

**DENR Administrative Order
No. 99-53
December 23, 1999**

**SUBJECT : Regulations Governing the
Integrated Forest Management
Program (IFMP)**

Pursuant to PD 705 of 1975, as amended, EO 725 dated September 9, 1981, EO 278 dated July 25, `1987, EO 192 dated June 10, 1987 and EO 927 dated July 25, 1987 and Sec. 2, Art. XII of the 1987 Constitution, the following regulations governing the Integrated Forest Management Program (IFMP), are hereby promulgated.

CHAPTER I

**TITLE, POLICIES, OBJECTIVES AND DEFINITION OF
TERMS**

Section 1. Title. This Administrative Order shall be known as the “Regulation on the Integrated Forest Management Program”.

Sec. 2 Policies and Objectives. These regulations are in pursuance of the **policies** of the State which are:

- (a) The protection and advancement of the right of people to a balanced and healthful environment;
- (b) The equitable distribution of opportunities, income and wealth, sustained increase in the amount of goods and services produced by the nation for the benefit of the people, and an expanding productivity from natural resources as keys to uplift the quality of life; and
- (c) The promotion of industrialization and creation of employment opportunities based on sound resource development through

industries that make full and efficient use of human and natural resources.

The **objectives** of these regulations are:

- (a) To attain a balanced, productive, and efficiently functioning forest ecosystem through the sustainable management of forests and the rehabilitation of degraded forestlands;
- (b) To ensure a continuous supply of wood and non-wood products for the country by encouraging all sectors to engage in the development of industrial forest plantations;
- (c) To improve the economic well-being of upland people and communities dependent on forest resources by ensuring equitable opportunities and access to forest resources.

Sec. 3 ***Definition of Terms.*** The following terms are to be understood and interpreted, as follows:

- (a) **Ancestral Domain** - subject to property rights existing and/or vested upon effectivity of the Indigenous Peoples rights Act of 1997, refers to areas generally belonging to indigenous cultural communities/indigenous peoples comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by them, by themselves or through their ancestors, communally or individually, since time immemorial, continuously to the present except when interrupted by war, force majeure, or displaced by force, deceit or stealth or as a consequence of government projects or any other voluntary dealings between the government and private individuals/corporations.
- (b) **Annual Allowable Harvest** - refers to the amount or volume of materials, whether of timber, non-timber or other forest products, authorized by the government to be harvested within each year from the forests.

- (c) **Basal Area** - the sum of the outside bark cross-sectional area at breast height or above buttress, as the case may be, of all trees in a given forest area.
- (d) **Brushlands** - refers to areas characterized by discontinuous cover of shrubby and non-wood vegetation including grasses usually as a result of repeated clearing and burning of the then forest cover.
- (e) **Buffer Strips** - refer to areas with a specified width usually of natural vegetation serving as protective borders of streams or bodies of water or as boundaries between management units (blocks or compartments) of the forest plantations.
- (f) **CENRO** – refers to Community Environment and Natural Resources Office
- (g) **Commercial Species** – refer to all tree species in the categories of Premium, Common, Construction and Furniture and Light Hardwoods, and Softwoods.
- (h) **Comprehensive Development and Management Plan (CDMP)** – a long-term plan prepared and submitted by an IFMA holder to, and for the approval by, the DENR which, among others, indicates the series of sequential or simultaneous undertakings and their schedules, in developing and managing the IFMA area, including the harvesting and utilization of the products thereof.
- (i) **Degraded Residual Natural Forest** – refers to a severely disturbed natural forest of whatever cause with a basal area of less than five (5) square meters per hectare of all commercial tree species, with dbh/dab of less than 65 centimeters.
- (j) **DENR** – refers to the Department of Environment and Natural Resources.
- (k) **Ecosystem or ecological system** – refers to the community of living organisms and the non-living environment dynamically and harmoniously functioning together in a given area.
- (l) **Environmental Compliance Certificate (ECC)** – refers to the document issued by the Department certifying that a proposed project or undertaking in an environmentally critical or non-critical area, as evaluated through the processes of an EIA or

IEE, will not bring about an unacceptable environmental impact and that the proponent has complied with the requirements of the environmental impact statement (EIS) system.

