support requested by the Parties.
5. The mediator is expected to deliver his opinion to the Parties within 45 calendar days of his appointment. A request for additional time may be entertained by the Parties, provided there is sufficient justification.
6. Taking into account the opinion delivered by the mediator, the Parties shall endeavour to reach a mutually satisfactory solution within 30 calendar days from the notification of the mediator's opinion. Pending a final agreement, the Parties may consider possible interim solutions.
7. The solution may be adopted by the JMRC. The Parties may decide to apply the written procedure as per Article 15(3) of the current Annex instead of convening a JMRC. Mutually satisfactory solutions shall be made public, unless the Parties decide otherwise. However, the version disclosed to the public may not contain any information classified by either Party as confidential.

8. The mediator shall submit in writing a draft factual report to the Parties, providing a brief summary of the issue at hand and any mutually satisfactory solution reached as the final outcome of the proceeding, including possible interim solutions. The mediator shall grant the Parties 15 days to comment on the draft report. After considering the comments of the Parties submitted within the deadline provided, the mediator shall submit, in writing, a final factual report to the Parties within 15 days. The factual report may not contain any interpretation of the Agreement.
9. The proceeding shall be terminated:
 - (a) by the adoption of a solution mutually agreed between the Parties, on the date of adoption;
 - (b) by a written declaration of the mediator, after consultation with the Parties, that further efforts at mediation would be to no avail, on the date of that declaration;
 - (c) by a written declaration of a Party after exploring solutions mutually considered under the mediation proceeding and after having considered the opinion of the mediator, on the date of that declaration. Such declaration may not be issued before the period set out in paragraph 7 has expired; or
 - (d) at any stage of the proceeding by mutual agreement of the Parties, on the date of that agreement.
10. Where the Parties have agreed to a solution, each Party shall take the measures necessary to implement it within the agreed time limit. The implementing Party shall inform the other Party, in writing and within the agreed time limit, of any steps or measures taken to implement the mutually satisfactory solution.
11. The Parties will endeavour to split the costs in connection with a mediation proceeding evenly. *Ad hoc* discussions between the Parties will be held in this regard.

Article 20

Amendments of the Annexes

1. If one of the Parties wishes to amend the provisions of the Annexes to the Agreement, it shall notify the JMRC accordingly and submit its proposal to this end.
2. The JMRC may request the Technical Committee of the JMRC to consider the proposal and express its views and suggestions. The JMRC may set up a sub-committee to support the Technical Committee of the JMRC with this work.

3. The JMRC may, upon the proposal of one Party and taking into account the views and suggestions of the Technical Committee of the JMRC adopt a decision amending the Annexes in accordance with Article 27(3) of the Agreement and Article 14 of these Rules.

Article 21

Amendment of Rules of Procedure

The JMRC may adopt decisions amending these Rules of Procedure in accordance with Article 14 of these Rules.