

Forestry Development Authority
Regulation No. 108-07
Regulation on Establishing a Chain of Custody System

WHEREAS, the National Forestry Reform Law of 2006 establishes a transparent framework for the use, management, and protection of forest resources that balances the commercial, community, and conservation priorities of the Republic; and

WHEREAS, past failures to control forest use under the rule of law led to destruction of forests, diversion of public income into private accounts, and an international ban on trade in Liberian Forest Products; and

WHEREAS, the tracking and monitoring of Timber and Forest Resources from their source of origin in the forest to eventual end user, through processing and transport (and possible export), is a prerequisite for all of the following: ensuring that Holders of Forest Resources Licenses comply with all legal requirements; facilitating the accurate assessment and remittance of forest charges; and keeping illegal logs out of domestic and international markets; and

WHEREAS, a mandatory, nationwide Chain of Custody System must operate with full disclosure, through a transparent process that is subject to monitoring by civil society and the public; and

WHEREAS, the National Forestry Reform Law of 2006 requires the Forestry Development Authority to provide, by regulation, for the operation of a Chain of Custody System (Section 13.5(d)); and further authorizes the Authority to issue regulations and other rules necessary to implement the law (Section 19.1(a));

NOW, THEREFORE, the Forestry Development Authority does hereby rule and regulate as follows:

PART ONE: DEFINITIONS; PURPOSE

Section 1. Definitions

In this Regulation, the following terms have the meaning indicated, unless the context otherwise requires:

(a) Abandoned Logs: Logs, in good condition, not marked with a Chain of Custody identification number and located outside of an area where lawful harvest activities are under way.

(b) Authority: Forestry Development Authority.

(c) Chain of Custody: The path of custodianship followed by Logs, Timber, and Wood Products through harvesting, transport, interim storage, processing, distribution, and export, from source of origin in the forest to end use. Chain of Custody encompasses changes of state—for example, changes resulting from cutting, processing, splitting, or sorting.

(d) Chain of Custody System: The set of procedures and mechanisms used to track and monitor Chain of Custody.

(e) Diameter: Measurement of a Log taken from inside the bark to inside the bark; the average of four measurements: the smallest and largest distances measured through the center at one end of the Log, and the smallest and largest distances measured through the center at the other end of the Log.

(f) Log: a portion of a tree, with or without side limbs and bark removed, otherwise substantially intact and intended for further processing.

(g) Timber: sawn wood or Logs.

(h) Wood Product: a processed item made substantially of wood, including pit sawn and chain sawn lumber, plywood, veneer, particleboard, and pulp.

Other terms used in this Regulation have the meaning established in the National Forestry Reform Law of 2006, as amended.

Section 2. Purpose

This Regulation provides for the establishment and operation of a transparent, nationwide Chain of Custody System under the supervision of the Authority. This system will—

(a) Ensure that illegal Logs, Timber, and Wood Products are identified and that they do not enter the Chain of Custody;

(b) Ensure that all Holders of Forest Resources Licenses are in compliance with laws and regulations governing block maps, annual yield limits, and Chain of Custody requirements;

(c) Ensure that all forest fees are accurately assessed and timely remitted to the appropriate authorities;

(d) Facilitate the certification of legal origin for all Logs and Timber originating in the Republic;

(e) Generate reliable information on national Timber flows that can be used both to inform sound management and oversight of the forest sector and to provide a basis on which to issue reliable Timber legality verification statements and permits (for purposes of export); and

(f) Promote good governance and law enforcement by strengthening Authority staff capacity and encouraging adherence to the rule of law by all Persons working in, and affected by, the forest sector.

Sections 3 to 20. Reserved

PART TWO: ESTABLISHMENT; ADMINISTRATION; GENERAL PROHIBITIONS; RESPONSIBILITIES OF AUTHORITY AND SYSTEM USERS

Section 21. Establishment, Scope, and Administration

(a) The Authority shall establish and operate a Chain of Custody System to track Logs, Timber, and Wood Products from forest to processing to domestic market or export.

(b) The Authority shall establish and maintain an electronic Chain of Custody database containing—

(1) Information on all Logs, Timber, and Wood Products tracked under the Chain of Custody System; and

(2) Information on forest-sector fees assessed and paid on all Logs, Timber, and Wood Products, and in connection with any associated Forest Lands.