- (m) **Environmental Impact Assessment (EIA)** – refers to the process of predicting the likely environmental consequences of implementing a project or undertaking and designing the appropriate preventive, mitigating or enhancement measures.
- (n) **FMB** – refers to the Forest Management Bureau
- (o) **Forest** – refers to either natural vegetation or plantation of crops mainly of trees, or both, occupying a definable, uninterrupted or contiguous area exceeding but not less than one hectare with tree crown covering at least ten percent (10%) of the areas, exclusive of the associated seedlings, saplings, palms, bamboos and other undercover vegetation. A natural forest is a stand dominated by trees whose structure, functions and dynamics have been largely the result of natural succession process. A natural forest is classified as either 1) primary or virgin forest which has not never been subjected to significant human disturbance, or has not been significantly affected by the gathering of forest products such that its natural structure, functions and dynamics have not undergone any major ecological change; or 2) secondary or residual forest that may be classified into either degraded or productive type.
- (p) **Forestlands** – refer to lands of the public domain which have been classified as such and all unclassified lands of public domain.
- (q) **IFMA Area** – refers to a specified and delineated area of forestland subject of or covered by an IFMA.
- (r) **Indigenous Cultural Communities (ICC)/Indigenous People (IP)** – refers to a group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously lived as an organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language,

customs, traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, became historically differentiated from majority of the Filipinos. Indigenous cultural community (ICC) is synonymous with indigenous people (IP).

- (s) **Industrial Forest Plantation (IFP)** – refers to any tract of land planted mainly to timber producing tree species, including rubber, and/or non-timber species such as rattan and bamboo, primarily to supply the raw material requirements of forest-based industries, among others.
- (t) **Initial Environment Examination (IEE)** - refers to the document required of a proponent describing the environmental impact of, and mitigation and enhancement measures for, a project or undertaking located in an Environmentally Critical Area.
- (u) **Integrated Forest Management Agreement (IFMA)** – a production-sharing contract entered into by and between the DENR and a qualified applicant wherein the DENR grants to the latter the exclusive right to develop, manage, protect and utilize a specified area of forestland and forest resource therein for a period of 25 years and may be renewed for another 25-year period, consistent with the principle of sustainable development and in accordance with an approved CDMP, and under which both parties share in its produce.
- (v) **LGU** – refers to the local government unit, such as province, city, municipality and barangay.
- (w) **Managed Forest** – refers to a forest under a deliberate system of protection, rehabilitation and development which may include utilization of resources, to ensure the sustainable production of desired products and services and the conservation of soil, water, wildlife and other natural resources therein for the benefit of present and future generations.
- (x) **National Integrated Protected Area Systems (NIPAS)** – refers to the classification and administration of all designated protected areas to maintain essential ecological processes and

life-support systems, to preserve genetic diversity, to ensure sustainable use of resources found therein and to maintain their natural conditions to the greatest extent possible.

- (y) **Open and Denuded Lands** – refers to the lands that has been depleted of its natural forest cover and is predominantly covered by grasses, herbs, or otherwise bare of any soil cover.
- (z) **Operations Plan** – In accordance with the approved CDMP, a one year written plan detailing the activities in the natural productive residual forest, if any, or a five (5) year written plan detailing the developmental activities in the open, denuded, brushed and degraded residual natural forest.
- (aa) **PENRO** – refers to Provincial Environment and Natural Resources office.
- (bb) **Production Forest** - refers to forestlands designated as such for the sustainable production of timber and/or non-wood forest products.
- (cc) **Production Residual Natural Forest** - refers to a natural forest with a basal area of five (5) square meters per hectare or more and to be properly managed as a sustainable and economic source of natural-grown timber.
- (dd) **Protection Forest** - refers to forestlands not the subject of commercial or industrial activities that include all areas under NIPAS and such other areas the Secretary may designate.
- (ee) **RED** – refers to Regional Executive Director
- (ff) **RENRO** - refers to the Regional Environment and Natural Resources Officer
- (gg) **Rotation** -refers to the number of years between the initial establishment of a plantation and the time when it is considered ready for harvesting.
- (hh) **Secretary** - refers to the Secretary of the Department of Environment and Natural Resources.
- (ii) **Sustainable Development** - means meeting the needs of the present generation without compromising the ability of the future generation to meet their own needs.
- (jj) **Timber License Agreement (TLA)** – refers to a privilege granted by the State to a person to utilize forest resources

within a forestland with the right of possession and occupation thereof, to the exclusion of others, except the Government, but with the corresponding obligation to develop, protect and rehabilitate the same in accordance with the terms and conditions set forth in the said agreement.

