



Republic of the Philippines
Department of Environment and Natural Resources

FOREST MANAGEMENT BUREAU

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MEMORANDUM

FOR : The Bureau Directors
Biodiversity Management Bureau
Environmental Management Bureau
Land Management Bureau
Mines and Geosciences Bureau

The Director, Foreign-Assisted and Special Projects Service

DENR Regional Offices

NCIP Counterpart Representative(s)

FROM : The OIC-Assistant Secretary for Field Operations - Western
Mindanao, Director, in *concurrent capacity* and Chair, Subgroup on
FPIC, Tenure Instruments and Enforcement

SUBJECT : **SUBGROUP MEETING ON FPIC, TENURE INSTRUMENTS
AND ENFORCEMENT**

DATE : **APR 12 2023**



This is to provide a status on the discussion of the Department of Environment and Natural Resources (DENR) - National Commission on Indigenous Peoples (NCIP) on the **Subgroup on FPIC, Tenurial Instruments and other DENR permits, and Enforcement** which is being co-chaired by Engr. Caridad Katherine Gullunan from the NCIP. The objectives of this Subgroup are as follows:

- To provide for enforcement measures and mechanisms as regards:
 - the issuance of cease-and-desist orders (CDO) by NCIP and/or DENR;
 - the cancellation of permits, licenses, instruments, or certifications, in cases of violation of the IPRA, Memorandum of Agreement, and other pertinent laws, rules and regulations; and
 - utilization, control and enjoyment by the ICCs/IPs of the land and natural resources within their ADs/ALs in light of the expiration of programs, permits, licenses, and other RUIs issued thereon.
- To ensure that FPIC from the ICCs/IPs and the corresponding Certification Precondition (CP) are secured before any person, organization, or entity, public or private, conducts any project, program or activity, including issuance or renewal of

permits and licenses and the conversion or merging of tenurial instruments, within or affecting ADs/ALs;

- To provide for the formal recognition of sustainable traditional resource use of ICCs/IPs within their ADs/ALs, including the formulation of a streamlined process for approval of development of projects initiated by ICCs/IPs within their ADs/Als.

Be informed that this subgroup conducted its second meeting last 14 March 2023, attended by representatives from NCIP, DENR field offices, LMB and FMB and discussed the updates of the agreements during the first meeting. The summary of the discussion and agreements is attached as Annex of this Memorandum. As a way forward, the next subgroup meeting is scheduled on April 20, 2023 with the following agenda:

- NCIP Presentation of the MOA and Enhanced FPIC process
- Forging partnerships and collaboration: the experience of DENR Region 1 and Region 10
- Conduct of Inter Agency Mapshop

FOR INFORMATION, REFERENCE AND FURTHER APPROPRIATE ACTION, PLEASE.


ARLEIGH J. ADORABLE, CESO III

Copy furnished:

Undersecretary for Field Operations - Mindanao and
DENR Focal Person, DENR-NCIP TWG

Subgroup Meeting on FPIC, Tenure Instruments and Enforcement
Forest Management Bureau
Office of the Director Conference Room 14 March 2023

AGENDA	ISSUES RAISED	AGREEMENTS	ASSIGNED
Provision of updates/inputs - Consolidated inputs from the DENR	NCIP raised their difficulty in requesting for data and shapefiles of issued forest tenure instruments	DENR to provide a list of consolidated data of issued forest tenure agreements. LMB recommended inclusion of all tenure instruments being issued within public lands. DENR Region 1 and Region 10 to present and share their existing Agreement and practices with NCIP on the 3rd subgroup meeting on FPIC FMB to issue Memorandum instruction to Field Offices to encourage conduct of a "Mapshop" with DAR, Military and NCIP for the identification of possible conflict/overlapping areas	Secretariat DENR Regional Office (R1 and R10) Secretariat
- Enhanced FPIC - IPO registry - NCIP contact persons	- Presentation of the Enhanced FPIC to the Group - In the absence of the IP leader, how will field offices determine which group/IP to consult with for FPIC	- Engr. Gullunan to discuss with the Members of Commission en banc to finalize the enhanced FPIC and provide copy to the members of the subgroup for further review/comments - For Field Offices to closely coordinate with NCIP regional offices for assistance and <i>vice versa</i> . - NCIP to provide a certified list of IP groups - NCIP will send the requested data to the Secretariat	NCIP Field Offices NCIP NCIP
Status of draft MOA	The MOA submitted by NCIP was	The body agreed to the suggestion and will include it in	Secretariat

