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MEMORANDUM

FOR : The Regional Executive Director
DENR Region IV-B (MIMAROPA)

FROM : The OIC - Assistant Secretary for Field Operations – Western Mindanao
and Director, in concurrent capacity

SUBJECT : **SUPREME COURT NOTICE OF JUDGEMENT AND DECISION
PROMULGATED ON 22 MARCH 2022 IN G.R. NO.195638, “ANITA
SANTOS, PETITIONER, VERSUS ATTY. KISSACK B. GABAEN,
RICARDO D. SANGA, AND THE NATIONAL COMMISSION ON
INDIGENOUS PEOPLES, DEPARTMENT OF ENVIROMENT AND
NATURAL RESOURCES, RESPONDENTS”**

DATE : **MAY 08 2023**

This pertains to the above subject matter, which was referred to this Office by the Office of the Undersecretary for Legal and Administration, endorsing the recommendation of the PENR Officer of Palawan to the Forest Management Bureau (FMB) on the revisiting of the guidelines on the granting of Resource use Permits (RUP) involving ancestral lands and ancestral domains. (Copy of the Memorandum is attached).

Relative thereto, kindly be informed that the DENR has issued in CY 2021 the DENR Administrative Order (DAO) No. 2021-33 “Guidelines Governing the Tapping, Extraction, Collection, and Transport of Gums, Resins, Oils and Exudates (GROE)” (copy hereto attached). This policy covers the tapping, extraction, collection, and transport of gums, resins, oils and exudates found within forest lands, alienable and disposable public lands, private titled lands, ancestral lands/domains, national parks, and protected areas through the issuance of a Tapping, Extraction and Collection Permit (TECP) and Certificate of GROE Origin (CO) simultaneously.

Be informed further, that the DENR no longer process or issue Resource Use Permits per DAO 2004-29 “Revised Rules and Regulations for the implementation of Executive Order No. 263, otherwise known as the Community-Based Forest Management Strategy” and subsequent policies governing the utilization of resources found within the CBFM area. One major requirement in harvesting of forest products from CBFM areas is their inclusion in the affirmed Community Resource Management Framework (CRMF) and approved Five -Year Work Plan (FYWP) and the preparation of harvesting plan and inventory of those resources intended for harvesting. Please be reminded to adhere with the provisions of the Republic Act No. 8371 “Indigenous Peoples Rights Act (IPRA)” and related policies and guidelines.

FOR INFORMATION AND CONSIDERATION, PLEASE.


ARLEIGH J. ADORABLE, CESO III

Cc: The Undersecretary for Policy, Planning and International Affairs
The Undersecretary for Field Operations – Luzon, Visayas and Environment
The Undersecretary for Legal and Administration



OD Records Unit <records@fmb.denr.gov.ph>

D-32721- Supreme Court Notice of Judgement and Decision Promulgated on 22 March in G.R. No. 195638, "Anita Santos, Petitioner, versus Att. Kissack B. Gabaen, Ricardo D. Sanga, and the National Commission on Indigenous Peoples, Department of Environment and Natural Resources, Respondents

1 message

OD Records Unit <records@fmb.denr.gov.ph>

Mon, May 8, 2023 at 11:10 AM

To: DENR Mimaropa Region <mimaroparegion@denr.gov.ph>, recordsectionmimaroparegion@gmail.com

Cc: "Undersecretary for Policy, Planning and International Affairs" <ouppia@denr.gov.ph>, Undersecretary for Field Operations and Environment <officeofuseccuna@denr.gov.ph>, "Undersecretary for Administration, Finance, Human Resources and Information Systems" <usecals@a.denr.gov.ph>, Records Management Division <rmdd@denr.gov.ph>, FRMD Forest Resources Management Division <frmd@fmb.denr.gov.ph>, FRMD-CFS Community Forestry Section <frmd.cfs@fmb.denr.gov.ph>, Ildefonso Quilloy <ilquilloy@fmb.denr.gov.ph>, Rosalie Imperial <rimperial@fmb.denr.gov.ph>

Sir/Ma'am

Good day

Attached file is a Memorandum for the RED R4B dated May 8, 2023 RE: Supreme Court Notice of Judgement and Decision Promulgated on 22 March in G.R. No. 195638, "Anita Santos, Petitioner, versus Att. Kissack B. Gabaen, Ricardo D. Sanga, and the National Commission on Indigenous Peoples, Department of Environment and Natural Resources, Respondents

Thank you

**Records Unit**

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5-08-23- D-32721- Supreme Court Notice of Judgement and Decision Promulgated on 22 March in G.R.**No. 195638, "Anita Santos, Petitioner.pdf**

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FEB 23 2023

MEMORANDUM

FOR : **The Undersecretary**
Policy, Planning and International Affairs

ATTENTION : **The Director**
Forest Management Bureau
OIC-Assistant Secretary
Field Operations-Western Mindanao and Director,
in concurrent capacity

FROM : **The Undersecretary**
Legal and Administration

SUBJECT : **SUPREME COURT NOTICE OF JUDGMENT AND DECISION
PROMULGATED ON 22 MARCH 2022 IN G.R. NO. 195638,
"ANITA SANTOS, PETITIONER, VERSUS ATTY. KISSACK B.
GABAEN, RICARDO D. SANGA, AND THE NATIONAL
COMMISSION ON INDIGENOUS PEOPLES, DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES,
RESPONDENTS."**

This refers to the Notice of Judgment¹ issued by Marife M. Lomibao-Cuevas, Clerk of Court, Supreme Court (SC) in G.R. No. 195638, "*Anita Santos, Petitioner, versus Atty. Kissack B. Gabaen, Ricardo D. Sanga, and the National Commission on Indigenous Peoples, Department of Environment and Natural Resources, Respondents.*" furnishing a copy of the Decision² of the SC in the said case promulgated on 22 March 2022.

On 19 December 2022, the RED issued a Memorandum submitting the comments of the CENR Officer of Quezon, Palawan and PENR Officer of Palawan

**A. Decision of the SC in G.R. No.
195638 promulgated on 22 March
2022**

The subject case pertains to the Petition for *Certiorari* and Prohibition with prayer for the issuance of a temporary restraining order under Rule 65 (Petition) filed by petitioner Anita Santos (Santos) against respondents including the DENR, assailing the Order dated 07 February 2011 and Cease and Desist Order (CDO) dated 10 February 2011 of the NCIP-Regional Hearing Office (NCIP-RHO).

Please be informed that the SC resolved to dismiss the Petition on the grounds of non-observance of the doctrine of hierarchy of courts, and the absence of legal standing of Santos, *viz.*:

WHEREFORE, the Petition for *Certiorari* and Prohibition with prayer for the issuance of a temporary restraining order under Rule 65 of the Rules of Court filed by petitioner Anita Santos against respondents Atty. Kissack B. Gabaen, Ricardo D. Sanga, and the National Commission on Indigenous Peoples, Department of Environment and Natural Resources is **DISMISSED**.

SO ORDERED.

Facts of the case

The Decision states the antecedents of the case, as follows:

Pinagtibukan It Pala'wan, Inc. (PINPAL) is a people's organization of Pala'wan Indigenous Cultural Community in *Barangay* Punta Baja, Rizal, Palawan. It is the holder of Resource Use Permit (RUP) No. 001-09, which authorizes it to occupy, cut, collect, and remove 155,503.125 kilos of almaciga resin from the Certificates of Ancestral Domain Claims (CADC) area with CADC No. R4-CADC-100 located in the said *barangay*. Since time immemorial, Danny Erong (Erong), a *Pala'wan* Tribal Chieftain of Purok Culapisan, *Barangay* Punta Baja, Rizal, Palawan, and his ancestors have been engaged in the gathering and selling of almaciga resin within the forest area.