CHAPTER II

IFMP AREAS

Sec. 4 *Areas Available for IFMP.* – Except areas enumerated in Sec. 5 herein, IFMAs may cover all lands of the public domain under the jurisdiction of the DENR, such as:

- (a) Open and denuded lands, brushlands, degraded residual natural forests;
- (b) Areas covered by cancelled/expired Forest Land Grazing Agreement or pasture permits or leases;
- (c) Government reforestation projects or portions thereof found to be more suitable or can be better developed as IFP in terms of public interest and benefits to surrounding communities;
- (d) Production residual natural forest that may be best included in any of the aforementioned areas and be a part of the managed forest under the IFMA;
- (e) Areas under cancelled and expired TLAs; **provided**, areas under existing TLAs may be allowed for conversion to IFMA by the holder thereof pursuant to Sections 6, 9 and 12 herein.

Sec. 5 *Areas Prohibited for IFMA.* In no case shall IFMAs be awarded in the following:

- (a) Areas or lands of the public domain established under the NIPAS within the classification of national park as provided for in the Constitution and/or those proclaimed, designed or set aside pursuant to a law, presidential decree, presidential proclamation or executive order as well as those the Secretary

shall propose for inclusion in the initial component of the System except when such areas fall within the buffer zone;

- (b) Areas or lands subject of Certificates of Ancestral Domain/Certificate of Land Claims (CADC/CALC) or of any other tenorial instruments issued by the DENR under the Integrated Social Forestry Program, Community Forest Program, and other people-oriented forestry programs and other licenses, permits or lease unless with prior informed consent of the holder.
- (c) Those areas with pending applications CADC/CALC or those areas verified by the DENR to be actually occupied by indigenous cultural communities under a claim of immemorial possession unless after due notice and hearing in accordance with existing rules and regulations same shall be denied or rejected.

Sec. 6 *Size of IFMA Area.* – The **minimum** size of the area that may be covered by an IFMA shall be five hundred (500) hectares and the **maximum** size may depend upon the capability of the applicant to develop and manage into productive condition as well as the requirements of him processing plant(s) existing or to be installed in the area/region; **provided**, that it shall not exceed forty thousand (40,000) hectares, preferably but not necessarily of one single block of an area; **provided, however**, that where a TLA is converted into IFMA, the size of the IFMA area may extend up to the size of the TLA area at the time of the conversion.

For purposes of effective management, economic scale or economies of scale, holders of adjoining or economically-distanced small-sized IFMA areas may be allowed to integrate into cooperative, a federation of cooperatives, or corporation the aggregate area of which shall not exceed 40,000 hectares.

Sec. 7 *Evaluation, Delineation and Approval of Potential IFMA Areas.* The DENR shall determine the land use

and vegetative cover of the identified areas for forest plantation development taking into consideration major watershed divide as boundaries, if possible with the application of the latest forest resource and other baseline data as well as modern methods such as aerial photography and remote sensing techniques.

- 7.1 Areas so delineated shall be validated on the ground, particularly the extent of each of the forest cover types, such as open/denuded lands, brushlands, residual natural forest and with the assistance of the LGU, dependent communities shall be consulted about the delineation of the area for IFMA purposes; and
- 7.2 The delineated areas for IFMA purposes shall be prepared either through the conventional and/or geographic information system (GIS) in scale 1:50 000 or an appropriate scale indicating thereon the extent in hectares of each forest cover types and such other relevant information. Same shall be duly indorsed by the LGU concerned through Board/Council Resolution, and approved by the Regional Executive Director concerned, the original copy of which, together with all pertinent documents shall be forwarded to the FMB Director for safekeeping, updating and reference.

Sec. 8 *Registry of Available IFMA Areas.* The FMB, RED, PENRO, and CENRO shall maintain a **Registry** containing the location, description and status of all delineated IFMP areas and approved IFMAs which shall be made accessible to local communities, LGUs and other stakeholders as a matter of their rights which shall not be impaired.

CHAPTER III

APPLICATION FOR THE APPROVAL OF THE IFMA

Sec. 9 *Qualifications of Applicants.* The Applicants for IFMA shall be:

- (a) A Filipino citizen of legal age; or,
- (b) Partnership, cooperative or corporation whether public or private, duly registered under Philippine laws.