(c) The Authority may delegate, in whole or in part, day-to-day operation of the Chain of Custody System and maintenance of the Chain of Custody database to a private contractor, subject to oversight and auditing by the Authority.

(d) The Chain of Custody System established by this Regulation shall begin operation on September 30, 2007.

Section 22. Logging Activities Outside of Chain of Custody System Prohibited

(a) No person shall harvest Timber for Commercial Use without—

(1) Being in full compliance with the terms of the Forest Resources License under which the harvesting activity is to occur;

(2) Entering the Timber in the Chain of Custody System using forms and means established under this Part; and

(3) Marking the Timber and the stump with the identification assigned by the Authority through the Chain of Custody System.

(b) No person shall process Logs, Timber, or Wood Products into a substantially different form without satisfying all of the following requirements:

(1) Being in full compliance with any regulation governing processing requirements, as well as with the terms of any required licenses and permits;

(2) Ensuring that the processed Logs, Timber, or Wood Products are—

(A) Properly marked with identification as required by Section 24 of this Regulation; and

(B) Accompanied by a waybill as required by Part Three of this Regulation; and

(3) Entering the processed Logs, Timber, or Wood Products in the Chain of Custody System using forms and means established under this Part and any other Authority regulation.

(c) No person shall transport or possess the following unless it has been entered into the Chain of Custody System, using forms and means established under this Part, and bears identification prescribed by the Authority through the Chain of Custody System:

(1) Unprocessed Logs.

(2) More than three cubic meters of Wood Products, except for recently processed Wood Products at the site of processing.

(d) No person shall attach false or misleading identification to Logs, Timber, or other Wood Products.

Section 23. Forms

(a) The Authority shall publish, and from time to time revise, standard forms and instructions for the entry of information into the Chain of Custody database.

(b) The information collected for initial entry into the database must be sufficient to identify, for each tracked item, the place of harvest (including the stump), the person authorized to harvest, the Forest Resources License under which the harvest was made, the stem number on the stem map, the tree species, the volume of the item, and its unique identification mark.

(c) The Authority may provide for entry of data through paper forms or electronic forms.

(d) If the data entered into forms or reported to an authorized agent affects or reflects the amount of forest fees owed to the Government, the Authority shall require the person providing the data to swear to or affirm the accuracy of the data, under penalty of perjury.

(e) In consultation with the Forestry Management Advisory Committee and persons identified on any forest management stakeholder list maintained under Authority Regulation No. 101-07, concerning public participation, the Authority may from time to time issue or revise standard forms to implement any aspect of the Chain of Custody System.

Section 24. Identification—Assignment and Marking

(a) The Authority shall establish, and from time to time revise, standard methods for assigning identification to Logs, Timber, and Wood Products, and for properly marking the Logs, Timber, and Wood Products with this identification.

(b) The Authority shall publish a document listing the current standard methods for assigning identification and for marking Logs, Timber, and Wood Products with this identification.

(c) For Logs, the Chain of Custody System must assign a unique identification to each Log, and the stump must be marked with the assigned tree number.

(d) For Timber and Wood Products other than Logs, the Chain of Custody System must assign unique identification either to each individual item, or to a group of items physically packed, joined, or otherwise bundled together for sale or transport. Where a single identification is assigned to a group of items, the Chain of Custody System must include safeguards allowing persons to determine easily whether any items have been added to or removed from the group.

Section 25. Toward Forest Certification

The Authority shall cooperate with forest certifiers in seeking to make the Republic's Chain of Custody System supportive of, or acceptable as, a wood tracking system for use in forest certification.

Section 26. Scaling Standards

In measuring the volume of Logs and Timber for purposes of assessing forest fees, or for entering the Logs or Timber into the Chain of Custody System, all persons shall use the prevailing version of the Association Technique Internationale des Bois Tropicaux (ATIBT) Rules of Mensuration for gross or solid volume.

Section 27. Grading Standards

The prevailing version of the Association Technique Internationale des Bois Tropicaux (ATIBT) "Grading rules for tropical logs and sawntimber" governs grading within the Republic.

Section 28. Information on Forest Fees and Cooperation with Fiscal Authorities

(a) The Government shall mark each receipt for payment of forest fees assessed by the Authority with a unique identification number to facilitate tracking of the receipts in the Chain of Custody database.

