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EXTRAORDINARY

THE GOVERNMENT OF THE REPUBLIC OF LIBERIA
ANNOUNCES A REGULATION PROMULGATED BY THE
FORESTRY DEVELOPMENT AUTHORITY IN PURSUANT TO
FDA'S REGULATION NO 108-107 HAS ISSUED A NEW
REGULATION NO. 116-17 HEREINUNDER:

REGULATION ON ABANDONED LOGS, TIMBER AND TIMBER
PRODUCTS

BY ORDER OF THE PRESIDENT

MARJON V. KAMARA
MINISTER OF FOREIGN AFFAIRS

MINISTRY OF FOREIGN AFFAIRS
MONROVIA, LIBERIA
OCTOBER 24 2017

Forestry Development Authority
Regulation No. 116-17 on
Abandoned Logs, Timber and Timber Products

PREAMBLE

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

WHEREAS, the Forestry Development Authority ("**FDA**") has adopted a mandatory, nationwide Chain of Custody System pursuant to FDA's Regulation No 108-107 to track and monitor all Logs, Timber and Timber Products in Liberia, with full disclosure through a transparent process subject to monitoring by the public authorities and civil society organizations;

WHEREAS, FDA's Regulation 108-07, especially Part Five thereof, does not adequately address the issue of Abandoned Logs, Timber and Timber Products to ensure that the Republic of Liberia complies with its international obligations under the Voluntary Partnership Agreement, thus necessitating the issuance of new rules and regulations on Abandoned Logs, Timber and Timber Products;

WHEREAS, the NFRL conferred on the FDA the power to make, promulgate, issue, and amend rules and regulations for achieving sustainable forestry management and the other objectives of the NFRL, including legality and traceability of all timber products;

NOW, THEREFORE, the FDA hereby issues the following rules and regulations regarding Abandoned Logs, Timber and Timber Products in the Republic of Liberia:

PART ONE: DEFINITION AND PURPOSE

Section 1: Definitions

In these guidelines the following terms have the following meaning indicated unless the context otherwise requires:

- "Abandoned Timber" means unattended Logs, Timber or Timber Products in any condition and wherever found that may or may not be marked with a Chain of Custody identification, but remain not attended to for at least a certain period of time as specified in Section 3 of this Regulation. "**Authority**" means the FDA, an agency of the Government of Liberia created pursuant to the Act Creating the Forestry Development Authority of 1976.

- **"Authority"** means the FDA, an agency of the Government of Liberia created pursuant to the Act Creating the Forestry Development Authority of 1976.
- **"Chain of Custody"** means the path of custodianship followed by Logs, Timber and Timber Products through harvesting, transport, interim storage, processing, distribution, and export, from source of origin in the forest to end-use.
- **"FOB" or "Free on Board"** is an international commercial term prescribed by the International Chamber of Commerce, as amended, and means that the seller must load the goods on board the vessel nominated by the buyer but that cost and risk are divided when the goods are on board the vessel and the seller clears the goods for export.
- **"Forest Resources License"** means a Forest Management Contract ("FMC"), a Timber Sales Contract ("TSC"), Forest Use Permit ("FUP"), or a Private Use Permit ("PUP") to extract forest resources or make productive and sustainable use of forest land in a specific geographical area and for a specified period as established by law.
- **"In-Transit on Highway"** means in transportation on a highway (main public road) from where a Log or Logs have been felled or temporarily stored to where they will be processed or shipped.
- **"Log Landing"** means the site within the forest where Logs are originally stored prior to being dispatched somewhere else.
- **"Log" means** a (i) portion of a tree with or without side limbs and bark and substantially intact for further processing, or (ii) a felled tree of length not less than one (1) meter with smaller diameter not less than 30 centimeters.
- **"Stump"** means the base (stub) of a tree which is left standing after the tree has been felled.
- **"Timber"** means cut wood or Logs.
- **"Timber Products"** means any processed item derived wholly or in part from wood, including wood in the rough, sawn, chipped, or shaped form, as well as plywood, veneer, particleboard, laminated board or other ligneous materials, pulp, paper, fuelwood, frames, packing materials, tools, joinery, carpentry or furniture.
- **"Timber Yard"** means a place where Logs, Timber and Timber Products are carried and stored closest to the port at which it is to be exported or at the processing site.

Any other terms used in this regulation have the meaning established in the NFRL, as amended.