However, in the case of application for conversion of TLA into IFMA, an automatic conversion after proper evaluation shall be allowed, **provided** the TLA holder shall have signified such intention prior to the expiry of the TLA, **PROVIDED further**, that the TLA holder has showed satisfactory performance and have complied in the terms of condition of the TLA and pertinent rules and regulations.

Sec. 10 Requirements for Application. Applicants shall submit through the CENRO concerned, the following documents, together with the duly accomplished application form shown in Annex “A” and the sketch map of the area applied for:

- 10.1 Certified copy of Certificate of Registration issued by the Securities and Exchange Commission (SEC) and/or Cooperative Development Authority (CDA) or Articles of Incorporation and By-Laws and list of the current officers and stockholders duly certified by the Board Secretary;
- 10.2 Audited financial statements for the last two (2) preceding years, if the applicant was already in existence;
- 10.3 Proof of financial and technical capability to undertake initial activities in forest plantation establishment and development such as credit lines from financial institutions, collateralable properties, or good past performance or track records in forest development and management as TLA or IFMA Holder and other DENR tenurial instruments;
- 10.4 Application fee in the amount of P0.50 per hectare or fraction thereof and survey fee of P50.00/ha plus the actual transport cost of the survey team from the official station to the site in consonance with the provisions of DAO 93-18 subject for adjustment upon review by the DENR.

10.5 Board resolution authorizing any of the officers to file the application in behalf of the corporation, cooperative and/or partnership, duly certified by the Board Secretary.

Sec. 11 *Procedures in Processing of Applications and Approval of IFMA* The following procedures shall be observed in the processing of IFMA applications:

- 11.1 **At the CENRO** - Except in the case of conversion of TLA into IFMA as provided for in Section 9 herein, the CENRO concerned shall accept and process the IFMA application on a first-come-first-served basis taking into consideration, the qualifications of the applicant, the completeness of the documents submitted, and if the area applied for is included in the approved IFMA site and still available for application per the Registry. Thereafter, the area applied for shall be inspected on the ground based on the form as shown in “Annex B”, after which the CENRO shall within 10 working days after the completion of the field inspection, prepare the IFMA in the form shown in Annex “C” hereof. The CENRO shall then endorse the application documents to the PENRO with his recommendation for approval; otherwise, same shall be returned by him to the applicant concerned with his comments.
- 11.2 **At the PENRO** - Upon receipt of the application documents, the PENRO concerned shall within five (5) working days from the receipt thereof evaluate/review the same. If all are found in order, the PENRO shall endorse the application documents to the RED concerned with his recommendations for approval; otherwise, same shall be returned with his comments to the CENRO concerned for further action.
- 11.3 **At the RENRO** – the RED concerned shall evaluate/review within five (5) working days from the receipt thereof the application documents. If all are found in order, the RED shall forward the IFMA, together with all application documents and his recommendation for approval to the

Secretary; through the FMB Director; otherwise, same shall be returned by the RED with his comments to the CENRO concerned through the PENRO for further action.

- 11.4 **At the FMB** – Upon receipt of the IFMA together with all application documents, the FMB Director shall evaluate and review within five (5) working days thereof. If all are found in order, the Director shall recommend to the Secretary the approval of the IFMA; otherwise, same shall be returned by the FMB Director with his comments to the concerned RED, copy furnished the Secretary.
- 11.5 **At the OSEC** - the Secretary may approve or disapprove the IFMA after which the notice of approval shall be sent to applicant, copy furnished the FMB, RENRO, PENRO, CENRO and the LGUs concerned.

Sec. 12 *Initial Environmental Examination (IEE) and Environmental Clearance Certificate (ECC)*. After an IFMA has been awarded, and in order to identify the environmental impacts that have to be addressed in the development of the industrial forest plantation, the holder thereof shall submit an Initial Environmental Examination (IEE) in a checklist to be prepared therefor which shall at least include the following:

- 12.1 A brief description of the project and its process of operations;
- 12.2 Description of the environmental setting and receiving environment including the primary and secondary impact areas;
- 12.3 Description of the environmental and socio-economic impacts of the project;
- 12.4 Matrix of the mitigation/enhancement measures;
- 12.5 Consultation and discussion with upland communities and indigenous peoples within the IFMA area about the socio-economic, political and cultural impacts of the project;

- 12.6 Documentation on gender issues with significant impact on women, including their roles/participation in project implementation; and
- 12.7 Discussion on gender issues with significant impact on women, including their roles/participation in project implementation; and
- 12.8 Accountability statements of the proponents and preparers.

