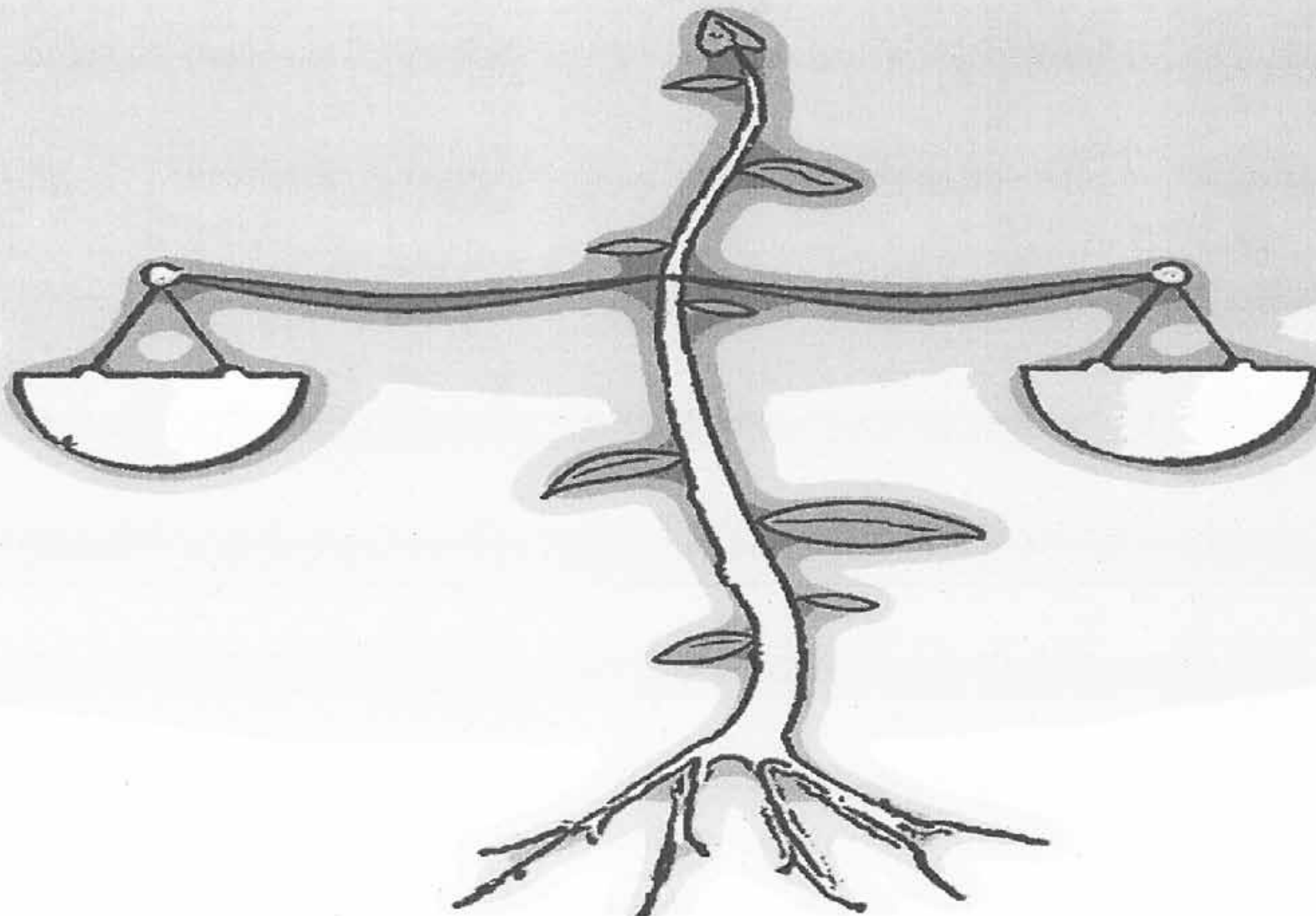


GREEN JUSTICE

A COMPILATION OF SELECTED
PHILIPPINE ENVIRONMENTAL LAWS





Our vision

Haribon takes the lead in caring for nature with the people
- for the people.