AGENDA	ISSUES RAISED	AGREEMENTS	ASSIGNED
	being reviewed by another Subgroup headed by the Legal Affairs Service.	the draft policy/agreement with NCIP.	
Other matters		<p>The next subgroup meeting is scheduled on April 20, 2023 with the following agenda:</p> <ul style="list-style-type: none"> - NCIP Presentation of the MOA and Enhanced FPIC - Forging partnerships and collaboration: the experience of DENR Region 1 and Region 10 - Conduct of Inter Agency Mapshop 	

Prepared and submitted by Subgroup Secretariat 20 March 2023.

SUBGROUP ON FPIC, TENURE INSTRUMENTS AND ENFORCEMENT

This is in reference to the Department of Environment and Natural Resources (DENR) - National Commission on Indigenous Peoples (NCIP) high-level policy discussions of issues and concerns over forest lands, alienable and disposable public lands, mineral resources, and other natural resources with issued ancestral lands, domains and those with ongoing claims. On 17 August 2022, a follow-up meeting was conducted which was presided by Joselin Marcus E. Fragada, CESO III, Undersecretary for Field Operations-Mindanao together with Commissioner Rhodex P. Valenciano as the designated/nominated focal persons of their respective offices in the June 22, 2022 meeting.

During the said meeting, it was agreed that the creation of different subgroups be formalized in order to facilitate discussions on key issues, to wit:

- a) Subgroup on Titling of Lands and Section 56 on Vested Rights
- b) Subgroup on Mapping and Data Sharing
- c) Subgroup on Coordination Mechanism for Section 58 of IPRA
- d) Subgroup on FPIC, Tenurial Instruments and other DENR permits, and Enforcement
- e) Subgroup on Dispute Resolution

The Forest Management Bureau was assigned to lead discussions on **Subgroup on FPIC, Tenurial Instruments and other DENR permits, and Enforcement** which is being Co-Chaired by Engr. Caridad Katherine Gullunan of NCIP with the following objective(s):

- To provide for enforcement measures and mechanisms as regards:
 - the issuance of cease-and-desist orders (CDO) by NCIP and/or DENR;
 - the cancellation of permits, licenses, instruments, or certifications, in cases of violation of the IPRA, Memorandum of Agreement, and other pertinent laws, rules and regulations; and
 - utilization, control and enjoyment by the ICCs/IPs of the land and natural resources within their ADs/ALs in light of the expiration of programs, permits, licenses, and other RUIs issued thereon.
- To ensure that FPIC from the ICCs/IPs and the corresponding Certification Precondition (CP) are secured before any person, organization, or entity, public or private, conducts any project, program or activity, including issuance or renewal of permits and licenses and the conversion or merging of tenurial instruments, within or affecting ADs/ALs;
- ~~To harmonize overlapping jurisdictions between DENR and NCIP as regards reservations, such as forest reservations, mineral reservations, and watersheds, which are located within ADs/ALs but are also covered by Presidential Proclamations or laws; and [This was suggested to be dropped in the discussion of this subgroup since this is the main concern of the Subgroup on Coordination Mechanism for Section 58 of IPRA]~~
- To provide for the formal recognition of sustainable traditional resource use of ICCs/IPs within their ADs/ALs, including the formulation of a streamlined process for approval of development of projects initiated by ICCs/IPs within their ADs/Als.