Section 2: Purpose

The purposes of this Regulation are to ensure that -

- (a) Logs, Timber and Timber Products are transported, stored, processed, distributed or otherwise produced and exported legally;
- (b) the Authority acts in a lawful and procedurally fair manner when seizing, storing and auctioning Abandoned Logs, Timber and Timber Products;
- (c) waste of Logs, Timber and Timber Products from forests is minimized; and
- (d) the Republic of Liberia complies with its international obligations to export only legally produced Logs, Timber and Timber Products to any destination.

PART TWO: CLASSIFICATION AND POWERS

Section 3: Types of Abandoned Logs, Timber and Timber Products

(a) Logs, Timber and Timber Products left unattended, shall be deemed to be abandoned by the Authority after expiry of the following periods of time in this Section 3 and Section 4 below:

- (1) 30 working days after discovery by the Authority or its agent next to a Stump in an area covered by a Forest Resources License, or in a Communal Forest, a Community Forest or on deeded land not covered by Forest Resources License;
- (2) 60 working days after discovery by the Authority at a Landing Site in an area covered by a Forest Resources License, or in a Communal Forest, a Community Forest or on deeded land not covered by a Forest Resources License;
- (3) 15 working days after discovery by the Authority on or next to any public or private road;
- (4) 180 working days after discovery by the Authority at any Log Yard;
- (5) 180 working days after discovery by the Authority at any wood processing site (sawmills, wood shops, etc.);
- (6) 30 working days after discovery by the Authority at any port of exit; or
- (7) 30 working days after discovery anywhere else by the Authority.

PART THREE: DUE PROCESS REGARDING ABANDONEMENT

Section 4: Notification of Abandonment

- (a) Any person who has knowledge or reasonably believes that Logs, Timber or Timber Products are abandoned may forthwith orally inform or notify in writing to a forest officer;
- (b) Upon satisfaction of the time expiration in Section 3 above, the forest officer, who has received information of the nature described in Section 4(a), above, shall immediately make a report to the official designated by the Managing Director of the Authority;
- (c) Upon receipt of any information including suspicion of abandonment, the official designated by the Authority shall:
 - (1) within 7 working days investigate the apparent Abandoned Logs, Timber or Timber Products and make the findings publicly available via FDA website and other means deemed appropriate by the Managing Director;
 - (2) give written notice of suspicion of Abandoned Logs, Timber or Timber Products to -
 - (i) the licensee to exhibit the Forest Resources License within ten (10) working days upon the receipt of the written notice, if the Abandoned Logs, Timber or Timber Products are discovered in an area that is covered by a Forest Resource License;
 - (ii) the community leader to report to the Authority within ten (10) working days upon the receipt of the written notice, the Abandoned Logs, Timber or Timber Products, and if applicable the Authority shall register the Abandoned Logs, Timber and Timber Products in the Chain of Custody System, if such Logs, Timber or Timber Products are discovered in a communal forest or a community forest; or
 - (iii) the deed holder to register to the Authority within ten (10) working days upon the receipt of the written notice the Abandoned Logs, Timber or Timber Products within the Chain of Custody System if such Logs, Timber or Timber Products are discovered on deeded land;
 - (3) if there is no claimant, the Authority shall publish a notice of abandonment within 10 days after the period specified in Section 4(c)(2), above, for a period of five (5) working days in a newspaper and include the notification on FDA website (www.fda.gov.lr) and circulate the notice in the county via local government authorities where the Abandoned Logs, Timber or Timber Products were found;

- (4) announce for a period of fourteen (14) days at least twice daily on a national radio station and one local radio station in the county where the Abandoned Logs, Timber or Timber Products were found;
- (5) send the notice of abandonment to persons on the forest management stakeholder list maintained by the Authority and to any community and Community Forestry Development Committee (“**CFDC**”), Community Forest Management Body (“**CFMB**”), or the County Forest Forum (“**CFF**”) in the county where the Abandoned Logs, Timber or Timber Products were found;
- (6) allow ten (10) working days after publication or communication of the public notice for a person with a claim to inspect the Abandoned Logs, Timber or Timber Products;
- (7) require a claimant to provide adequate proof of lawful ownership of the Abandoned Logs, Timber or Timber Products;
- (8) obtain testimony from anyone as well as use any other legal means to verify a claimant's lawful ownership of Abandoned Logs, Timber or Timber Products; and
- (9) upon verification of his claim, allow the owner within 10 working days to remove the Abandoned Logs, Timber or Timber Products from their location.
- (10) If the investigation concludes that the logs, Timber or Timber Products are abandoned and there is a claimant, the following shall apply:
 - (i) The Authority shall announce the information of abandoned Logs, Timber and Timber Products for a period of fourteen (14) days at least twice daily on a national radio station and one local radio station in the county where the Abandoned Logs, Timber or Timber Products were found;
 - (ii) The Authority shall send the notice of abandonment to persons on the forest management stakeholder list maintained by the Authority and to any community and Community Forestry Development Committee (“**CFDC**”), Community Forest Management Body (“**CFMB**”), or the County Forest Forum (“**CFF**”) in the county where the Abandoned Logs, Timber or Timber Products were found;
 - (iii) The Authority shall allow ten (10) working days after publication or communication of the public notice for a claimant to inspect the Abandoned Logs, Timber or Timber Products;
 - (iv) The Authority shall require a claimant to provide adequate proof of lawful ownership of the Abandoned Logs, Timber or Timber Products;