Erong alleged that the DENR, through the City Environment and Natural Resources Office (CENRO) of Quezon, Palawan, granted PINPAL's RUP No. 001-09 without the required Certification Precondition (CP) under Section 59 of Republic Act (R.A.) No. 8371. Under this provision, all departments and government agencies are required to secure prior certification from the NCIP stating that the area affected does not overlap with an ancestral domain or that the Free and Prior Informed Consent (FPIC) of the affected Indigenous Cultural Community (ICC) or Indigenous Peoples (IP) has been obtained before any concession, license, or permit is granted.

Erong further claimed that PINPAL, as the holder of RUP No. 001-09, required him to sell his almaciga resin only to Santos, thereby allowing her to have monopoly over the market. When Erong found another buyer offering a better price than that given by Santos, he pleaded to PINPAL that he be allowed to gather and sell resin to his buyer of choice. However, PINPAL allegedly refused and even threatened to confiscate his almaciga resin and prohibited him from gathering and selling the same. Hence, on October 15, 2010, Erong filed a complaint before the NCIP-RHO against PINPAL, represented by Naron T. Asura (Asura), and the DENR. Erong accused PINPAL and DENR of violating Section 59 of R.A. No. 8371 in issuing RUP No. 001-09.

On November 17, 2010, Santos filed a Verified Motion to Intervene and her Answer-in-Intervention. x x x

On February 7, 2011, the NCIP-RHO received a call from its Field Office based in Abo-Abo, Sofronio, Palawan, reporting that a van coming from Punta Baja, Rizal will be used by PINPAL, particularly Asura, and will surreptitiously transport a full-load of

x x x On the basis of Gabaen's instruction, the NCIP Field Office in Abo-abo, Palawan issued a memorandum dated February 6, 2011 enjoining the transport of the almaciga resin. At 1:30 p.m. on February 7, 2011, the elf truck that Santos sent to pick up the almaciga resin from the warehouse of PINPAL was apprehended by the Philippine Marines on the basis of the memorandum dated February 6, 2011 was shown to Nilo Ybanez, the person driving the truck. The vehicle and almaciga resin were then impounded.

Thereafter, in an **Order dated February 7, 2011**, the NCIP-RHO required the almaciga resin to remain in the custody of the NCIP until the resolution of the complaint and further instructed that they be deposited with the Abo-Abo Service Center. x x x

Subsequently, on February 10, 2011, the NCIP-RHO issued a Cease and Desist Order, the dispositive portion of which states:

WHEREFORE, the defendants x x x are hereby ordered to stay, refrain or CEASE and DESIST from further COERCING, INTIMIDATING AND THREATENING the NCIP employee of AboAbo who effected the seizure of the illegal forest products unlawfully taken from the ancestral domain and INTERVENING into the release of the seized almaciga.

And for the employees of the DENR Palawan, specifically, to cease and desist in intervening and disregarding the law and the jurisdiction of the NCIP over all ancestral domains and all the natural resources and forest products illegally transported without a CP or without going into the legal mandatory process of FPIC.

Further, the defendant DENR thru the PENRO and all its CENROs in Palawan to FURTHER CEASE AND DESIST IN IMPLEMENTING ALL ILLEGALLY ISSUED RESOURCE USE PERMITS GRANTED ALL OVER THE ANCESTRAL DOMAINS WITHIN PALAWAN, AND FOR ANITA SANTOS, JEFFRY CINCO, NILO YBANEZ AND ROSEVIANNE YBANES, WHOSE RIGHTS AS CONCESSIONERS, BUYERS AND SHIPPERS OF ALMACIGA EMANATED (sic) FROM AN ILLEGAL ISSUANCE OF RUPs, TO ABSOLUTELY STAY AND REFRAIN FROM CONTINUING TO USE AN ILLEGALLY OBTAINED RIGHT.

x x x

Based on the Cease and Desist Order, the NCIP-RHO enjoined the parties from coercing, threatening, and intimidating the NCIP personnel and from intervening in the release of the almaciga resin. The DENR and the CENRO were called out for issuing the RUP for the almaciga resins and consenting to their removal from the ancestral domains of the IPs without the requisite certification under Section 59 of R.A. No. 8371.

On February 15, 2011, Santos filed with the NCIP-RHO a notice of withdrawal of the Motion to Intervene, which she filed on November 17, 2010, stating that the proceedings in the case lack due process and that the almaciga resin were being held without jurisdiction. **Thereafter, Santos filed a Petition for Certiorari and prohibition with prayer for the issuance of TRO with this Court.**

In the present Petition for Certiorari and prohibition, Santos asks this Court *inter alia* to: (1) issue a TRO and a writ of prohibition to enjoin Gabaen, the NCIP, the DENR, and all persons acting under its authority from implementing the Cease and Desist Order dated February 10, 2011; (2) issue a TRO and a writ of prohibition to enjoin Gabaen and the NCIP from ruling on the validity of the RUP in NCIP Case No. 28-RIV-10 during the pendency of the petition; (3) annul the Order dated February 7, 2011 and the Cease and Desist Order dated February 10, 2011 for lack of jurisdiction and for being contrary to law; and (4) declare unconstitutional Section 3(a) of R.A. No. 8371, and Section I, Part II, Rule III of the Implementing Rules and Regulations (IRR) of R.A. No. 8371 for violating Section 2, Article XII of the Constitution. (Underscoring supplied)

The Office of the Solicitor General, representing the government, NCIP, and Santos filed their respective Comment/Reply. The DENR filed its Comment as required by the Court, *viz.*:

After several extensions afforded by this Court to the DENR, it filed its Comment on August 25, 2020. It maintained that: (1) the RUP it issued is valid and is in line with its duties and responsibilities; (2) the NCIP does not have jurisdiction to invalidate the RUP DENR issued; and (3) the provisions in R.A. No. 8371 conferring right of ownership over ancestral domains are unconstitutional as it contravenes the Regalian Doctrine. (Emphasis supplied)

Issues

1. Whether the Petition is the proper remedy to question the orders of Atty. Kissack Gabaen of NCIP;
2. Whether Santos has legal standing to defend the validity of the RUP issued by the DENR to PINPAL; and
3. Whether the Court may take cognizance and rule on the constitutionality of the provisions of R.A. No. 8371 conferring ownership over ancestral domain and land to ICCs/IPs.

Ruling of the SC

Whether the Petition is the proper remedy to question the orders of Gabaen

The Court found that the requisites for a petition for *certiorari* and prohibition are present in the subject case, *viz.*:

Under Section 1, Rule 65 of the Rules of Court, the following requisites must be present in order for a petition for *certiorari* to prosper: (1) the writ is directed against a tribunal, a board, or any officer exercising judicial or quasi-judicial functions; (2) such

tribunal, board, or officer has acted without or in excess of jurisdiction, or with grave abuse of jurisdiction amounting to lack or excess of jurisdiction; and (3) there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law.

Meanwhile, in Section 2, Rule 65 of the Rules of Court, the following requisites must be established in the case of a petition for prohibition: (1) the writ is directed against a tribunal, corporation, board or person exercising functions, judicial, quasi-judicial, or ministerial; (2) such tribunal, corporation, board, officer or person has acted without or in excess of its jurisdiction, or with grave abuse of discretion; and (3) there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law.

In the present case, the first two requisites for a petition for certiorari and prohibition under Rule 65 are present because it is directed against orders of the NCIP issued in the exercise of its quasi-judicial function and are purportedly without or in excess of its jurisdiction, or with grave abuse of discretion. The third requisite – that there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law – is likewise present. To demonstrate this requisite within the context of the present case, it is imperative to discuss the mandate and jurisdiction of the NCIP.

x x x

Among the powers bestowed on the NCIP is the jurisdiction “to decide all appeals from the decisions and acts of all various offices with the Commission. This necessarily includes decisions and acts of the regional and field offices of the NCIP.