Our mission

Haribon is a membership organization committed to
nature conservation through community empowerment and
scientific excellence.

Our signature

The logo showing nine leaves on one tree symbolizes the
nine ecosystems found in the Philippines: forest,
marginal, agricultural, urban, freshwater, mangrove, seagrass,
coral, and soft bottom

The line "protecting nature. preserving life." establishes
the character of the organization.

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GREEN JUSTICE

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ENVIRONMENTAL LAWS**



UNDP GEF Small Grants Programme



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PRESIDENTIAL DECREE NO. 705

[As amended by P.D. No. 1559, P.D. No. 865, P.D. No. 1775, Batas Pambansa (B.P.) Blg. 701, B.P. Blg. 83, Republic Act (R.A.) No. 7161, Executive Order (E.O.) No. 277 and 83 O.G. No. 31]

REVISED FORESTRY CODE

[REVISING PRESIDENTIAL DECREE NO. 389,
OTHERWISE KNOWN AS
THE FORESTRY REFORM CODE OF THE PHILIPPINES]

WHEREAS, proper classification, management and utilization of the lands of the public domain to maximize their productivity to meet the demands of our increasing population is urgently needed;

WHEREAS, to achieve the above purpose, it is necessary to reassess the multiple uses of forest lands and resources before allowing any utilization thereof to optimize the benefits that can be derived therefrom;

WHEREAS, it is also imperative to place emphasis not only on the utilization thereof but more so on the protection, rehabilitation and development of forest lands, in order to ensure the continuity of their productive condition;

WHEREAS, the present laws and regulations governing forest lands are not responsive enough to support re-oriented government programs, projects and efforts on the proper classification and delimitation of the lands of the public domain, and the management, utilization, protection, rehabilitation, and development of forest lands;

NOW, THEREFORE, I, Ferdinand E. Marcos, President of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby revise Presidential Decree No. 389 to read as follows:

Section 1

Title of this Code

This decree shall be known as the "Revised Forestry Code of the Philippines."

Section 2

Policies

The State hereby adopts the following policies:

- a. The multiple uses of forest lands shall be oriented to the development and progress requirements of the country, the advancement of science and

- technology, and the public welfare;
- b. Land classification and survey shall be systematized and hastened;
 - c. The establishment of wood-processing plants shall be encouraged and rationalized; and
 - d. The protection, development and rehabilitation of forest lands shall be emphasized so as to ensure their continuity in productive condition.

Section 3 Definitions

- a. *Public forest* is the mass of lands of the public domain which has not been the subject of the present system of classification for the determination of which lands are needed for forest purposes and which are not.
- b. *Permanent forest* or forest reserves refer to those lands of the public domain which have been the subject of the present system of classification and determined to be needed for forest purposes.
- c. *Alienable and disposable lands* refer to those lands of the public domain which have been the subject of the present system of classification and declared as not needed for forest purposes.
- d. *Forest lands* include the public forest, the permanent forest or forest reserves, and forest reservations.
- e. *Grazing land* refers to that portion of the public domain which has been set aside, in view of the suitability of its topography and vegetation, for the raising of livestock.
- f. *Mineral lands* refer to those lands of the public domain which have been classified as such by the Secretary of Natural Resources in accordance with prescribed and approved criteria, guidelines and procedure.
- g. *Forest reservations* refer to forest lands which have been reserved by the President of the Philippines for any specific purpose or purposes.
- h. *National park* refers to a forest land reservation essentially of primitive or wilderness character which has been withdrawn from settlement or occupancy and set aside as such exclusively to preserve the scenery, the natural and historic objects and the wild animals or plants therein, and to provide enjoyment of these features in such a manner as will leave them unimpaired for future generations.
- i. *Game refuge* or *bird sanctuary* refers to a forest land designated for the protection of game animals, birds and fishes and closed to hunting and fishing in order that the excess population may flow and restock surrounding areas.
- j. *Marine park* refers to any public offshore area delimited as habitat of rare and unique species of marine flora and fauna.
- k. *Seashore park* refers to any public shore area delimited for outdoor recreation, sports fishing, water skiing and related healthful activities.