(v) The Authority shall obtain testimony from anyone as well as use any other legal means to verify a claimant's lawful ownership of Abandoned Logs, Timber or Timber Products; and

(vi) The Authority upon verification of the claimant's claim, allow the owner within 10 working days to remove the Abandoned Logs, Timber or Timber Products from their location.

(d) Upon failure by a claimant to prove ownership and redeem and retrieve the Logs, Timber or Timber Products, and upon the expiry of the notice period(s) set forth in Section 4(c) of this Regulation, the Logs, Timber, or Timber Products shall automatically become the property of the Authority and shall be deemed qualified for public auction or donation.

if there is no claimant, the Authority shall publish a notice of abandonment within 10 days after the period specified in Section 4(c)(2), above, for a period of five (5) working days in a newspaper and include the notification on FDA website (www.fda.gov.lr) and circulate the notice in the county via local government authorities where the Abandoned Logs, Timber or Timber Products were found;

PART FOUR: SEIZURE, CUSTODY AND REDEMPTION

Section 5: Seizure and Custody of Abandoned Logs, Timber or Timber Products

(a) Pursuant to Section 20.5 of the National Forestry Reform Law of 2006, subject to a warrant issued by a court of Liberia, a sworn forest officer may visit and enter any area or any premises and seize any Logs, Timber or Timber Products presumed to be abandoned.

(b) The sworn forest officer may elect to -

(1) keep any seized Abandoned Logs, Timber or Timber Products at the location where they were found if it is -

(i) to protect the integrity of the Abandoned Logs, Timber or Timber Products;

(ii) too costly to remove; or

(iii) otherwise impractical to remove;

(2) remove and transport the Abandoned Logs, Timber or Timber Products to a location for safe storage.

(c) The Authority shall ensure that any seized and transported Abandoned Logs, Timber or Timber Products are at all times kept in safe storage whilst preserving

their condition as practicable until the Authority relinquishes control thereof to the lawful owner.

Section 6: Redemption of Abandoned Logs, Timber or Timber Products

- (a) The Authority shall keep any seized Abandoned Logs, Timber or Timber Products for a period of fourteen (14) working days to allow for the lawful owner to redeem and retrieve it from the Authority.
- (b) Forest Resources License holders claiming ownership of Abandoned Logs, Timber or Timber Products must provide chain of custody identification; all other persons must provide reasonable proof of lawful ownership to the Authority.
- (c) Any person who proved a claim of Abandoned Logs, Timber or Timber Products shall pay an administrative fee and costs as determined by the Authority per Section 6(d), below, as a condition for receiving such Abandoned Logs, Timber or Timber Products.
- (d) The Authority shall publish the administrative fee in one newspaper with national circulation and on the Authority's website and determine the amount thereof based on all relevant factors, including:
 - (1) the number, size and volume of the Abandoned Logs, Timber or Timber Products; and
 - (2) the reasonable cost and expenditure incurred by the Authority for the investigation, public information, seizure, transport, storage, maintenance and administration of the Abandoned Logs, Timber or Timber Products.
- (e) The Authority shall ensure that administrative fees and other costs are paid to the Liberia Revenue Authority.