However, it must be clarified that the NCIP does not automatically have jurisdiction over all disputes involving ICCs/IPs. In *Unduran v. Aberasturi*, it was declared that Section 66 of R.A. No. 8371 does not confer on the NCIP exclusive and original jurisdiction over all claims and disputes involving rights of ICCs/IPs. This Court emphasized that the proper construction of the provision, particularly its qualifying *proviso*, is that the NCIP’s jurisdiction over such claims and disputes occur “only when they arise between or among parties belonging to the same ICC/IP.”

Here, it is undisputed that Santos does not belong to the ICC of Erong and PINPAL. The remedies the NCIP suggested are not available to Santos because she could not file a motion for reconsideration before the NCIP nor an appeal to the Court of Appeals (CA). She has no available remedy within the NCIP as it does not have jurisdiction over her claim. **Therefore, a petition under Rule 65 of the Rules of Court is the proper remedy to challenge the confiscation of the almaciga resins.** (Emphasis supplied)

Nonetheless, the court ruled that the Petition should still be dismissed for violating the doctrine of hierarchy of courts. The court explained that Santos failed to invoke any extraordinary circumstance to convince them to allow a deviation from the doctrine of hierarchy of courts. The pertinent portion of the Decision states:

Nevertheless, the petition should still be dismissed for violating the doctrine of hierarchy of courts. Under Section 5(1), Article VIII of the Constitution, this Court has original jurisdiction over petitions for *certiorari*, prohibition, and mandamus. x x x

x x x

To validly take cognizance of the present petition for *certiorari* and prohibition, Santos must specify the exceptional circumstance present in her case to warrant direct resort to this Court. x x x

A careful examination of the quoted statement above reveals that Santos failed to invoke any extraordinary circumstance to convince this Court to allow a deviation from the doctrine of hierarchy of courts. Merely stating the purported “chaotic consequence, magnitude and the extreme urgency of the matter,” without anything more to substantiate her claim, does not automatically excuse her from observing the hierarchy of courts. (Emphasis supplied)

Whether Santos has legal standing to defend the validity of the RUP issued by the DENR to PINPAL

The Court found that Santos failed to comply with the requisites of judicial review because she has no legal standing to bring a suit defending the validity of the RUP of PINPAL since she failed to demonstrate that she possesses the requisite authority to represent PINPAL, to wit:

Even if the doctrine of hierarchy of courts is relaxed, the petition of Santos failed to comply with the requisites of judicial review because she has no legal standing to bring a suit defending the validity of the RUP of PINPAL.

x x x

x x x The same can be said about Santos. She could not simply institute a case defending the validity of the RUP of PINPAL without being authorized by the organization to sue on its behalf. Santos failed to demonstrate to this Court that she possesses the requisite authority to represent PINPAL.

x x x Since PINPAL has the more direct and specific interest in the validity of its RUP than Santos, her petition must be dismissed.

While Santos may have an indirect interest, as a buyer of the almaciga resins, this interest is only incidental as compared to the interest of PINPAL – the holder of the RUP. As pointed out by the OSG, her interest does not qualify as that contemplated to warrant the exercise of judicial review because it arises only from her alleged exclusive dealership with PINPAL, and not from the RUP itself. Santos has no direct or personal right prejudiced by the nullity of the RUP granted to PINPAL. Thus, she is not in the position to ask for injunctive relief against the proceedings for the validity of the RUP before NCIP-RHO. (Emphasis supplied)

Whether the Court may take cognizance and rule on the constitutionality of the

provisions of R.A. No. 8371 conferring ownership over ancestral domain and land to ICCs/IPs

The Court deemed “it proper to refrain from deciding on the constitutionality of Section 3(a) of R.A. No. 8371 and its counterpart provision in Section 1, Part II, Rule III of its IRR, as the grounds of non-observance of the doctrine of hierarchy of courts, and the absence of legal standing are enough reasons to dismiss the petition.”

B. Comments of DENR-MIMAROPA on implication of the SC Decision

On 23 June 2022, the Director, Legal Affairs Service issued Urgent Memorandum³ for the Regional Executive Director (RED), DENR-MIMAROPA Region requesting comments on the following:

- 1. Status update of RUP 001-09 issued to PINPAL involved in the subject case, and other RUPs granted all over the ancestral domains within Palawan;
- 2. Implication of the SC’s Decision to RUP 001-09 and other RUPs involved; and
- 3. Proposed action/recommendation considering the foregoing.

On 19 December 2022, the RED issued a Memorandum⁴ submitting the comments of the CENR Officer of Quezon, Palawan and PENR Officer of Palawan on the above matter, viz.:

	Comments of CENR Officer of Quezon, Palawan	Comments of PENR Officer of Palawan
1. Status update of RUP 001-09 issued to PINPAL involved in the subject case, and other RUPs granted all over the ancestral domains within Palawan	“This Office issued Resource Use Permit (RUP) No. PPAL-21-0002 issued to Campung It Mapangarapan It Palawano (CAMPAL) of Bgy. Campung Ulay, Rizal, Palawan on September 10, 2021 and will expire on September 11, 2022 and <u>RUP No. 001-09 issued to Pinagtibukan It Mga Pala’wan (PINPAL) was renewed on September 09, 2021 that will expire on September 10, 2022 under RUP No. PPAL-21-0001.</u> That, <u>minor forest products under RUP No. PPAL-21-0001 was already manifested</u> based on the records of this Office.”	“As of this date, the <u>RUPs granted to PINPAL and CAMPAL have already expired.</u> Upon inquiry, both PINPAL and CAMPAL have <u>pending request for renewal of RUPs to CENRO Quezon.</u>”
2. Implication of the SC’s Decision to RUP 001-09 and other	“Pursuant to Section 10.a.iv which states that Community-Based Forest Management Project (CBFMP) may be implemented in uplands and coastal lands of the public domain	“The undersigned opines that the <u>Supreme Court ruling in the case of Anita Santos vs. Atty. Kissack B. Gabaen et al., (G.R. No. 195638, March 20, 2022)</u> did not have an

³ Copy attached as ANNEX “C”.

⁴ Copy attached as ANNEX “D”.

RUPs involved	except in NCIP certified ancestral lands and domains, except when the ICCs/IPs opt to participate in CBFM. Since the PINPAL opted to participate in the said CBFMP, the jurisdiction over the utilization and transport of the forest products derived within their ancestral land falls within the mandate of the DENR. Therefore, the NCIP has no authority/jurisdiction over the utilization of the said forest products considering the PINPAL opted to participate in CBFM projects. The DENR shall prepare a management and utilization plan for each resources e.g. timber, almaciga resins and rattan and conduct resource inventory as a basis for the said plan pursuant to Section 10 of DENR Administrative Order (DAO) No. 99-35 or the Revised Guidelines in the Implementation of the Resource Use Permit in Community-Based Forest Management Program. Hence, the PINPAL issued with RUP, they can sell the logs, timber and other forest products derived within their CADC in accordance with Section 7 of DENR Administrative Order (DAO) No. 2000-29 or the Guidelines Regulating the Harvesting and Utilization of Forest Products within Community-Based Forest Management Areas (CBFMA); and In line with this, the DENR is responsible/authorized to issue appropriate transport documents to any forest products pursuant to DENR Administrative Order (DAO) No. 94-07 or the Revised Guidelines Governing the Issuance of Certificate of Origin for Logs, Timber, Lumber, and Non-Timber Forest Products."	<u>implication to RUP 001-09 and other RUPs involved considering that the decision did not touch upon the issue on the validity and legality of the Resource Use Permits (RUPs) issued by the Department of Environment and Natural Resources all over the ancestral domains within Palawan.</u> xxx-xxx The undersigned likewise opines that the DENR can issue Resource Use Permit (RUP) to members of the IP/ICC within the ancestral domain even without compliance with the Free and Prior Informed Consent (FPIC) requirement of the National Commission on Indigenous People (NCIP). Under Section 39 of NCIP Administrative Order No. 3, Series of 2012 on Revised Guidelines on Free and Prior Informed Consent (FPIC) and related processes of 2012, the requirement of FPIC is not required when programs, projects and activities are solicited or initiated by the concerned ICCs/IPs themselves within the ancestral domain xxx xxx-xxx Further, Section 10 of DENR-NCIP Joint Administrative Order No. 2008-01 provides that the resource extraction within the ancestral domain management blocks shall be regulated and governed in accordance with existing DENR laws, rules and regulations xxx
3. Proposed action/ recommendation considering the foregoing	"Strictly abide and follow the doctrine of primary jurisdiction; It is the primary mandate of the DENR to manage the utilization, development, conservation and	"Considering the foregoing, in addition to the recommendations of CENRO Quezon, the undersigned recommends <u>for the policy makers of our agency to revisit the guidelines on the granting of</u>