- l. *Watershed reservation* is a forest land reservation established to protect or improve the conditions of the water yield thereof or reduce sedimentation.
- m. *Watershed* is a land area drained by a stream or fixed body of water and its tributaries having a common outlet for surface run-off.
- n. *Critical watershed* is a drainage area of a river system supporting existing and proposed hydro-electric power, irrigation works or domestic water facilities needing immediate protection or rehabilitation.
- o. *Mangrove* is a term applied to the type of forest occurring on tidal flat along the sea coast, extending along stream where the water is brackish.
- p. *Kaingin* refers to a portion of the forest land which is subjected to shifting and/or permanent slash-and-burn cultivation.
- q. *Forest product* means, timber, pulpwood, firewood, bark, tree top, resin, gum, wood, oil, honey beeswax, nipa, rattan, or other forest growth such as grass, shrub, and flowering plant, the associated water, fish, game, scenic, historical, recreational and geologic resources in forest lands.
- r. *Dipterocarp forest* is a forest dominated by trees of the dipterocarp species, such as red lauan, tanguile, tiaong, white lauan, almon, bagtikan and mayapis of the Philippine mahogany, group, apitong and the yakals.
- s. *Pine forest* is a forest type predominantly of pine trees.
- t. *Industrial tree plantation* refers to any forest land extensively planted to tree crops primarily to supply raw material requirements of existing or proposed wood processing plants and related industries.
- u. *Tree farm* refers to any small forest land or tract of land purposely planted to tree crops.
- v. *Agro-forestry* is a sustainable management for land which increases overall production, combines agricultural crops, tree and forest plants and/or animals simultaneously or sequentially, and applies management practices which are compatible with the cultural patterns of the local population.
- w. *Multiple-use* is the harmonized utilization of the land, soil, water, wildlife, recreation value, grass and timber of forest lands.
- x. *Selective logging* is the systematic removal of the mature, over-mature and defective trees in such manner as to leave adequate number and volume of healthy residual trees of the desired species necessary to assure a future crop of timber, and forest cover for the protection and conservation of soil; water and wildlife.
- y. *Seed tree system* is a silvicultural system characterized by partial clearcutting leaving seed trees to regenerate the area.
- z. *Healthy residual* refers to a sound or slightly injured tree of the commercial species left after logging.
- aa. *Sustained-yield management* implies continuous or periodic production of forest products in a working unit for the purpose of achieving at the

earliest practicable time an approximate balance between growth and harvest or use. This is generally applied to the commercial timber resources and is also applicable to the water, grass, wildlife, and other renewable resources of the forest.