Pursuant to the provision of DAO 96-37, the RED may either grant or deny the issuance of the ECC or decide that an EIS be further required taking into account the social and environmental cost implication relative to the judicious utilization, development and conservation of the country's natural resources.

CHAPTER IV

TERMS AND CONDITIONS OF THE IFMA

Sec. 13 *Duration of the IFMA.* An IFMA shall have a duration of twenty five (25) years and may be renewed for another twenty five (25) years, **provided**, that all the conditions of the IFMA, pertinent laws, rules and regulations have been complied by the holder thereof:

Sec. 14 *Responsibilities of the IFMA Holders.* All IFMAs shall include the following conditions and/or responsibilities the holders thereof shall comply with:

- 14.1 Under the supervision of the DENR, reckoned from the date the IFMA was awarded, conduct the delineation and marking on the ground of the perimeter boundaries of the IFMA area based on the land classification standard and establish control points on the ground following the Universal Transverse Mercator (UTM) including the conduct of timber inventory at 5% intensity to determine the extent of the natural forest

cover and the forest plantation as TLA reforestation compliance therein, if applicable.

- 14.2 Submit within one (1) year from the date the IFMA was awarded, a Comprehensive Development and Management Plan (CDMP) in the form shown in Annex “D” and an Initial Environmental Examination (IEE) as basis for approval by the Secretary on the former and the issuance by the RED of an Environmental Compliance Certificate (ECC) on the latter;
- 14.3 Submit within one (1) year from the date of the award of the IFMA and every five years thereafter to the FMB up-to-date aerial photos or landsat imageries including their interpretation map covering the entire IFMA area in consonance with DAO No. 92-17; **provided**, that this condition shall be waived if such aerial photos and/or imageries were procured by the DENR, or if the IFMA area has no natural forest, or if the area regardless of vegetative cover is less than 5,000 hectares;
- 14.4 Implement the mitigation/enhancement measures stipulated in the IEE and comply with the conditionalities of the ECC;
- 14.5 Plant principally timber-producing species compatible with the ecological and biophysical characteristics of the area, but not excluding rubber, durian and/or non-timber species like rattan and bamboo; **provided**, that a suitable area of at most ten percent (10%) therein may be used for agricultural purposes; **provided, further** that these endeavors are included and scheduled in the approved CDMP; **provided, finally** that the total plantable area shall be planted based on the rotation period of the plantation species but not exceeding 12 years;
- 14.6 If included in the CDMP, convert the degraded residual natural forest within the IFMA area into a productive state by one or more of the following methods:
 - 14.6.1 enrichment planting, timber stand improvement and assisted natural regeneration;

- 14.6.2 establishing plantations of rattan or other suitable non-timber species; and/or
- 14.6.3 clearing natural vegetation from degraded residual natural forest and establishing industrial forest plantation (IFP); **provided**, that:
 - 14.6.3.1 the timing, location, extent, methods of harvest, expected volume and value of salvaged wood and the environmental impact of any clearing carried out for such conversion shall be stated in the approved CDMP, OP, and IEE;
 - 14.6.3.2 buffer strips of natural vegetation at least 50 meters in width, following to the extent possible natural boundaries, between compartments which shall not exceed 100 hectares each, and at least 20 meters on both sides of major rivers or streams shall be retained and shall be subject of enrichment planting or shall be used for rattan or bamboo plantation;
 - 14.6.3.3 all extraction of commercial timber carried out in connection with conversion of degraded natural residual forest to IFP shall be indicated in the operations plan approved by the RED and shall be subject to forest charges provided for in RA 7161; and
 - 14.6.3.4 planting the entire area cleared shall be undertaken within six (6) months of clearing.
- 14.7 Manage and protect production residual natural forest in accordance with laws and regulations governing thereto and if authorized in the approved CDMP, harvest and utilized naturally grown trees therein on a sustainable basis and in accordance with the Operations Plan (OP) duly approved by the concerned RED, PROVIDED that should there be old

growth (virgin) and protection forest within the IFMA area, same shall be protected and no cutting shall be allowed therein.