	management of country's natural resources specifically in forest lands 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 by law pursuant to Executive Order (E.O.) 192; That, the memorandum dated February 6, 2011 of the NCIP-Regional Hearing Officer (RHO) Gabaen enjoining the transport of almaciga resin and apprehended the same was outside of his authority, since the said resin was derived from CADC but opted to choose the CBFMP, which the DENR has the jurisdiction over the said matter. That, the Legal Division shall delineate and specify the authority of the DENR and NCIP on the issuance of documents governing gathering and transport of Almaciga resin and rattan from forest lands and ancestral domain; and That, concerned personnel of NCIP must be informed on limit of their authority on gathering and transporting of forest products within CADC/CADT areas. <u>A Release Order dated October 5, 2017 of the NCIP Regional Hearing Officer Atty. Josephine S. Rodriguez-Agusti for lack of authority on the Almaciga Resin apprehended by NCIP Officer Mr. Ricardo Sanga last 2011 covered by appropriate transport documents issued by the DENR-CENRO. It took six (6) years to resolve this simple case from its apprehension last C.Y. 2011."</u>	<u>resource use permits involving ancestral lands and supplement a provision relating to Section 39 of NCIP Administrative Order No. 3, Series of 2012 on the validation process so that any misunderstanding between DENR and NCIP may be prevented on the issuance of RUPs applied for by the IP/ICCs within their ancestral lands."</u> (Underscoring supplied)
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Further, in the Memorandum dated 19 December 2022, the RED commented that it concurs with the recommendations/actions of CENRO and PENRO except on one point, viz.:

We concur with all the above-cited recommendations/actions of the CENRO and PENRO except for the part where the "Legal Division shall delineate and specify the authority of the DENR and NCIP on the issuance of documents governing gathering and transport

of Almaciga resin and rattan from forest lands and ancestral domain." It is submitted that this matter is best addressed to the policy makers of our Department.

C. Analysis of the case

In the CDO dated 10 February 2011, the NCIP-RHO ordered the following:

1. DENR Palawan to cease and desist in intervening and disregarding the law and the jurisdiction of the NCIP over all ancestral domains and all the natural resources and forest products illegally transported without a CP or without going into the legal mandatory process of FPIC; and
2. DENR thru PENRO and CENROs in Palawan to further cease and desist in implementing all illegally issued RUPs granted all over the ancestral domains within Palawan.

Since the SC dismissed the Petition of Santos, it is submitted that the CDO stands in the absence of other orders canceling the same.

Notably, the CENR Officer of Quezon, Palawan commented that:

A Release Order dated October 5, 2017 of the NCIP Regional Hearing Officer Atty. Josephine S. Rodriguez-Agusti for lack of authority on the Almaciga Resin apprehended by NCIP Officer Mr. Ricardo Sanga last 2011 covered by appropriate transport documents issued by the DENR-CENRO. It took six (6) years to resolve this simple case from its apprehension last C.Y. 2011."

Nonetheless, this Office submits that in case of implementation of the CDO dated 10 February 2011 against the DENR, the ruling in the case of *Alcantara, et al. v. The Guhay Clan*⁵ may be used as defense.

In *Alcantara, et al. v. The Guhay Clan*, citing *Unduran v. Aberasturi*⁶ and *Lim v. Gamosa*,⁷ the SC ruled on the jurisdiction of the NCIP under Section 66 of RA 8371. In *Alcantara, et al. v. The Guhay Clan*, petitioners Alcantara and Sarangani Cattle Company, Inc. are lessee of Forest Land Grazing Lease Agreement (FLGLA) 103 and leaseholder of Forest Land Grazing Management Agreement (FLGMA) 21-2007, respectively. The SC, in the said case, reversed and set aside the Decision and Resolution of the Court of Appeals upholding the NCIP Decision and Resolution granting the *ex parte* petition filed by the Guhay Clan for the issuance of a writ of possession over lots covered by Original Certificate of Title (OCT) P-01, which covered a portion of the FLGLA and FLGMA area. The SC ruled that:

We already settled the scope of the NCIP's jurisdiction under Section 66 of RA 8371. We held that that **the jurisdiction of the NCIP in Section 66 is limited to claims and disputes involving rights of in Section 66 is limited to claims and disputes involving rights of IPs/ICCs where both parties belong to the same ICC/IP group, but if such claims and disputes arise between or among parties who do not belong to the same ICC/IP group, the proper regular courts shall have jurisdiction.** In fact, We

⁵ G.R. Nos. 231410-11, September 11, 2019.

⁶ G.R. No. 181284, October 20, 2015 and G.R. No. 181284, April 18, 2017.

⁷ G.R. No. 193964, December 2, 2015.

declared the afore-cited NCIP rule as null and void for expanding the jurisdiction of the NCIP.

x x x

Here, there is no dispute that petitioners are not members of a particular ICC or IP. Under *Unduran*, the jurisdiction of the NCIP cannot then be properly invoked. In other words, the NCIP could not have, at any point, taken cognizance of the petition for reinvestigation and review of the CALT, nor of the *ex parte* petition for a writ of possession, filed before it. A different interpretation will result not only in a clear deviation from the legislative intent of RA 8371, but more regrettably in a flagrant violation of due process and fair play to the parties.

Utmost consideration to the right to due process of the party/ies who will be compulsorily subjected to customary laws which they have not "traditionally and continually recognized, accepted and observed x x x" should be paramount. A reading of Section 66 of RA 8371 as bestowing original and exclusive jurisdiction on the NCIP over *all* disputes involving rights of ICCs/IPs *irrespective* of the parties to the action clearly runs afoul of this basic human right. The resulting disregard of this basic tenet of due process in the guise of promoting and protecting our ICCs/IPs *via* the grant of exclusive and original jurisdiction to the NCIP can never be countenanced.

As a matter of law, jurisdiction vests *only* when the requisites for its proper invocation are present. Otherwise, conferment of jurisdiction never occurs, as in this case. Consequently, all actions by the NCIP arising from its purported exercise of jurisdiction do not have any legal effect. At any rate, the NCIP Rules, on which the NCIP anchored its purported jurisdiction, have already been declared null and void. (Underscoring and emphasis supplied)

Thus, from the foregoing the jurisdiction of the NCIP under Section 66 of RA 8371 is limited to claims and disputes involving rights of IPs/ICCs where both parties belong to the same ICC/IP group. For claims and disputes that arise between or among parties who do not belong to the same ICC/IP group, the proper regular courts shall have jurisdiction.

