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DENR MIMAROPA
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MEMORANDUM

TO : **The Regional Executive Director**
DENR MIMAROPA Region
1515 L & S Bldg., Roxas, Blvd., Ermita Manila

FROM : **The Undersecretary**
Legal and Administration

SUBJECT : **LETTER DATED 07 JULY 2022 FROM ATTY. ROBERT A. CHAN RE: REQUEST IF THE PALAWAN NGO NETWORK, INC. (PNNI) COULD TURN OVER THE CONFISCATED FIREARM INVOLVED IN ILLEGAL LOGGING ACTIVITIES TO THE DEPARTMENT**

This is with regard to your Memorandum¹ 18 August 2022 seeking the legal opinion of this Office on the inquiry of Atty. Robert Chan, Executive Director of Palawan NGO Network, Inc. (PNNI).

This Office understands that the issue being resolved in this matter is whether the firearms confiscated in illegal logging fall under the jurisdiction of the Philippine National Police (PNP) or the Department of Environment and Natural Resources (DENR).

Thus, this Office submits the following comments.

Republic Act (RA) 10591, *Comprehensive Firearms and Ammunition Regulation Act* currently regulates the ownership, possession, carrying, manufacture, dealing in, and importation of firearms and ammunition in the country. It was enacted with the view of maintaining peace and order and protecting the people from violence. Section 2 thereof states the policy implemented by the law, to wit:

SECTION 2. *Declaration of State Policy.* — It is the policy of the State to maintain peace and order and protect the people against violence. The State also recognizes the right of its qualified citizens to self-defense through, when it is the reasonable means to repel the unlawful aggression under the circumstances, the use of firearms. Towards this end, the State shall provide for a comprehensive law regulating the ownership, possession, carrying, manufacture, dealing in and importation of firearms, ammunition, or parts thereof, in order to provide legal support to law enforcement agencies in their campaign against crime, stop the proliferation of illegal firearms or weapons and the illegal manufacture of firearms or weapons, ammunition and parts thereof.

¹ Copy attached as Annex "A".

On the other hand, Section 4 of Executive Order No. 192, *Reorganization Act of the Department of Environment, Energy and Natural Resources*² provides that:

SECTION 4. *Mandate.* — The Department shall be the primary government agency responsible for the conservation, management, development and proper use of the country's environment and natural resources, specifically forest and grazing lands, mineral resources, including those in reservation and watershed areas, and lands of the public domain, as well as the licensing and regulation of all natural resources as may be provided for by law in order to ensure equitable sharing of the benefits derived therefrom for the welfare of the present and future generations of Filipinos.

This Office notes that peace and order are not part of the Department's mandate. Consequently, the Department does not have safekeeping facilities for confiscated firearms.

Moreover, Section 42, Implementing Rules and Regulations (IRR) of R.A 10591³ provides that the Civil:

SECTION 42. Firearms Repository. —

42.1. The CSG-FEO shall be the sole repository of all firearms and records to include imported and locally manufactured firearms and ammunition.

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Section 2 of DENR Administrative Order (DAO) No. 32-97 provides that:

SECTION 2. *Items subject to apprehension, seizure, confiscation and forfeiture.* —

a. *ILLEGAL FOREST PRODUCTS* — Any forest products(s) defined in Section 1(e) above that are removed, cut, collected, processed and/or transported: (a) without the requisite authorization or permit; or (b) with incomplete required supporting documents ; (c) with genuine authorizations or permits and/or supporting documentation that have an expired validity, have been cancelled or that contain forged entries; or (d) with spurious (fake) authorizations, permits and/or supporting documentation. In implementing these Rules, original documents shall be required at all times to actually accompany any forest products being moved or transported to any place and for any purpose. Whenever the requisite authorization and/or supporting documentation are required to but do not actually accompany the forest products, such absence constitutes a violation covered by these Rules.