Please be informed that an initial meeting/discussion was conducted last 12 October 2022 (see *Annexes* for detailed discussion) and agreed to limit the scope for each topic, to wit:

1. NCIP to discuss and present their **proposed level of participation** on DENR activities especially on the processes of issuance of CDO and other administrative process;

2. NCIP to provide **access to the existing IPO registry** and other similar databases relevant to tenure/permit issuances;
3. NCIP to **provide a directory/database of NCIP officials/staff/indigenous peoples organizations** representatives to assist the forest tenure instrument applicants on the FPIC process;
4. DENR to submit **the list of activities programs and permits** being processed and it mainstreams/integrates IP/ICC culture and NCIP processes;
5. DENR to submit draft MOA to NCIP for review and comments; and
6. NCIP and DENR to provide a clear stand if indigenous peoples should be required to **secure utilization permits of natural resources within their ancestral lands/domains**.

In this regard, the regional offices were instructed to submit the following information being monitored/ processed/supervised which in any way affects/involves IPs/ICCs within your sector/office:

1. List of programs, permits, licenses, and clearances
 - processes, requirements and timelines
2. Survey process for permits and licenses that require spatial verification
3. Responsibilities and rights of permittees/holders
4. Possible convergence and collaboration

Hereby are inputs from field offices in a matrix with specific cases attached in the Annexes:

1. NCIP clearances be required only on areas with approved CADC/CADT;
2. CBFMA, SIFMA, IFMA, FLGMA, FLAg, FLAgT, and ISF within recognized Ancestral Domain/Land to undergo FPIC Process with the required two (2) meetings only (Not a full blown FPIC) per Section 24 of the Revised Guidelines of FPIC with executed MOA;
3. Defining the metes and bounds between timberland and CADT through provision of certification from DENR on recognized ancestral domains including claim and cross-checking of available data such as referring to list of ancestral domain with map, conduct of joint (NCIP and DENR) resurvey and re evaluation of expired CSC;
4. Eradicating illegal activities within timberland through joint enforcement of ENR laws and IEC campaign; and
5. Possible creation of localized JAO consistent with JAO 2012-01 considering the withdrawal of NCIP from the JAO per NCIP En Banc Resolution No. 08-03, 2019 re Resolution withdrawing the NCIP's approval on the Joint DAR-DENR-NCIP-LRA (JAO No. 01-12) and membership to the joint National Committee created pursuant thereto".

FOR INFORMATION AND CONSIDERATION.


ILDEFONSO L. QUILLOY
 Chief, Forest Resources Management Division

CONSOLIDATED INPUTS FROM FIELD OFFICES

ISSUE	AGREEMENTS/RECOMMENDATION	SPECIFIC CASES
FPIC process on forest tenure	<ul style="list-style-type: none"> • CBFMA, SIFMA, IFMA, FLGMA, FLAG, FLAGT, and ISF within recognized Ancestral Domain/Land to undergo FPIC Process with the required two (2) meetings only (Not a full blown FPIC) per Section 24 of the Revised Guidelines of FPIC with executed MOA • Recommendation: NCIP clearances be required only on areas with approved CADC/CADT 	<ul style="list-style-type: none"> • Memorandum of Understanding between DENR Region 1 and NCIP Region 1 for Joint Operational Agreements between DENR and NCIP Ilocos Norte, Ilocos Sur, La Union, and Pangasinan • Despite the fact that Region 8 has no registered ICCs and/or IPs, applicants are still required to secure CNO from the NCIP
Metes and bounds of forestland and CADT	<ul style="list-style-type: none"> • For NCIP to submit list of Ancestral Domain with map • For DENR to provide certification indicating land as within the recognized ancestral domain pending the issuance of CADT • For DENR and NCIP to conduct resurvey and re evaluation of expired CSC 	<p>Memorandum of Understanding between DENR Region 1 and NCIP Region 1 for Joint Operational Agreements between DENR and NCIP Ilocos Norte, Ilocos Sur, La Union, and Pangasinan</p>
Illegal activities within timberland	<ul style="list-style-type: none"> • Enforcement of specific ENR laws in coordination with ICCs/IPs • For DENR and NCIP to further disseminate National Advisory NA 2020-08-001 Series of 2020 on the Prohibition of Illegal Selling or any form of transfer of public lands within ancestral domains • On portions of public forest sold and constructed with permanent structures, for DENR to arrange a dialogue with concerned parties and provide visibility of enforcement officers of DENR 	<ul style="list-style-type: none"> • Memorandum of Understanding between DENR Region 1 and NCIP Region 1 for Joint Operational Agreements between DENR and NCIP Ilocos Norte, Ilocos Sur, La Union, and Pangasinan • NHA R12 argued that the "issuance by the NCIP of CADT R12-SEN-0609-111 is already a proclamation itself" and that "Ancestral domains are private lands under the concept of Native Title" thus "the land covered by CADT R12-SEN-0609-111 being privately owned by the Manobo Dulungan ICCs, may