On the implication of the SC's Decision to RUP 001-09 and other RUPs involved, this Office agrees with the comment of the PENR Officer of Palawan that the Decision does not affect the validity and legality of the issued RUPs.

D. Endorsement of recommendations of DENR-MIMAROPA Region

In view thereof and pursuant to the function of the Forest Management Bureau (FMB) under Sec. 13 of EO 192,⁸ s. 1987 to recommend policies⁹ for the effective

⁸ Providing for the Reorganization of the Department of Environment, Energy and Natural Resources, Renaming It as the Department of Environment and Natural Resources, and for Other Purposes.

⁹ SECTION 13. *Forest Management Bureau.* —xxx The Forest Management Bureau, to be headed by a Director and assisted by an Assistant Director shall advise the Secretary on matters pertaining to forest development and conservation and shall have the following functions, but not limited to:

(a) Recommend policies and/or programs for the effective protection, development, occupancy, management and conservation of forest lands and watersheds, including grazing and mangrove areas, reforestation and rehabilitation of critically denuded/degraded forest reservations, improvement of water resource use and development, ancestral

management of forest lands, this Office is endorsing the recommendation of the PENR Officer of Palawan to your Office on the revisiting of the guidelines on the granting of RUPs involving ancestral lands and ancestral domains, to wit:

“x x x the undersigned recommends for the policy makers of our agency to revisit the guidelines on the granting of resource use permits involving ancestral lands and supplement a provision relating to Section 39 of NCIP Administrative Order No. 3, Series of 2012 on the validation process so that any misunderstanding between DENR and NCIP may be prevented on the issuance of RUPs applied for by the IP/ICCs within their ancestral lands.”

Also, as raised by the RED, the matter about *“the authority of the DENR and NCIP on the issuance of documents governing gathering and transport of Almaciga resin and rattan from forest lands and ancestral domain”* may be best addressed by your Office.

For your information and consideration.

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

Copy furnished:

The Office of the Secretary

The Regional Executive Director
DENR Region IV-B MIMAROPA
DENR by the Bay Bldg.
1515 Roxas Boulevard, Ermita, Manila, 1000
mimaroparegion@denr.gov.ph

ANNEXES

A	Notice of Judgment in G.R. No. 195638;
B	Decision promulgated on 22 March 2022 in G.R. No. 195638;
C	Urgent Memorandum dated 23 June 2022 of the Director, Legal Affairs Service;
D	Memorandum dated 19 December 2022 of the RED; and

lands, wilderness areas and other natural preserves, development of forest plantations including rattan, bamboo, and



Republic of the Philippines
Department of Environment and Natural Resources
Visayas Avenue, Diliman, Quezon City
Tel Nos. (632) 929-66-26 to 29 · (632) 929-62-52
Website: <http://www.denr.gov.ph> / E-mail: web@denrgov.ph

OCT 21 2021

DENR Administrative Order
No. 2021 – 33

**SUBJECT : GUIDELINES GOVERNING THE TAPPING,
EXTRACTION, COLLECTION AND TRANSPORT OF
GUMS, RESINS, OILS AND EXUDATES (GROE)**

Pursuant to the provisions of Presidential Decree No. 705, as amended (Revised Forestry Code of the Philippines) Series of 1975, in relation to Executive Order No. 192, Series of 1987, the Department of Environment and Natural Resources (DENR) shall be the primary agency responsible for the conservation, management, development, and proper use of the country's environment and natural resources, as well as the licensing and regulation of all natural resources, including non-timber forest products, to ensure equitable sharing of the benefits derived therefrom, consistent with Republic Act (R.A) No. 8371, Series of 1997 (The Indigenous Peoples Rights Act), Executive Order No. 263, Series of 1995 (Adopting Community-Based Forest Management as the National Strategy to Ensure the Sustainable Development of the Country's Forestland Resources and Providing Mechanisms for its Implementation), Executive Order No. 318, Series of 2004 (Promoting Sustainable Forest Management in the Philippines) and R.A No. 7586 (National Integrated Protected Areas System) as amended by R.A No. 11038 (Expanded National Integrated Protected Areas System).

SECTION 1. Basic Policy. It is the policy of the State to encourage the sustainable use of non-timber forest products to ensure the continuous supply of gums, resins, oils and exudates (GROE). Further, the State recognizes and promotes the rights of upland communities, tenure migrants, indigenous cultural communities, private titled land owners and tenure holders, within the framework of national unity and development.

SECTION 2. Scope and Coverage. This regulation shall apply to the tapping, extraction collection and transportation of gums, resins, oils, and exudates found within forest lands, alienable and disposable public lands, private titled lands, ancestral lands/ancestral domain, national parks, protected areas. The nationwide ban on the cutting of Almaciga trees shall remain in force and effect pursuant to Department Administrative Order No. 74 dated November 19, 1987 or the "Nationwide Ban on the Cutting of Almaciga Trees".

SECTION 3. Objectives. The objectives of this Order are the following:

- a. Enhance the guidelines on the tapping, extraction, collection and transport of gums, resins, oils, and exudates;
- b. Uplift the socio-economic condition of upland communities, tenure migrants, indigenous cultural communities, owners of trees that produce gums, resins, oils, and exudates in private titled lands, and other stakeholders through the sustainable harvesting of gums, resins, oils, and exudates;
- c. Strengthen the Research and Development programs on propagation, plantation development, resin tapping, sorting and grading system, extraction of oils and exudates, allowable volume, processing and use of GROE; and
- d. Streamline procedures in the tapping, extraction, collection, and transport of gums, resins, oils, and exudates.

SECTION 4. Definition of Terms. The terms used in this order shall be defined as follows:

- a. **Alienable and Disposable Public Lands** - refers to land of the public domain which have been the subject of the present system of classification and declared as not needed for forest purposes.
- b. **Ancestral Lands** - refers to land occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/IPs since time immemorial, by themselves or through their predecessors-in-interest, under claims of individual or traditional group ownership, continuously, to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth, or as a consequence of government projects and other voluntary dealings entered into by government and private individuals/corporations, including, but not limited to, residential lots, rice terraces or paddies, private forests, swidden farms and tree lots (RA No. 8371).
- c. **CENRO** - refers to the Community Environment and Natural Resources Office/Officer of the DENR
- d. **Certificate of Gums, Resins, Oils, and Exudates Origin (CO)** - a document issued by the concerned CENRO or implementing PENRO, to accompany the transport of gums, resins, oils, and exudates, place of loading, conveyance used, date of transport, source/point of origin and destination and consignee of the gums, resins, oils, and exudates to be transported.
- e. **Collection** - the method of collecting resin by causing minor damage to tree by making a hole far enough into the trunk to puncture the vacuoles.
- f. **Development/Management Plan** - a plan prepared and submitted by a tenure holder to, and for the approval by, the Department which, among others, indicates the series of sequential or simultaneous undertakings and schedules, in developing and managing tenured areas, including harvesting and utilization of the products thereof.
- g. **Exudates** - Dyes, tannins and latex are other forms of exudates that can be sourced from different parts of plants and trees.
- h. **Extraction** - the method of extracting oils from plant materials through removal methods that are suited to the specific plant or tree part containing the oils.
- i. **Forest Lands** - includes the public forest, the permanent forest or forest reserves, and forest reservations
- j. **GROE Utilization Plan** - a plan prepared and submitted by a private/titled land owner or tax-declaration holder, and for the approval by the DENR Regional Executive Director which, among others, indicates the series of sequential or simultaneous undertakings and schedules, in tapping, extraction and collection of gums, resins, oils and exudates within private titled lands and alienable and disposable public lands.
- k. **Gums** - plant gums are solids, consisting of mixtures of polysaccharides (carbohydrates) which are either water-soluble or absorbs water and swell up to form a gel or jelly when placed in water. They are insoluble in oils or organic solvents such as hydrocarbons, ether and alcohol.