(b) The Authority shall design the Chain of Custody database so that the identification number for a particular Log or group of Wood Products links to all of the following information:

(1) The place where the Log or group of Wood Products was harvested, and whether land rental fees have been paid for the year of harvest;

(2) Whether stumpage fees have been paid; and

(3) Whether forest products fees (including export fees) have been paid for processed wood bundles, and whether the standing tree positions of the logs feeding into these wood bundles can be sourced.

(c) Any person in possession of proof of payment of any of the fees listed in Subsection (b) of this Section may present the proof to the Authority or its agent, and, upon being satisfied that the proof is genuine, the Authority or its agent shall enter the payment information in the Chain of Custody database.

(d) The Authority shall include in the Chain of Custody System safeguards to ensure that persons cannot mistakenly or fraudulently rely upon a proof of payment to cover Logs, Timber, or Wood Products not legitimately covered by the payment.

Section 29. Reconciliation of Reported Volumes

Every six months, the Authority shall use the Chain of Custody database to reconcile reported volumes of Logs, Timber, and Wood Products moving through the Chain of Custody System, as follows:

- (a) By comparing volumes harvested (by species) with initial volumes of standing timber available for harvest in the annual coupe;
- (b) By comparing volumes transported and stored (by species) with volumes harvested;
- (c) By comparing volumes processed (by species) with volumes transported; and
- (d) By comparing volumes sold and exported (by species) with volumes harvested, transported, and processed.

Section 30. Reserved

PART THREE: TRANSPORT

Section 31. Transport or Acceptance of Logs, Timber, or Wood Products Without Waybills Prohibited

- (a) No person shall consign Logs, Timber, or Wood Products for transport upon public roads; send Logs, Timber, or Wood Products to a facility for processing; or send Logs, Timber, or Wood Products to a port for trans-shipment or export, unless the person has completed a waybill for the load of Logs, Timber, or Wood Products.
- (b) No person shall transport a load of Logs, Timber, or Wood Products upon the public roads; transport Logs, Timber, or Wood Products to a facility for processing; or transport Logs, Timber, or Wood Products to a port for trans-shipment or export, unless the person—
 - (1) Is in possession of a valid transporter registration issued by the Authority and renewed annually; and
 - (2) Is in possession of a completed waybill for that specific load of Logs, Timber, or Wood Products.
- (c) No person shall accept delivery of a load of Logs, Timber, or Wood Products unless the load is accompanied by a completed waybill.

Section 32. Content of Waybills

A waybill is deemed completed only if it includes all of the following information:

- (a) The place of harvest of the Logs, Timber, or Wood Products.
- (b) The Chain of Custody identification numbers of the Logs, Timber, or Wood Products.
- (c) The total volume of all Logs, Timber, or Wood Products (specifying individual standard dimensions), by species.
- (d) The day, month, and year that the Logs, Timber, or Wood Products were loaded, and the day, month, and year that they are scheduled to arrive.
- (e) The place where the Logs, Timber, or Wood Products were loaded.
- (f) The planned route of transport from loading to destination.
- (g) The destination of the shipment.
- (h) The printed name and signature of—
 - (1) The person (or the person’s authorized agent) who harvested the Logs, Timber, or Wood Products;
 - (2) Upon acceptance of the load, the person accepting the Logs, Timber, or Wood Products for transport (the truck driver); and
 - (3) Upon delivery of the load, the person delivering the Logs, Timber, or Wood Products (the truck driver).
- (i) Above each of these signature lines, the waybill must include the following declaration:

“By signing this waybill, I swear or affirm, under penalty of perjury, that I have made a reasonable effort to ensure the accuracy of the information entered here and that the contents are accurate to the best of my knowledge.”
- (j) The printed names of the business or individuals authorized to transport or accompany the Logs, Timber, or Wood Products, and the license plate number of the transporting vehicle.

Section 33. Copies

- (a) Each waybill form must consist of one original and four copies, to be distributed as follows:
 - (1) The person consigning the shipment shall retain one copy and give the original to the Authority.
 - (2) The person transporting the shipment shall keep one copy and give two copies to the recipient of the shipment, and the recipient shall later give the second copy to the Authority following delivery of the shipment.
- (b) The Authority shall make books of blank, numbered waybills available upon payment of the fee specified in Authority Regulation No. 107-07, concerning certain forest fees.