	<ul style="list-style-type: none"> • For NCIP to report illegal activities/violation to PENRO • For NCIP to collaborate with other stakeholders for the protection, conservation and management of forestlands take over by the NCIP and were previously under the management of DENR • Discussion of issues and concerns surrounding the housing project in Senator Ninoy Aquino, Sultan Kudarat 	<i>be used...without the necessity of applying for a Presidential Proclamation"</i>
On withdrawal of NCIP from the JAO per NCIP En Banc Resolution No. 08-03, 2019 re Resolution withdrawing the NCIP's approval on the Joint DAR-DENR-NCIP-LRA (JAO No. 01-12) and membership to the joint National Committee created pursuant thereto"	Possible creation of localized JAO consistent with JAO No. 2012-01	
Responsibilities of tenure applicants	To exert due diligence in securing the corresponding NCIP Certificate within the 2 year period	

Region 1

A Memorandum of Understanding was entered between DENR Regional Executive Director Region 1 and Regional Director, NCIP Region 1 containing the Statement of Commitment of the respective Offices to the Joint Operational Agreement (JOA) developed per Province

Province	Issues/recommendation
1. Ilocos Norte	<ul style="list-style-type: none"> ● Issue on Native Title <ul style="list-style-type: none"> ○ submit list of AD and IPO, and certification issued by NCIP ○ provide metes and bounds (maps) of the AD ○ NCIP to include in their certification whether the subject area is within Timberland/recognized AD/AL pending the issuance of CADT ● FPIC <ul style="list-style-type: none"> ○ CBFMA, SIFMA, IFMA, FLGMA, FLAg, FLAgT, and ISF within recognized Ancestral Domain/Land to undergo FPIC Process with the required two (2) meetings only (Not a full blown FPIC) per Section 24 of the Revised Guidelines of FPIC with executed MOA ● Construction of Tribal Hall within the ISF covered with CSC <ul style="list-style-type: none"> ○ Amend the CSC issued to an Ip to include specific activities that would entail conversion on the use of land
2. Pangasinan	<ul style="list-style-type: none"> ● FPIC <ul style="list-style-type: none"> ○ DENR Projects such as NGP, CBFMA and Stewardship Agreements were not coordinated with the ICCs/IPs vice versa ○ DENR field office to transmit to NCIP existing projects within ADs, vice versa (quarrying, crushing plant) ○ DENR and NGP partners to secure consent from IP through community validation to be facilitated by NCIP for the new NGP/projects ○ Illegal logging at the Communal Forest (AD) - for verification/validation ● Communal land / Land Selling <ul style="list-style-type: none"> ○ Land conflicts with Free-patent application - being subjected to ADR
3. La Union	<ul style="list-style-type: none"> ● CADT Registration <ul style="list-style-type: none"> ○ Non-issuance of CNO to the approved CADT applications ○ Segregation of private properties used/traversed by the road widening of national highway - for coordination with DPWH

Region 8

No registered IPs but applicants are still being required to secure necessary certifications from the Commission

Region 10

Recently, the Free and Prior Informed Consent (FPIC) application for the activity on the relocation of the perimeter boundary coordinates of Camp Kibaritan (PP 134, dated July 11, 1963) is still at the Office of the NCIP Region 10 and the allocated funds are facing possible lapse if not accomplished the soonest. The survey has no adverse effects on the environment since it only relocates the presidential proclamation's technical description on the ground.