- l. National park - refers to the lands of the public domain classified as such in the Constitution which include all areas under the NIPAS, primarily designated for the conservation of native plants and animals, their associated habitats and cultural diversity.
- m. Multiple-use zone - refers to the area where settlement, traditional and sustainable land use including agriculture, agroforestry, extraction activities, and income generating or livelihood activities, and may be allowed to the extent prescribed in the protected area management plan.
- n. Oils - an essential oil is a concentrated hydrophobic liquid containing volatile aroma compounds from plants. Essential oils are also known as volatile oils, ethereal oils, aetherolea, or simply as the oil of the plant from which they are extracted, such as oil of cinnamon. Oils are extracted from the flowers, seeds, leaves, stems, bark, trunk and roots of various plants through: cold pressing, steam distillation or solvent extraction.
- o. PENRO - refers to the Provincial Environment and Natural Resources Office/Officer of the DENR
- p. People's Organization - a group of people, which may be an association, cooperative, federation, or other legal entity duly registered with the Securities Exchange Commission (SEC), Cooperative Development Authority (CDA) or other registering agency to undertake collective action to address concerns and needs and mutually share the benefits from the endeavor.
- q. Permitted Areas - areas allowed for the tapping and collection of gums, resins, oils, and exudates issued with a Tapping, Extraction and Collection Permit.
- r. Private Titled lands - land(s) covered by either administrative or judicial Titles such as Free Patent, Homestead and Sales Patent, and Torrens Titles obtained under the Land Registration Act (Act No. 496, as amended), or under Public Land Act (Commonwealth Act No. 141).
- s. Protected area - refers to identified portions of land and/or water set aside by reason of their unique physical and biological diversity and protected against destructive human exploitation.
- t. Resins - are solid or semi-solid amorphous materials that are formed in plant secretions and are insoluble in water but soluble in certain organic solvents. The substance is usually either transparent or translucent and is yellowish to brownish in color. It is composed of complex mixture of organic compounds called terpenes. Based on its major properties, resins are classified into three sub-groups: hard, soft and fluid resins. Hard resins are usually soluble in a number of organic solvents, such as alcohol, ether and hexanes, yet are insoluble in water. There are two kinds of hard resins, copals and damars. In the Philippines, only copals from *Almaciga* (*Agathis philippinensis*) are being harvested.
- u. Tapping - process of extracting resin from the trunk of trees by making incisions on the bark.
- v. Tapping, Extraction and Collection Permit (TECP) - a permit issued by the Department through its respective Regional Executive Director (RED) for the tapping, extraction and collection of GROE.

presently occupying a portion of the protected area for five (5) years before the proclamation or law establishing the same as a protected area, and are solely dependent therein for subsistence.

- x. Tenured Forest Lands - a Forest land covered by an agreement/contract or management arrangement for peaceful possession and use of such specific forest land and the resources found therein.

SECTION 5. Eligible Areas for Tapping, Extraction, and Collection of Gums, Resins, Oils, and Exudates.

The following areas are open to gums, resins, oils, and exudates tapping/extraction:

- 5.1 Forest lands with tenure instruments. GROE may be tapped/extracted/collected within forest lands, provided that it is covered by a tenurial instrument (i.e., CSC, CBFMA, IFMA, SIFMA), or any management arrangement. Tapping shall only be allowed when it is programmed/incorporated in the approved/ affirmed development/management plan (i.e., CRMP, CDMP, FYWP) or any corresponding operational/implementation plan, duly approved by the RED concerned.
- 5.2 Alienable and disposable public lands. Tapping, extraction, and collection of GROE shall be allowed in alienable and disposable public lands in accordance with the DENR approved GROE utilization plan (see Annex A).
- 5.3 Private titled lands. The tapping, extraction, and collection shall be allowed within private titled properties in accordance with the DENR approved GROE utilization plan.
- 5.4 Ancestral lands. The tapping of trees to produce gums and resins and the extraction of oils and exudates within areas covered by a Certificate of Ancestral Domain Claim (CADC), Certificate of Ancestral Domain Title (CADT) or in the case of Palawan, areas classified as Tribal Ancestral Lands pursuant to Section 11 of Republic Act No. 71611 (Strategic Environmental Plan (SEP) for Palawan Act). Only members of Indigenous Peoples (IPs)/communities shall be allowed to tap/extract trees that produce gums, resins, oils, and exudates within their ancestral lands, unless otherwise, proper consent (as prescribed under the IPRA Law) has been granted by the indigenous communities to a non-member of the ethnic group.
- 5.5 National parks and protected areas. Tapping/extraction of trees that produce GROE shall be allowed only in multiple-use zones in national parks and protected areas and only by tenure migrants, or occupants qualified for issuance of tenure.

SECTION 6. Tapping, Extraction, Collection Permit (TECP) – The concerned Regional Executive Director (RED) shall issue a TECP for the tapping, extraction, and collection of GROE. (*See Annex B*).

- 6.1 Eligible Applicants for Tapping, Extraction, and Collection of Gums, Resins, Oils, and Exudates Permit (TECP)

The following are qualified to apply for Tapping, Extraction and Collection Permit (TECP):

- a. A Filipino citizen of legal age;
- b. An Individual/Sole Proprietor, Association, Corporation, Cooperative or Partnership duly registered under Philippine laws;

- e. People's Organization (PO) whose members are Filipino citizens.

6.2 Application for TECP. All applications for TECP shall be submitted at the concerned CENRO/Implementing PENRO with jurisdiction over the permitted area. All eligible areas for the tapping, extraction, and collection of GROE shall be required to secure this permit regardless of the quantity derived therefrom. Tenure migrants, indigenous peoples, and forest tenure holders shall be required to update their respective development/management plans should they consider venturing into gums, resins, oils, and exudates production.

6.2.1 General Requirements. The following documents shall be submitted by all applicants:

- a. Filled-out application form (*See Annex C*);
- b. Proof of juridical personality. If applicant is a cooperative, or an association or a company, a certified copy of the Certificate of Registration and Certificate of Good Standing from either the Cooperative Development Authority (CDA) or the Securities and Exchange Commission (SEC) and the list of current officers. If it is a corporation registered under SEC, certified copy of Certificate of Registration and Articles of Incorporation and By-Laws (specifying in the purpose and objectives, to include among others, the development and utilization of forest lands); and list of current officers and stockholders duly certified by the Board Secretary;
- c. Endorsement from concerned LGU (Barangay Captain if within one barangay, Municipal/City Mayor or all the Barangay Captains concerned if within one or more barangays, Provincial Governor or all Municipal/City Mayors concerned if within one or more municipalities/cities)/ Council of Elders or its equivalent of the IP community/Protected Area Management Board, whichever is applicable, interposing no objection to the tapping, extraction, and collection of GROE;
- d. Geo-tagged photograph of plantation/stand where GROE are tapped/extracted/collected;
- e. Location map showing the area being applied for; and
- f. Payment of application fees.