PART FIVE: PUBLIC AUCTION

Section 7: Auctioning of Abandoned Logs, Timber and Timber Products

- (a) After expiry of the period allowed for the redemption and retrieval of Abandoned Logs, Timber or Timber Products held by the Authority, the Authority shall petition the Circuit Court of the county in which the Abandoned Logs, Timber or Timber Products are located to authorize their public auctioning by the sheriff in accordance to Section 44.72 of the Civil Procedure Law;
- (b) (
- (c) The Court and the Authority shall ensure that the public auction is conducted in a transparent and accountable process, through the -

- (1) publication of an auction notice for a period of five (5) working days in a newspaper of wide coverage in the county where the Abandoned Logs, Timber or Timber Products will be auctioned and in the county where they were seized, if not the same as the former county;
 - (2) announcement of the auction for a period of five (5) working days at least once daily before the auction on a national radio station, one local radio station and one community radio station with coverage in the county where the public auction will take place and in the county where the Abandoned Logs, Timber or Timber Products were seized, if not the same as the former county; and
 - (3) sending the auction notice to persons on the forest management stakeholder list maintained by the Authority pursuant to Section 3 of Regulation No 102-07, concerning public participation and to any affected community and community forestry development committee that are identified on the affected community list maintained by the Authority in terms of Section 22 of Regulation No 104-07.
- (d) The Authority shall assess or cause to be assessed the monetary value of the Abandoned Logs, Timber or Timber Products prior to the auction along with the associated costs of seizure, transportation, storage, administration and public auction.
 - (e) The sheriff, on instruction of the Circuit Court, shall auction the Abandoned Logs, Timber or Timber Products to the highest bidder at a public auction at the place where the Abandoned Logs, Timber or Timber Products are kept for safe storage and at such time and as a unit or in such lots or combinations thereof, as in the sheriff's judgment will bring the highest price, and the minimum bid for each lot shall be determined by the Authority provided that the Abandoned Logs, Timber or Timber Products shall not be auctioned for less than the total cost of seizure, transportation, storage, administrative fees, public auction and other costs.
 - (f) No sale may be made to the Authority, sheriff, the sheriff's deputy, any person employed by the Authority, or any person on the debarment and suspension lists as prescribed by Section 44 of the Public Procurement and Concessions Commission Act of 2005 and Part Two of Regulation No 103-07 of the Authority.
 - (g) The Abandoned Logs, Timber or Timber Products to be auctioned shall be available and within the view of those attending the auction ordered by the court.
 - (h) The Authority shall announce the winner of the auction of the Abandoned Logs, Timber or Timber products for seven (7) working days by publication in a newspaper of national jurisdiction.
 - (i) If, after the announcement of the auction winner has been published for seven (7) working days, the highest bidder at the public auction—provided that person is not

otherwise prohibited by law—shall become the owner and take delivery of the Abandoned Logs, Timber or Timber Products upon payment as directed by the Circuit Court and present receipt to the Court and the Authority, after which the Court shall issue the title to the auctioned Logs, Timber or Timber Products.

- (j) Payment of the accepted auction price into the Government of Liberia revenues as evidenced by the prescribed receipt shall remove all claims of any other person to the Abandoned Logs, Timber or Timber Products.
- (k) The successful bidder at the public auction, within five (5) working days from the date on which he takes possession of the Abandoned Logs, Timber or Timber Products, shall request the Authority to enter the Abandoned Logs, Timber or Timber Products into the Chain of Custody System with the appropriate notations that such Abandoned Logs, Timber and Timber Products were earlier abandoned and acquired through public auction.
- (l) If no person bids for the Abandoned Logs, Timber or Timber Products at a public auction, the Authority shall apply to the Circuit Court to order that the Abandoned Logs, Timber or Timber Products be donated free of charge to a local community, civil society organization, community-based organization or non-governmental organization. Should the organization desire to commercialize the donated Abandoned Logs, Timber or Timber Products, it shall be entered into the Chain of Custody System as required under sub-paragraph (j).

PART SIX: OFFENSES AND REPEAL

Section 8: Offenses

- (a) A person commits an offense if that person -
 - (1) intentionally or negligently causes any Logs, Timber or Timber Products to become abandoned;
 - (2) intentionally or negligently makes any fraudulent, false, or misleading statements or representations, including but not limited to those relating to lawful ownership, payment of fees, or other matters;
 - (3) intentionally and materially interferes with someone fulfilling their obligations under this Regulation;
 - (4) intentionally aids and abets another person in violating any provision of these Regulations; or
 - (5) negligently aids and abets another person in violating any provision of these Regulations.