Also, several Community-Based Forest Management Agreements (CBFMAs) and holders of other Tenurial Instruments (IFMA, SIFMA, FLGMA/FLGLA) recommended for renewal based on the results of the conducted performance evaluation were having difficulty in the tedious process of securing the FPIC. Perhaps, due to the conflicting issuances in Region X. These include overlaps between the tenurial instruments of the DENR and NCIP, the NCIP with DAR, the DAR with that of Military Reservations.

Approximately 12 thousand hectares of the areas with conflict issuances between the DENR and the DAR while a total of 92 thousand hectares with conflict issuances between the DENR and the NCIP. Per record of this office, Bukidnon has the most number of polygons and largest area with conflict issuances of 109 thousand hectares, followed by Misamis Oriental at 50 thousand hectares. As of August 2022, this office still have around 728 hectares of data that needs to be validated (copy attached).

Region 12

Land conflict affects current implementation and monitoring of the flagship program of DENR, the National Greening Program. The following are the issues, concern and clarifications that DENR and NCIP must address with a concrete solution, to wit;

- a. What should be our legal and appropriate action if claimed CADT is not registered in the Register of Deeds (ROD) versus those registered?
- b. Renewal of Certificate of Stewardship Contract that are already developed and covered with existing programs of DENR like National Greening Program.

Our partner in the upland must not sense prejudicing on their behalf since they had already implemented the program from the start and developed it in accordance with the terms and conditions of the stipulated contract.

LMB

permits, licenses and tenures instruments issuances

<ul style="list-style-type: none">• Foreshore Lease Applications• Miscellaneous Lease Applications• Special Tree Cutting Permit• Private Land Timber Permit• Special Private Land Timber Permit• Wood Charcoal Production/Transport Permit• Certificate of Gums, Resins, Oils & Exudates Origin	<ul style="list-style-type: none">• <i>Certificate of Minor Forest Products Origin</i>• <i>Integrated Forest Management Agreement</i>• <i>Socialized Industrial Forest Management Agreement</i>• <i>Forest Land Grazing Mgt. Agreement</i>• <i>Community-Based Forest Mgt. Agreement</i>• <i>Forest Land-use Agreement</i>• <i>Forest Land-use Agreement for Tourism</i>• <i>Joint Venture Agreement</i>• <i>Joint Production Agreement</i>• <i>Co-Production Sharing Agreement</i>
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<ul style="list-style-type: none"> ● Tapping, Extraction and Collection Permit ● Certificate of Bamboo Plantation Registration ● Permit to Harvest in ISF Areas ● Muyong Resource Use Permit ● Rattan Cutting License/Contract ● Lumber Dealers Permit ● Wood Processing Plant Permit ● Wood Recovery Permit ● Chainsaw Import Authority & Chainsaw Registration ● Wood Import ● Export Authority ● Certificate of Timber Origin ● Certificate of Lumber Origin ● Application for Chainsaw Registration ● Wood Charcoal Production Permit 	<ul style="list-style-type: none"> ● Timber License Agreement ● Tree Farm Lease Agreement ● Agro-Forestry Farm Lease Agreement ● Certificate of Stewardship Contract ● Community Forest Stewardship Agreement ● Mangrove Stewardship Agreement ● Protected Area Community-Based Resources Management Agreement ● Special use Agreement within Protected Area ● Mineral Production Sharing Agreement ● Reservations and other forms of management arrangements ● Issuance of Private Tree Plantation ● Registration (PTPR) ● Issuance of Certification of Verification (CoV) for the transport of planted trees within private land, non-timber forest products except rattan and bamboo
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