6.2.2 Specific Requirements. In addition to the above requirements, the applicant whichever is applicable to the status of the area applied for, shall likewise submit any of the following:

- a. Certified true copy of land title OCT/TCT/CADT/CADC/tenure instrument/management arrangement, whichever is applicable;
- b. Certified True Copy of Tax Declaration, in case of Untitled A&D land;
- c. Development/management plan for tenured forest lands, tenure migrants, upland communities and Ancestral Domain Sustainable Development and Protection Plan (ADSDPP) for ancestral lands covered by CADC/CADT;
- d. GROE Utilization Plan for alienable and disposable public lands and private titled lands
- e. Certification Precondition (CP) to be issued by the National Commission on Indigenous Peoples (NCIP), when the trees available for tapping, extraction, and collection of GROE is/are located within CADC/CADT areas and the applicant is not a member of the concerned IP group/community;
- f. A copy of proof of possession of the land (e.g., lease, mortgage, pledge, trust and the like), in case the applicant is not the registered owner of the land; and
- g. Clearance from the Palawan Council for Sustainable Development (PCSD),

- 6.3 **Applicable Fees.** An application fee of P3,000.00 shall be collected for the tapping, extraction and collection of GROE.
- 6.4 **Validity of the TECP.** The permit shall have a duration of five (5) years renewable for the same period, provided that the terms and conditions of the permit (*see Annex D*) were satisfied by the holder. The area covered by the permit shall be subjected to a performance evaluation as basis for renewal, by the concerned CENRO/Implementing PENRO.

SECTION 7. Inventory of Gums, Resins, Oils, and Exudates Resources. A 100% inventory of trees to be tapped for its GROE shall be conducted, numbered and geo-tagged by the CENRO/Implementing PENRO. Only trees eligible for tapping/extraction/collection shall be inventoried so as not to impair the productivity of the trees, e.g., for Almaciga, only ≥ 40 cm in diameter shall be inventoried and allowed for tapping/extraction/collection.

An option for client to hire private forester to do the 100% inventory of trees to be tapped, extracted, and collected shall be allowed with the supervision of CENRO/Implementing PENRO concerned and shall be subject to existing rules and regulations.

An inventory report, duly subscribed and sworn to by all concerned DENR personnel who were involved in the actual conduct of inventory shall be prepared. It shall be supported by the original tally sheet (*see Annex E*), geo-tagged photographs, and other related documents.

SECTION 8. Tapping/Extraction Procedure. The tapping/extraction of GROE shall be done with prescribed scientific method, without the use of chemicals to ensure the health and survival of the trees. All TECP holders shall undergo training on tapping/extraction, care and maintenance of trees to be conducted by the government and/or private organizations, with extensive researches/or experience on tapping/extraction procedures of trees that produce GROE.

Unsustainable and destructive tapping and extraction practices such as deep circumferential tapping, excessive tapping/extraction and burning shall be prohibited.

SECTION 9. Transport of Gums, Resins, Oils, and Exudates. an authenticated copy of TECP shall be attached to the Certificate of Gums, Resins, Oils, and Exudates Origin (CO) (*see Annex F*) for the transport of GROE within and outside regions. These transport documents shall be presented by the carrier/transporter at any checkpoints should there be an inspection or whenever requested.

SECTION 10. Monitoring of Tapped/Extracted Trees. A joint team composed of the permittee, CENRO/Implementing PENRO, and a representative from the municipal LGU which has jurisdiction of the area shall conduct a survey of the health condition of tapped trees, at least once a year, or as deemed necessary by the Department. The report on monitoring shall include geo-tagged photos of tapped/extracted trees.

A production report on the quantity of collected resin (in kilograms), including the number of seedlings planted for enhancement, shall be submitted bi-annually by the permittee to the CENRO or Implementing PENRO. A database shall be maintained by the Department through its respective Regional Offices and shall be linked to the Enhanced Forestry Information System (eFIS). The Regional Office shall prepare a yearly report of gums, resins, oils, and exudates collection to be submitted preceding the end of each year, using a prescribed electronic spreadsheet format. This shall be endorsed by the Regional Office to the Office of the Undersecretary for Field Operations copy furnished the Forest Management Bureau for monitoring purposes.

SECTION 11. Strengthening Research and Development Program. The Ecosystems Research and Development Bureau (ERDB) in coordination with the Forest Management Bureau

shall prepare a strengthened research and development program on propagation, plantation development, resin tapping, sorting and grading system, extraction of oils and exudates, allowable volume, processing and use of GROE. The FMB shall issue technical bulletins on guidelines in the conduct of performance evaluation and proper tapping/extraction methods, care and maintenance of trees where GROE are extracted.

SECTION 12. GROE PO/Cooperative Formation. The DENR through the CENRO/Implementing PENRO shall assist in the formation of GROE POs/Cooperatives. The GROE POs/Cooperative shall be duly assisted in accomplishing the requirements and registration with the Securities Exchange Commission (SEC), Cooperative Development Authority (CDA) or other registering agency. Further, the FMB and ERDB through the CENRO/Implementing PENRO shall develop capacity building programs for the GROE POs/Cooperative in the tapping, care and maintenance of trees that produce GROE, including its proper valuation.

SECTION 13. Enhancement of Gums, Resins, Oils, and Exudates Resources in Permitted Areas. The permittee is required to conduct enhancement planting using their raised seedlings or wildlings of species that produce GROE within the permitted area.

SECTION 14. Bases for Suspension/Cancellation/Non-Renewal of Permit. Violations of the terms and conditions of the TECP, including the following shall be the bases for suspension, cancellation or non-renewal of TECP:

- a. Sale or assignment of Permit;
- b. Tapping/Extraction of trees that produce GROE not eligible for utilization;
- c. Tapping/Extracting/Collection with an expired permit;
- d. If mortality rate constitutes 10% or more of all tapped/extracted trees;
- e. Tapping/Extraction outside the permitted area;
- f. Non-submission of the report for two consecutive semesters; and
- g. Violation of any of the terms and conditions of the permit.

SECTION 15. Forest Charges and Administrative Fees. The rate of forest charges and administrative fees for GROE shall be in accordance with existing rules and regulations.

SECTION 16. Separability Clause. If any of the provisions of this Order shall be held invalid or unconstitutional, the other portions or provisions hereof which are not affected shall continue in full force and effect.

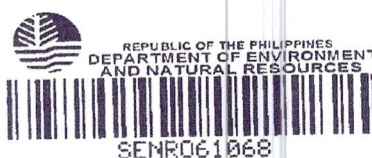
SECTION 17. Repealing Clause. All Orders and other similar issuances inconsistent herewith are hereby revoked, amended, or modified accordingly.

SECTION 18. Effectivity Clause. This Order shall take effect fifteen (15) days after its publication in a newspapers of general circulation and acknowledgement of the receipt of the copy thereof by the Office of the National Administrative Registrar (ONAR).


ROY A. CIMATU
Secretary

Publication: Manila Standard
November 25, 2021

Acknowledgement: U.P. Law Center
December 01, 2021



Annex A

OUTLINE IN THE PREPARATION OF THE GROE UTILIZATION PLAN

I. BASIC INFORMATION

1. Name of Private/ Titled Landowner or Tax-declaration holder
2. Area
3. Location

II. CAPACITY BUILDING ACTIVITIES ATTENDED

Narrate the capacity building activities attended by the applicant. Ensure that information of the training are complete, i.e., title, inclusive date, number of hours, sponsored by, name and number of participants

III. UTILIZATION AND PRODUCT DISPOSITION

1. Manner of Utilization (please indicate if there will be phases)
2. No. of trees to be tapped/extracted/collected with
3. Potential Volume of Harvest (in kg)
4. Harvesting Methods (e.g. tapping, oil extraction, etc.)
5. Transportation (please indicate the mode of transport, pick up and drop off points)
6. Disposition/Marketing (please indicate whether for personal consumption or to be sold)

IV. SUSTAINABILITY OF RESOURCE/S

Highlight the techniques on sustainability that will be employed by the applicant.