- bb. *Processing plant* is any mechanical setup, device, machine or combination of machines used for the conversion of logs and other forest raw materials into lumber, veneer, plywood, fiberboard, blackboard, paper board, pulp, paper or other finished wood products.
- cc. *Lease* is a privilege granted by the State to a person to occupy and possess, in consideration of specified rental, any forest land of the public domain in order to undertake any authorized activity therein.
- dd. *License* is a privilege granted by the State to a person to utilize forest resources within any forest land, without any right of occupation and possession over the same, to the exclusion of others, or establish and operate a wood-processing plant, or conduct any activity involving the utilization of any forest resources.
- ee. *License agreement* is a privilege granted by the State to a person to utilize forest resources within any forest land with the right of possession and occupation thereof to the exclusion of others, except the government, but with the corresponding obligation to develop, protect and rehabilitate the same in accordance with the terms and conditions set forth in said agreement.
- ff. *Permit* is short-term privilege or authority granted by the State to a person to utilize any limited forest resources or undertake a limited activity within any forest land without any right to occupation and possession therein.
- gg. *Annual allowable cut* is the volume of materials, whether of wood or other forest products, that is authorized to be cut yearly from a forest.
- hh. *Cutting cycle* is the number of years between two major harvests in the same working unit and/or region.
- ii. *Forest ecosystem* refers to the living and non-living components of a forest and their inter-action.
- jj. *Silviculture* is the establishment, development, reproduction and care of forest trees.
- kk. *Rationalization* is the organization of a business or industry using management principles, systems and procedures to attain stability, efficiency and profitability of operation.
- ll. *Forest officer* means any official or employee of the Bureau who has been appointed or delegated by law or by competent authority to execute, implement or enforce the provisions of this Code, other related laws, as well as their implementing regulations.
- mm. *Private right* means or refers to titled rights of ownership under existing laws, and in the case of national minority to rights or possession existing at the time a license is granted under this Code, which possession may include

places of abode and worship, burial grounds, and old clearings, but exclude productive forest inclusive of logged-over areas, commercial forests and established plantations of forest trees and trees of economic values.

- nn. *Person* includes natural as well as juridical person. [As amended by PD No. 1559]

CHAPTER I ORGANIZATION AND JURISDICTION OF THE BUREAU

Section 4

Creation of and Merger of All Forestry Agencies Into, the Bureau of Forest Development

For the purpose of implementing the provisions of this Code, the Bureau of Forestry, the Reforestation Administration, the Southern Cebu Reforestation Development Project, and the Parks and Wildlife Office, including applicable appropriations, records, equipment, property and such personnel as may be necessary, are hereby merged into single agency to be known as the Bureau of Forest Development, hereinafter referred to as the Bureau.

Section 5

Jurisdiction of Bureau

The Bureau shall have jurisdiction and authority over all forest land, grazing lands, and all forest reservations including watershed reservations presently administered by other government agencies or instrumentalities.

It shall be responsible for the protection, development, management, regeneration and reforestation of forest lands; the regulation and supervision of the operation of licensees, lessees and permittees for the taking or use of forest products therefrom or the occupancy or use thereof; the implementation of multiple use and sustained yield management in forest lands; the protection, development and preservation of national parks, marine parks, game refuges and wildlife; the implementation of measures and programs to prevent kaingin and managed occupancy of forest and grazing lands; in collaboration with other bureaus, the effective, efficient and economic classification of lands of the public domain; and the enforcement of forestry, reforestation, parks, game and wildlife laws, rules and regulations.

The Bureau shall regulate the establishment and operation of sawmills, veneer and plywood mills and other wood processing plants and conduct studies of domestic and world markets of forest products.

Section 6

Director and Assistant Director and Their Qualifications

The Bureau shall be headed by a Director who shall be assisted by one or more Assistant Directors. The Director and Assistant Directors shall be appointed by the President.

No person shall be appointed Director or Assistant Director of the Bureau unless he is a natural born citizen of the Philippines, at least 30 years of age, a holder of at least a Bachelor's Degree in Forestry or its equivalent, and a registered forester.

Section 7

Supervision and Control

The Bureau shall be directly under the control and supervision of the Secretary of the Department of Natural Resources, hereinafter referred to as the Department Head.

Section 8

Review

All actions and decisions of the Director are subject to review, *motu proprio* or upon appeal of any person aggrieved thereby, by the Department Head whose decision shall be final and executory after the lapse of thirty (30) days from receipt by the aggrieved party of said decision, unless appealed to the President in accordance with Executive Order No. 19, series of 1966. The Decision of the Department Head may not be reviewed by the courts except through a special civil action for certiorari or prohibition.

Section 9

Rules and Regulations

The Department Head, upon the recommendation of the Director of Forest Development, shall promulgate the rules and regulations necessary to implement effectively the provisions of this Code.