- 14.8 Reforest open/denuded lands found within areas classified as protection forestlands and within twenty (20)-meter strips from both sides of river banks which shall be kept permanently under forest cover;
- 14.9 Protect and conserve unique, rare and endangered flora and fauna found within the IFMA area;
- 14.10 Not cut trees found in protection forestlands, in all areas with 50% and over in slope and with elevation above 1000 meters above sea level, or within twenty (20) meters strips from both sides of river/stream banks;
- 14.11 Construct permanent structures and roads within the IFMA Area only in accordance with the approved CDMP and OP;
- 14.12 Employ as many experienced registered foresters as may be required in major aspects of forest management, development, protection, etc. including the appointment of one of them as Forest Operations Manager or in any top level management position; otherwise, hire a DENR-accredited Forest Services Organization such as a forestry consulting firm to undertake similar activities on a continuing basis; and
- 14.13 Submit to the DENR Annual Accomplishment Report in the form prescribed in Annex "E" of this Order.

Sec. 15 *Responsibilities of the DENR.* The DENR shall undertake and/or observe the following conditions in respect of all IFMAs:

- 15.1 Make available upon request to the IFMA holder existing information on the status of the land, resources thereon and dependent communities within or adjacent to the IFMA areas;
- 15.2 Ensure that the activities indicated in the approved CDMP, mitigation/enhancement measures stated in the in the IEE

- conditionalities prescribed in the ECC, pertinent provisions stipulated in this Order and other applicable laws, rules and regulations are complied with by the IFMA holder;
- 15.3 Assist the IFMA holder and host communities in the development and implementation of mutually beneficial agreements;
- 15.4 Not alter or modify the boundaries or legal status of any IFMA Area, once established; **provided**, that amicable settlement shall be undertaken by the DENR in the event of boundary conflict with adjacent IFMA area(s), or with licensed, leased and vested rights areas as well as Ancestral Land/Domain areas; and
- 15.5 Promote and/or approve joint venture, financing and/or securitization schemes recommended by the IFMA Holder designed to support the development of the IFMA Area in an orderly and expeditious manner.

Sec. 16 *Compensation*

- 16.1 **Compensation to the IFMA Holder.** The IFMA Holder shall be entitled to receive from the Government compensation for the fair market value of permanent improvements introduced, including plantation forest crops remaining in his IFMA are under the following circumstances;
- 16.1.1 expiration of the IFMA;
- 16.1.2 termination of the IFMA when public interest demands; or
- 16.1.3 reduction of the IFMA area for right-of-way or when the public interest demands.
- 16.2 If the Government retracts, for reasons other than cause, an IFMA holder's rights to carry out harvests, in accordance with the approved CDMP, in residual natural forest or in any portion thereof, the Government shall compensate the IFMA holder for cost incurred in maintaining, improving and

protecting said forest up to the time such rights were retracted.

- 16.3 **Appraisal for Improvements for Compensation.** The fair market value of permanent improvements shall be decided upon by a committee comprising of representatives for the DENR, the IFMA holder and a qualified independent appraiser whose appointment shall be mutually agreed upon by the DENR and the IFMA holder. The DENR and the IFMA holder shall bear equally the cost of such appraisal.

Sec. 17 *Warranties.*

- 17.1 **Modifications.** No IFMA shall be amended in any way except by written instrument signed and agreed to by the duly authorized representatives for the DENR and the IFMA Holder.
- 17.2 **Notice of Breach.** In the event of any default or breach of any of the provisions of an IFMA by either party, the other party may, by notice to the party in default or breach, specify such default or breach and require the same to be remedied within thirty (30) days after service of the notice.
- 17.3 **Arbitration.** In the event of dispute between the DENR and an IFMA Holder that cannot be settled by mutual accord, the dispute shall be referred to arbitration which shall be held in accordance with the rules provided in RA No. 876 and the decision arising from which shall be binding to both DENR and IFMA Holder.