V. ATTACHMENT/S

1. Map of the Area showing areas for utilization
2. Geo-tagged photos of the trees to be tapped/extracted/collected with

Annex B

TAPPING, EXTRACTION, COLLECTION PERMIT (TECP) No: _____

Pursuant to Section 19 of Presidential Decree No. 705, as amended, otherwise known as the "Revised Forestry Code of the Philippines", Executive Order No. 192 (Providing for the Reorganization of the Department of Environment, and Executive Order No. 318 (Promoting Sustainable Forest Management in the Philippines), and R.A No. 7586 (National Integrated Protected Areas System) as amended by R.A No. 11038 (Expanded National Integrated Protected Areas System), and other existing laws and regulations, a Tapping, Extraction, Collection Permit is hereby issued to:

(Name of Applicant)
(Represented by, if applicable)

a Citizen/Organization/Cooperative/Association/Corporation/Proprietor of the Philippines with business/permanent address at _____, to tap/extract/collect gums, resins, oils, and exudates, located at Sitio _____, Barangay _____, Municipality of _____, Province of _____.

Covering a total area of _____ (in words) _____ (figure) hectares with an annual volume of _____ kilograms of tapped/extracted gums, resins, oils, and exudates.

This permit is subject to the provisions of applicable Forestry Laws and regulations promulgated or which may be promulgated, subject to the Terms and Conditions enumerated in the succeeding page (marked as Annex D) and such other additional regulations which may hereinafter be prescribed.

This permit is effective on _____ (date of issuance) and shall expire on _____.

Issued on _____ at _____, Philippines.

Approved:

Regional Executive Director

Annex C

APPLICATION FORM

Full Name: _____

Affiliation: _____

Government Tenure Instrument: _____

Date Awarded/Issued: _____

(attach Authenticated copy of Land Title, for private lands and/or updated Tax Declaration for A&D public land)

Complete business/permanent address: _____

Nature of Non-Timber Forest Products to be harvested

- Gums _____
- Resins _____
- Oils _____
- Exudates/Extractives _____

Species (with scientific name) to be Tapped/Extracted/Collected with: _____

No. of standing trees/plants to be tapped/extracted/collected with: _____

Location of extraction and collection: _____

(Attach geo-tagged photographs and GIS generated location map)

Requirements checklist (Put an **X** mark if completed)

☐	Application Form
☐	Proof of juridical personality
☐	LGU Endorsement
☐	Geo-tagged photo
☐	GIS generated location map
☐	Certified True Copy of Land Title/Tenure Instrument
☐	Certified True Copy of Tax Declaration
☐	Photocopy of approval sheet of development plans
☐	Certification Precondition (NCIP) when trees are located within ancestral lands
☐	Proof of possession (lease, mortgage, pledge, trusts)
☐	PCSD clearance
☐	Official Receipt for paid fee

Annex D

TAPPING, EXTRACTION, COLLECTION PERMIT (TECP) TERMS AND CONDITIONS

1. The Permit issued is non-negotiable and non-transferable that is valid for five (5) years renewable for the same period, provided that the performance of the holder is satisfactory and without the necessity of a formal order by this Office, will automatically expire;
2. The permit holder together with the DENR shall identify areas for Enhancement Planting;
3. The extraction of gums, resins, oils, and exudates shall be done in such a manner as to ensure the health and survival of sourced trees. A joint monitoring team shall conduct a survey of the health condition of tapped/extracted/collected trees at least once a year;
4. Only trees eligible for tapping/extraction/collection shall be included in the 100% inventory e.g., for Almaciga, only $\geq 40\text{cm}$ in diameter shall be inventoried and allowed for tapping/extraction/collection. A resulting mortality (death) rate of $\geq 10\%$ of all trees where gums, resins, oils, and exudates are tapped /extracted/collected shall cause the automatic cancellation of this Permit;
5. Each dead tree where gums, resins, oils, and exudates are tapped/extracted/collected shall be replaced with one hundred seedlings of same species, to be planted by the permittee in suitable areas (even if outside one's private property or tenured area) identified by the DENR. The permit holder shall conduct care, maintenance and protection activities on the planted seedlings to ensure its survival;
6. Only science-based procedures shall be used in the tapping/extracting of trees. Hence, the permit holder shall undergo training on tapping, care and maintenance of tapped/extracted trees to be conducted by a government and/or private organizations with extensive research/or experience on tapping/extraction procedures of trees;
7. The permittee shall not allow other person without permit to tap/extract/collect gums, resins, oils, and exudates within the area covered by his/her permit;
8. A report on the amount of harvest (in kilogram) shall be submitted to the CENRO/Implementing PENRO on a bi-annual basis, including the number of seedlings planted for enhancement planting or replacement of dead tapped/extracted trees;
9. The permit area shall be subjected to a performance audit as basis for renewal. Within sixty (60) days before the permit expiration, the permittee shall file with the CENRO/Implementing PENRO an application for renewal;
10. The tapping/extracting/collection of gums, resins, oils, and exudates in excess of the number of trees authorized to be tapped/extracted/collected shall cause the non-renewal of this permit; and
11. The CO, including the authenticated copy of TECP shall serve as the transport documents of Gums, Resins, Oils, and Exudates within and outside regions.

Annex E

TALLY SHEET TREES THAT PRODUCE GUMS, RESINS, OILS, AND EXUDATES (Sample format)

Name of Proponent: _____ Area Inventoried (ha): _____
 Location: _____ Date Inventoried: _____
 (Sitio, Barangay, Municipality, Province)

Tree No. (1, 2 ...n)	Species Common Name	TREE DIAMETER (DBH/DAB*) (in centimeter)	TREE MERCHANTABLE HEIGHT (in meters)	Tree Location (GPS Reading)		Remarks/ Stem Quality
				Northing	Easting	

Note: *DBH/DAB - Diameter at Breast Height / Diameter Above Buttress

Inventoried By: _____
 (Indicate name and position) (Indicate name and position)

Attested by:

 (CENRO/Implementing PENRO)

NOTES:

1. The diameter (DBH/DAB) shall be measured and recorded to the nearest centimeter (cm), in accordance to FMB Technical Bulletin No.3
2. The Merchantable Height shall be measured in nearest meter in accordance to FMB Technical Bulletin No.3
3. Please use the following Codes for Stem Quality
 - Code 1 – Straight, cylindrical tree without visible defects or damage
 - Code 2 – Tree with little defects or damage
 - Code 3 – Tree with several defects or damage

Annex F

CERTIFICATE OF GUMS, RESINS, OILS, AND EXUDATES ORIGIN

CO No. R-YMD-01

(Region-Year/Month/Day-Frequency)

TO ALL CONCERNED:

Be informed that the undersigned is a legitimate collector/transporter of gums, resins, oils, and exudates with office/business address at _____.

That I am transporting/carrying the gums, resins, oils, and exudates tapped/extracted/collected from a/an¹
(please _____ refer _____ to
footnote) _____

described as follows:

1. Amount of gums, resins, oils, and exudates (kilogram) _____
2. Location of collection _____

Owner/Holder/Authorized Representative

This is to certify further that the above-described gums, resins, oils, and exudates had been verified by this Office to have originated from (area/place of production) and is hereby allowed to be transported with the following particulars:

Owner/Permit Holder : _____
TECP No. : _____
Date Issued : _____
Date of Expiration : _____

Conveyance

Plate No. : _____
Vehicle Type : _____

Describe Route

From : _____
To : _____

Validity Date

From : _____
Until : _____

Approved by:

Verifier/Evaluator

CENRO/Implementing PENR

¹ If tapping within tenured areas, cite the name of the holder and tenure instrument issued and number.
If tapping within ancestral lands/ancestral domain, cite the name of the IP organization and CADC/CADT registration number.
If within A & D, private land, cite the name of the landowner and the OCT/TCT no./Tax Declaration Number, whichever is applicable.
If within RA and national parks, cite the tenure migrant name, tenure instrument issued and number.