Section 10

Creation of Functional Divisions, and Regional and District Offices

All positions in the merged agencies are considered vacant. Present occupants may be appointed in accordance with a staffing pattern or plan or organization to be prepared by the Director and approved by the Department Head. Any appointee who fails to report for duty in accordance with the approved plan within thirty (30) days upon receipt of notification shall be deemed to have declined the appointment, in which case the position may be filed by any other qualified applicant.

For the efficient and effective implementation of the program of the Bu-

reau, the following divisions and sections are hereby created, to wit:

The Department Head may, upon recommendation of the Director, reorganize or create such other divisions, sections or units as may be deemed necessary and to appoint the personnel there; Provided, That an employee appointed or designated as officer-in-charge of a newly created division, section or unit, or to an existing vacant position with a higher salary, shall receive, from the date of such appointment or designation until he is replaced or reverted to his original position, the salary corresponding to the position temporarily held by him.

There shall be created at least eleven regional offices. In each region, there shall be as many forest districts as may be necessary, in accordance with the extent of forest area, established work loads, need for forest protection, fire prevention and other factors, the provisions of any law to the contrary notwithstanding: Provided, That the boundaries of such districts shall follow, whenever possible, natural boundaries of watersheds under the river-basin concept of management.

Section 11

Manpower and Policy Development

The Bureau shall establish and operate an in-service training center for the purpose of upgrading and training its personnel and new employees.

The Bureau shall also set aside adequate funds to enable personnel to obtain specialized education and training in local or foreign colleges or institutions.

There shall be established in the College of Forestry, University of the Philippines at Los Baños, in coordination with the Department of Natural Resources and the wood industry, a Forestry Development Center which shall conduct basic policy researches in forestry policy formulation and implementation. To help defray the cost of operating said Center, it is authorized to receive assistance from the wood industry and other sources. [As amended by PD No. 1559]

Section 12

Performance Evaluation

The Bureau shall devise a system, to be approved by the Department Head, to evaluate the performance of its employees. The system shall measure accomplishment in quantity and quality of performance as related to the funded program of work assigned to each organizational unit. There shall be included a system of periodic inspection of district offices by the regional offices and

the regional and district offices by the Central Office in both functional fields and in the overall assessment of how each administrative unit has implemented the laws, regulations, policies, programs, and practices relevant to such unit. The evaluation system shall provide the information necessary for annual progress reports and determination of employee training, civil service awards and transfer or disciplinary action.

Divisions	Sections
Planning and Evaluation Division	Program Planning; Performance Evaluation; Forest Economics; Management Analysis Data & Information
Administrative Division	Personnel; Budget; Accounting; Information; General Services
Legal Division	
Reforestation and Afforestation Division	Cooperative Planting; Planting Stock Production; Plantation Management
Timber Management Division	Forest Surveys, Data & Mapping; Silviculture; Timber Inventory & Photo-Interpretation; Timber Management Plans;
Land Classification Utilization Division	Timber Operations; Land Uses; Utilization
Forest Protection and Infrastructure	Forest Protection; Forest Occupancy Management; Watershed Management; Infrastructure
Parks, Wildlife Division	Parks Management; Recreation Management; Wildlife Management; Range Management
Security and Intelligence Division	
Forest Development Training Center	Technical Training; Non-Technical Training

CHAPTER II CLASSIFICATION AND SURVEY

Section 13

System of Land Classification

The Department Head shall study, devise, determine and prescribe the criteria, guidelines and methods for the proper and accurate classification and survey of all lands of the public domain into agricultural, industrial or commercial, residential, resettlement, mineral, timber or forest, and grazing lands, and

into such other classes as now or may hereafter be provided by law, rules and regulations.