Section 9: Penalties

- (a) A person found to commit an offense under Section 8(a)(1) or Section 8(a)(5) is liable to -
 - (1) pay a fine in United States Dollars not exceeding -
 - (i) an amount equivalent to the stumpage fee (based on percentage (%) of timber classes-A,B,C, etc.) of two times the volume of the Abandoned Logs, Timber or Timber Products referred to in Section 3 (a)(1), (2), (3) or (7);
 - (ii) an amount equivalent to three times the FOB price per cubic meter of the total export volume of the Abandoned Logs, Timber or Timber Products referred to in Section 3(a) (4), (5) or (6);
 - (2) forfeiture of the annual harvesting certificate or export permit, as the case may be; and
 - (3) upon three consecutive violations of Section 8(a)(1) or Section 8(a)(5), forfeiture of the Forest Resources License.
- (b) A person found to commit an offense under Section 8(a)(2), (3), or (4) is liable to –
 - (1) pay a fine not exceeding 1,000.00 United States Dollars; and
 - (2) Forfeiture of their Forest Resources License or other relevant licenses.
- (c) All fines shall be paid into Government of Liberia revenues.
- (d) In addition to issuing a fine, a court may issue injunctive relief to redress damage caused by the violation or to take actions to prevent future violations.

Section 10: Review and Amendment

- (a) This Regulation may be reviewed and amended from time to time as warranted by circumstances and in conformance with the provisions of Regulation No. 101-07 with respect to Public Participation in the promulgation of regulations, codes and manuals.

Section 11: Repeal of Regulations

- (a) This Regulation repeals Sections 51 to 60 of the Regulation No. 108-07 of the Authority concerning Abandoned Logs, Timber and Timber Products.

Section 12: Effective of Previous Regulatory Actions

- (a) Notwithstanding this Regulation, anything lawfully done before the commencement of this Regulation shall continue to have full legal force and effect until anything lawfully done under this Regulation overrides it.

Section 13: Effective Date

The effective date of this Regulation shall be the date of its publication into the Official Gazette under the authority of the Ministry of Foreign Affairs as posted on the cover page.



Office of the Board Chairperson

REPUBLIC OF LIBERIA FORESTRY DEVELOPMENT AUTHORITY (FDA)

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BOARD RESOLUTION #---⁹--- PASSING ON THE REGULATION ON ABANDONED TIMBER AND TIMBER PRODUCTS

WHEREAS, the National Forest Policy and Strategy promotes sustainable management and use of forest resources in a manner that advances the availability of these resources for future generations while at the same time ensuring that said forest resources do contribute to the improvement of livelihood and economic development of the current generation;

WHEREAS, Section 5.1 (d) of the National Forest Reform Law of 2006 grants the Forestry Development Authority(FDA) the power to control any activity involving forestlands, forest resources or forest products though Regulation ;

WHEREAS, Section 23 (a, b, c) of Regulation 101 – 07 mandates the FDA to adopt and/or amend Regulation that control and give guidance to all persons engaged in forest-sector activities;

WHEREAS, the FDA, seeking to adopt a Regulation on Abandoned Timber and Timber Products in accordance with Regulation 101-07, Section 23 d (1 & 2) has promulgated a Regulation with specificity on Abandoned Timber and Timber Products to avoid the waste and loss of revenue from forest resources extracted in Liberia;

WHEREAS, copy of the said Regulation on Abandoned Timber and Timber Products was distributed to each member of the Board of Directors for review and comments upon which the Board resolved during its Regular Sitting on February 14, 2017 that if no comment(s) is/are received from the Board, then the subject Regulation shall be deemed/considered approved;

DST



Office of the Board Chairperson

REPUBLIC OF LIBERIA
FORESTRY DEVELOPMENT AUTHORITY (FDA)

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NOW THEREFORE, for the forgoing reasons above stated, it is hereby resolved by the Board of Directors:

1. That the Regulation on Abandoned Timber and Timber Products having being reviewed by the members of the Board of Directors from February 14, 2017 up to and including the present; followed by no written comments is hereby considered adopted;
2. That the FDA Board of Directors adopted Regulation on Abandoned Timber and Timber Products shall be presented to the Office of the President of Liberia for approval before the implementation of the said regulation takes effect;
3. That upon taking effect, this Regulation on Abandoned Timber and Timber Products shall be published in two (2) widely read newspapers and posted onto FDA Website.

IN WITNESS WHEREOF, we have hereunto subscribed our names and affixed the seal of the Forestry Development Authority on this 31st day of May AD.2017 in the City of Monrovia, Montserrado County, Republic of Liberia.

SEAL

Darlington S. Tuagben

SECRETARY

Approved:

Sr. Mary Laurene Browne, OSF

CHAIRMAN