² (Reorganization Act of the Department of Environment, Energy and Natural Resources, Executive Order No. 192, [June 10, 1987])

³ (Revised Implementing Rules and Regulations 2018 of Republic Act No. 10591, IRR of RA 10591, [April 23, 2018])

*b. MACHINERY , EQUIPMENT , TOOLS and IMPLEMENTS —
used in the possession, gathering, collecting, processing
and/or transporting of illegal forest products; and x x x*

Based on the above provisions of DAO 1997-32, this Office submits that firearms do not fall under the definition of Machinery, Equipment, Tools and Implements as defined thereof.

This Office notes that while DAO 2019-05⁴, the IRR of the Expanded NIPAS Act, mentions “firearms,” in addition to “equipment, devices, conveyances,” which are subject to forfeiture to the government, it should be noted that the said DAO is silent on which Office would take custody of the firearms, *viz*:

Section 21. Penalties.

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All minerals, timber or species collected or removed from the protected area, including all equipment, devices, conveyances, and **firearms used in connection therewith, shall be forfeited in favor of the government**, and any construction or improvement made thereon by the offender shall be subject to confiscation by the PAMO, subject to the application of due process. (a)

The conveyances, vessels, equipment, paraphernalia, implements, gears, tools, and similar devices used in the commission of the crime shall be dealt with in accordance with Part 4, Rule 12 (Custody and Disposition of Seized Items, Equipment, Paraphernalia, Conveyances and Instruments) of Administrative Matter No. 09-6-8-SC (Rules of Procedure for Environmental Cases) issued by the Supreme Court. However, in no case shall any confiscated or rescued protected animal species be sold or in any manner disposed of but shall be immediately turned over to the PAMO for rehabilitation and release to its natural habitat, subject to existing regulations. Valuation of the damage shall take into account biodiversity and conservation considerations as well as aesthetic and scenic value. The valuation and assessment by the DENR, in coordination with other concerned government agencies, shall be presumed regular, unless otherwise proven by preponderance of evidence. (n)

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Thus, considering that the DENR has no explicit rules on the confiscation of firearms, it is submitted that the DENR MIMAROPA Region may instead assist the PNNI in surrendering to the Philippine National Police (PNP) the seized firearms in connection with violations of environmental laws. The IRR of RA 10591⁵ categorically states the confiscation and forfeiture proceedings, *viz*:

SECTION 37. *Confiscation and Forfeiture.* —

37.1. The imposition of penalty for any violation of the law shall carry with it the accessory penalty of

⁴ Implementing Rules and Regulations of RA No. 7586 as Amended by RA No. 11038, DENR Administrative Order No. 005-19, [May 30, 2019]

⁵ (Revised Implementing Rules and Regulations 2018 of Republic Act No. 10591, IRR of RA 10591, [April 23, 2018])

confiscation and forfeiture of the firearm, ammunition or parts thereof, machinery, tool or instrument in favor of the government which shall be disposed of in accordance with law.

37.1.1. All confiscated firearms or parts thereof, ammunition, machinery, tools or instruments without any case filed before the court must be reported and turned over to the FEO of the PNP.

37.1.2. During the pendency of the case, all confiscated firearms or parts thereof, ammunition, machinery, tools or instruments must be reported to FEO of the PNP.

37.1.3. After the pendency of the case, all forfeited firearms or parts thereof, ammunition, machinery, tools or instruments used as evidence in court shall be turned over to the FEO for final disposition in accordance with law.

37.1.4. Firearms which are considered as abandoned, surrendered, confiscated or revoked in compliance with existing rules and regulations shall be turned over to the FEO for proper disposal in accordance with law. (Emphasis added)

In this regard, this Office submits that it is the PNP which has jurisdiction over confiscated firearms. The DENR Regional Offices may assist in coordinating with the PNP for the proper turn over to the Firearms and Explosives Office (FEO) of the PNP.

For your information and consideration.


ATTY. ERNESTO D. ADOBO, JR., CESO I