Sec. 18 *Transfers.* An IFMA Holder may transfer, exchange, sell or convey the IFMA or any rights therein or any assets used in connection therewith, if authorized by the Secretary, and if:

- 18.1 The IFMA has been in existence for at least three (3) years;

- 18.2 The IFMA Holder has been faithfully complying with the terms and conditions of the IFMA, including implementation for the Comprehensive Development and Management Plan;
- 18.3 The transferee is qualified to hold an IFMA;
- 18.4 There is no evidence that such transfer or conveyance is being made for purposes of speculation;
- 18.5 The transferee shall assume all the obligations of the transferor specified in the IFMA, CDMP, and ECC;
- 18.6 For IFMA Areas in which development is being financed by loan funds, the consent of involved financing institutions has been obtained; and
- 18.7 Consultation has been held and agreement has been reached with all certified Ancestral Domain or Ancestral Land Claimants; if applicable.

Sec. 19 *Encumbrances.* An IFMA Holder shall not offer as security, mortgage or otherwise encumber the IFMA or any rights therein or any assets used in connection therewith, unless authorized by the Secretary.

CHAPTER V

INCENTIVES AND PROFIT SHARING

Sec. 20 *Incentives.* The IFMA Holder shall be entitled to the following incentives:

- 20.1 Interplant secondary crops between trees within areas designated for IFP.
- 20.2 All planted trees and other crops established pursuant to an IFMA belong to the IFMA Holder who shall have the right to harvest, sell and utilize such trees and crops in whatever marketable form(s) and in whatever legal manner(s).
- 20.3 Allow without restriction the IFMA Holder to export logs, lumber and other forest products derived from IFMA Area; **provided**, that logs harvested or obtained from naturally

growing trees (not planted) in the IFMA Area and the lumber manufactured from such logs will not be exported.

- 20.4 All plantation products derived from an IFMA Area shall be exempted from forest charges; **provided**, that logs derived from trees growing naturally (not planted) and/or other forest products naturally growing trees (not planted also) in an IFMA Area as well as logs from trees planted in compliance with TLA reforestation obligations of TLAs shall be subject to forest charges stipulated in RA 7161.
- 20.5 Entitlement to all relevant incentives provided for under the Omnibus Investment Code and to all applicable incentives enumerated under Section 36 of PD 705, as amended.
- 20.6 Transfer developed plantations that are at least three (3) years old to a cooperative upon fair compensation or payment thereof by the cooperative itself or through a financing institution or to open up public investment in accordance with Section 15.5 herein.
- 20.7 Use stable plantation crops that are at least three (3) years old as collateral or security for loans offered by government development banks, financial institutions, or government-owned and controlled corporations.
- 20.8 An IFMA holder who has satisfactorily complied with the terms and conditions of this IFMA based on performance evaluation by the DENR may be allowed either a) an additional area to the existing IFMA Area, **provided**, that the resulting aggregate size of the IFMA Area shall not exceed 40,000 hectares; or b) a new or another IFMA the maximum area of which shall not exceed 40,000 hectares.

Sec. 21 Profit Sharing. The sharing of the profit arising from an IFMA between the holder thereof and the Government shall be negotiated between the said holder and the DENR immediately following the approval of the CDMP and the grant of ECC, taking into consideration, among others, the following cost factors;

- 21.1 Plantation establishment, protection, management, infrastructure and harvesting cost as well as mitigating measures;
- 21.2 Fixed assets, equipment and machineries directly related to the plantation development and harvest;
- 21.3 Kind and volume of products that shall be harvested and prevailing fair market prices thereof;
- 21.4 Variation in rates of interest and foreign exchange for financial investment;
- 21.5 Expenses incurred in indirect activities such as community development, etc;
- 21.6 Forest charges and taxes paid; and
- 21.7 Reasonable margin for profit and risks.

The profit sharing agreed upon shall form part of the IFMA.

CHAPTER VI

MONITORING AND CONTROL

Sec. 22 *Program Management* The program shall be managed and implemented through the various DENR Offices as follows:

- 22.1 FMB shall be the National Program Coordinating Office tasked to formulate policies, rules and regulations pertinent to forest plantation development and management, establish linkages with concerned agencies both government and non-government to ensure the success of the program implementation, continuously monitor and assist the Secretary in the supervision of the program, provide the Secretary and other concerned authority with periodic reports on program accomplishments and other relevant information and keep updated and orderly files of all issued IFMAs including relevant documents of the program.