Section 34. Logs, Timber, or Wood Products in Chain of Custody System But Without Completed Waybill

If the Government discovers Logs, Timber, or Wood Products in transport without a proper waybill, but the Logs, Timber, or Wood Products bear Chain of Custody identification, the Government shall arrange to return the Logs, Timber, or Wood Products to the place of harvest and bill the harvester for the reasonable costs of the return.

Section 35. Transport by Night

(a) No person shall transport Logs, Timber, or Wood Products on public roads during the night, from fifteen minutes after sunset until fifteen minutes before sunrise, unless the shipment is accompanied by written permission from the Authority, specifically permitting that particular shipment to be transported by night.

(b) If the Government discovers Logs, Timber, or Wood Products being transported in violation of this Section, they are deemed abandoned, even if registered in the Chain of Custody System, and the Government shall seize the Logs, Timber, or Wood Products and transfer custody to the Authority, which shall arrange for their sale or disposal, as if they had been abandoned, pursuant to Subsections (e) through (h) of Section 51 of this Regulation.

Sections 36 to 40. Reserved

PART FOUR: EXPORT AND IMPORT

Section 41. Export—Generally

Before exporting Logs, Timber, or Wood Products, a person shall register with the Authority as an exporter and renew the registration annually.

Section 42. Cooperation of Port and Customs Officials in Export

(a) Government officials in charge of ports and customs shall not allow bulk shipments of Logs, Timber, or Wood Products to be loaded on vehicles, vessels, or aircraft for export unless the officials verify all of the following:

(1) The Logs, Timber, or Wood Products are entered into the Chain of Custody System.

(2) The Chain of Custody database indicates that all stumpage fees, land rental fees, and forest product fees (including export fees) have been paid.

(3) The Chain of Custody database indicates that the Logs, Timber, or Wood Products have not already been exported.

(b) Government officials shall promptly and fully inform the Authority of the export of all Logs, Timber, and Wood Products covered under the Chain of Custody System.

(c) Government officials shall promptly notify the Authority of any irregularities in shipment that may suggest illegal activity or a problem with the Chain of Custody System or database.

(d) The Authority may issue standard forms to facilitate reporting under this Section.

(e) The requirements of this Section apply to all ports of entry in the Republic, including all border crossings (with Ivory Coast, Sierra Leone, and Guinea), seaports, and airports.

Section 43. Under-Pricing

(a) No person shall under-price a load of Logs, Timber, or Wood Products.

(b) The Authority may decline to issue an export permit or, at any time, revoke an existing export permit covering a load of Logs, Timber, or Wood Products, where the Authority has determined, based on current market information or declared prices contained in export contracts, that the load of Logs, Timber, or Wood Products is under-priced.

Section 44. Import

A person importing Logs, Timber, or Wood Products shall abide by the following conditions:

(a) Before importing Logs, Timber, or Wood Products, the person must register with the Authority as an importer and renew the registration annually.

(b) The person must arrange for the Authority to scale each shipment at the entry port, assign each item or group of items an identification number, and enter the Logs, Timber, or Wood Products into the Chain of Custody System.

(c) For Logs, the person must follow the requirements for waybills set forth in Part Three of this Regulation, indicating the port and date of entry, along with all other required information, to the extent known.

(d) The person must possess credible information about the source of all Logs, Timber, or Wood Products, to be assured of their legal origin.

Sections 45 to 50. Reserved

PART FIVE: ABANDONED LOGS, TIMBER, AND WOOD PRODUCTS

Section 51. Abandoned Logs, Timber, and Wood Products

(a) If the Government discovers abandoned Logs, Timber, or Wood Products, it shall promptly notify the Authority.

(b) If the Authority discovers abandoned Logs, Timber, or Wood Products within the area covered by a valid Forest Resources License—

(1) The Authority shall notify the contract Holder, and the Holder may claim the Logs, Timber, or Wood Products only by meeting both of the following requirements within seven business days:

(A) Demonstrating to the satisfaction of the Authority that the Logs, Timber, or Wood Products originated within the area covered by the Holder's Forest Resources License and can be traced to specific, marked stumps; and

(B) Registering the Logs, Timber, or Wood Products in the Chain of Custody System.