- 22.2 **RENRO** - The RED, assisted by the ARED concerned shall be responsible for the efficient and effective implementation of the program in the region. The RENRO shall keep copy of the records of all IFMAs within the jurisdiction of the region. The RED shall submit to the Secretary thru the FMB periodic reports on the accomplishments, issues and problems with recommendation regarding the implementation of the program.
- 22.3 **PENRO AND CENRO** – The PENRO and the CENRO shall be directly responsible in the implementation of the program. The PENRO shall maintain a database of all IFMAs in the province, while the CENRO shall likewise maintain information of all IFMAs under its jurisdiction, including periodic monitoring and evaluation of IFMA holder’s accomplishments for submission to the DENR authority.

Sec. 23 *Suspension of an IFMA.* In the event of any alleged violation committed by the IFMA holder against any of the provisions of the IFMA, the RED concerned or the Secretary himself shall initiate an investigation into the violation in accordance with the warranties provided herein and, depending on the gravity for the violation, may either issue a Notice of Breach or Notice of Suspension of Operations. The notice of suspension shall indicate the actions/activities that shall be done by the IFMA holder in order to facilitate the lifting of the suspension including the admonition that non-compliance thereto shall result to the cancellation of the IFMA. If any development activity pursuant to the IFMA is being financed by loan funds or if any improvement within the IFMA Area is encumbered by a third party, the DENR shall notify the bank or the other party involved about any of the preceding notices. The IFMA Holder shall within thirty (30) days from receipt of any of such notices, file an answer, a motion for reconsideration, or an appeal, as the case may be, with the Office of the Secretary.

Sec. 24 ***Grounds for Cancellation of IFMA.*** The following violations shall be sufficient grounds for cancellation of the IFMA:

- 24.1 If the IFMA was obtained through fraud, misrepresentation or omission of material facts existing at the time of the filing of the application;
- 24.2 Failure of an IFMA Holder to settle any forestry account, such as forest charges, when they become due and upon prior notice to the IFMA Holder.
- 24.3 Violation of any of the terms and conditions of, or failure to comply with, or perform the obligations imposed in, the IFMA, and of other pertinent laws, or policies affecting the exercise of the IFMA;
- 24.4 Failure to submit a CDMP and IEE within one (1) year from the date the IFMA is entered into;
- 24.5 Failure to submit aerial photographs or satellite imageries for the IFMA area, when required and every five years thereafter;
- 24.6 Failure to carry out a inventory resource inventory for areas containing any natural forest, in case such inventory has not been undertaken prior to the issuance of the IFMA;
- 24.7 Failure to implement, without due and reasonable cause explained in writing, the approved CDMP, OP and/or the conditions of IEE and ECC;
- 24.8 Conducting any operations in violation of the approved CDMP or OP, or engaging in activities outside the IFMA Area without the expressed consent or authority of the Secretary.
- 24.9 Failure to protect the IFMA Area except as a result(s) of force majeure, where the IFMA Holder has no control over; and
- 24.10 Abandonment of the IFMA Area as evidence by absence of the IFMA Holder, whether actual or constructive, for any given period of one (1) year.

Sec. 25 *Finality and Execution of Orders of Cancellation.* Any decision by the Secretary to cancel an IFMA shall become final and executory after thirty (30) days from receipt thereof by the IFMA Holder, unless the latter, prior to the expiry of said thirty-day period, files a motion for reconsideration or an appeal with the Office of the Secretary.

Sec. 26 *Forfeiture of Rights to Compensation.* Upon cancellation of an IFMA for any of the reasons specified herein, all permanent improvements introduced into the IFMA area, including forest plantations, shall become the property of the Government without there being any obligation to compensate the IFMA Holder.

CHAPTER VII

MISCELLANEOUS PROVISIONS

Sec. 27 *Previously Issued IFMAs.* The terms and conditions of any IFMA entered into prior to this Order remain valid unless modifications are agreed to by the DENR and the IFMA Holder in accordance with the provisions hereof, without prejudice to whatever action that the office may take after a performance evaluation thereof has been undertaken in the area.

Sec. 28 *Repealing Clause.* This Order repeals DAO 91-42, DAO 93-60 and DAO 97-04 and Orders, Memoranda, Circulars, and other issuances which are inconsistent herewith.

Sec. 29 *Effectivity.* This Order shall take effect fifteen (15) days after its publication in the Official Gazette or in a

newspaper of general circulation and upon acknowledgement by the UP Law Center.

(Sgd.) ANTONIO H. CERILLES
Secretary

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