(2) If the Holder fails to meet the requirements of this Subsection, the Authority shall seize the Logs, Timber, or Wood Products.

(c) If the Authority discovers abandoned Logs, Timber, or Wood Products in a Communal Forest, a Community Forest, or on deeded lands outside of any area covered by a valid Forest Resources License—

(1) The Authority shall notify the community or deed holder, and the notified person may claim the Logs, Timber, or Wood Products by registering them in the Chain of Custody System within seven business days.

(2) If the notified person does not register the Logs, Timber, or Wood Products within seven business days, the Authority shall seize them.

(d) If the Authority discovers abandoned Logs, Timber, or Wood Products on land not covered by Subsections (b) or (c) of this Section, the Authority shall seize them.

(e) The Authority shall transport all seized Logs, Timber, or Wood Products to a safe location and, within 5 business days, petition a court sitting in the county where the Logs, Timber, or Wood Products were seized to verify that they are abandoned and oversee their disposal by public auction.

(f) The winner of the public auction may take possession of the Logs, Timber, or Wood Products after presenting to the court proof of payment to the Central Bank of Liberia of the auction price and, in the case of Logs or Timber, the stumpage fee.

(g) Payment of sums required under Subsection (f) of this Section extinguishes all claims of other persons to the Logs, Timber, or Wood Products.

(h) Upon request of the winner of the public auction, the Authority shall enter the Logs, Timber, or Wood Products in the Chain of Custody System, with an appropriate notation indicating that they were deemed abandoned and sold at auction.

(i) If no one bids for abandoned Logs, Timber, or Wood Products, the court shall arrange to have the Authority give them to a local community or civil society organization for non-commercial use.

Sections 52 to 60. Reserved

PART SIX: ACCESS AND ACCURACY

Section 61. Public Access

All information contained in the Chain of Custody database is a matter of public record, and the Authority shall allow members of the public convenient means to search and review the information at Authority offices during normal business hours.

Section 62. Corrections

(a) Any person wishing to correct or contest information contained in the Chain of Custody database may present evidence to the Authority and request a change in the database.

(b) The Authority shall, in writing, approve or deny the request, giving reasons for the decision, within ten business days of receiving the request.

(c) If the Authority approves the request, the Authority shall make the requested change in the database within 24 hours of granting approval.

(d) If the Authority denies the request or fails to act within the time limits established by this Section, the person making the request may ask a court to consider evidence from the person, the Government, or any other interested party, and, if appropriate, the court may order the Authority to correct the database.

Sections 63 to 70. Reserved

PART SEVEN: FOREST MONITORING

Section 71. Monitoring by Civil Society, Communities, and Independent Third Parties

(a) The Authority, in coordination with civil society organizations and other persons on any forest management stakeholder list maintained under Authority Regulation No. 101-07, concerning public participation, shall develop guidelines on the monitoring of areas subject to Forest Resources Licenses and areas used for wood processing activities.

(b) Except as otherwise allowed by law, no person shall interfere with representatives of civil society organizations, forest-dependent communities and other communities affected by Operations, or independent third parties seeking to—

(1) Obtain information with respect to any aspect of the Chain of Custody System;

(2) Verify the accuracy of information provided by the Authority, the Holder of a Forest Resources License, or any other person, with respect to any aspect of the Chain of Custody System; or

(3) Personally inspect any forest area, forestry facility, or shipment of Logs, Timber, or Wood Products that is the subject of a Forest Resources License.

(c) Authority staff and Holders of Forest Resources Licenses shall, upon request, use best efforts to assist representatives of civil society organizations, forest-dependent communities and other communities affected by Operations, and independent third parties seeking to perform any of the activities described in Subsection (b) of this Section.

Section 72. Independent Forest Monitoring

It shall be the policy of the Authority to move over time toward a formal system of Independent Forest Monitoring.

Sections 73 to 80. Reserved

PART EIGHT: REPEALS AND EFFECTIVE DATE

Section 81. Repeals

The following regulations are repealed, in their entirety:

- (a) Regulation 1, concerning waste of forest resources, including abandonment of Logs.
- (b) Regulation 3, concerning waybills.

Section 82. Effective Date

- (a) This Regulation is effective on September 11, 2007.
- (b) The Authority shall announce this Regulation and make it available to the public and the media.

SIGNED:

**Managing Director
Forestry Development Authority**