In the meantime, the Department Head shall simplify through inter-bureau action the present system of determining which of the unclassified lands of the public domain are needed for forest purposes and declare them as permanent forest to form part of the forest reserves. He shall declare those classified and determined not to be needed for forest purposes as alienable and disposable lands, the administrative jurisdiction and management of which shall be transferred to the Bureau of Lands: Provided, That mangrove and other swamps not needed for shore protection and suitable for fishpond purposes shall be released to, and be placed under the administrative jurisdiction and management of, the Bureau of Fisheries and Aquatic Resources. Those still to be classified under the present system shall continue to remain as part of the public forest.

Section 14

Existing Pasture Leases in Forest Lands

Forest lands which are not reservations and which are the subject of pasture leases shall be classified as grazing lands and areas covered by pasture permits shall remain forest lands until otherwise classified under the criteria, guidelines and methods of classification to be prescribed by the Department Head: Provided, That the administration, management and disposition of grazing lands shall remain under the Bureau. [As amended by PD No. 1559]

Section 15

Topography

No land of the public domain eighteen per cent (18%) in slope or over shall be classified as alienable and disposable, nor any forest land fifty per cent (50%) in slope or over, as grazing land.

Lands eighteen percent (18%) in slope or over which have already been declared as alienable and disposable shall be reverted to the classification of forest lands by the Department Head, to form part of the forest reserves, unless they are already covered by existing titles approved public land application, or actually occupied openly, continuously, adversely and publicly for a period of not less than thirty (30) years as of the effectivity of this Code, where the occupant is qualified for a free patent under the Public Land Act: Provided, That said lands, which are not yet part of a well-established communities, shall be kept in a vegetative condition sufficient to prevent erosion and adverse effects on the lowlands and streams: Provided, further, That when public interest so requires, steps shall be taken to expropriate, cancel defective

titles, reject public land application, or eject occupants thereof.

Section 16

Areas Needed for Forest Purposes

The following lands, even if they are below eighteen percent (18%) in slope, are needed for forest purposes, and may not, therefore, be classified as alienable and disposable land, to wit:

1. Areas less than 250 hectares which are far from, or are not contiguous with any certified alienable and disposable land;
2. Isolated patches of forest of at least five (5) hectares with rocky terrain, or which protect a spring for communal use;
3. Areas which have already been reforested;
4. Areas within forest concessions which are timbered or have good residual stocking to support an existing, or approved to be established, wood processing plant;
5. Ridge tops and plateaus regardless of size found within, or surrounded wholly or partly by, forest lands where headwaters emanate;
6. Appropriately located road-rights-of-way;
7. Twenty-meter strips of land along the edge of the normal high waterline of rivers and streams with channels of at least five (5) meters wide;
8. Strips of mangrove or swamplands at least twenty (20) meters wide, along shorelines facing oceans, lakes, and other bodies of water, and strips of land at least twenty (20) meters wide facing lakes;
9. Areas needed for other purposes, such as national parks, national historical sites, game refuges and wildlife sanctuaries, forest station sites, and others of public interest; and
10. Areas previously proclaimed by the President as forest reserves, national parks, game refuge, bird sanctuaries, national shrines, national historic sites:

Provided, That in case an area falling under any of the foregoing categories shall have been titled in favor of any person, steps shall be taken, if public interest so requires, to have said title canceled or amended, or the titled area expropriated.

Section 17

Establishment of Boundaries of Forest Lands

All boundaries between permanent forests and alienable or disposable lands shall be clearly marked and maintained on the ground, with infrastructure or roads, or concrete monuments at intervals of not more than five hundred (500) meters in accordance with established procedures and standards, or any other visible and practicable signs to insure protection of the forest.

In all cases of boundary conflicts, reference shall be made to the Philippine

Coast and Geodetic Survey Topo map. [As amended by PD No. 1559]

Section 18

Reservations in Forest Lands and Off-Shore Areas

The President of the Philippines may establish within any lands of the public domain, forest reserve and forest reservation for the national park system, for preservation as critical watersheds, or for any other purpose, and modify boundaries of existing ones. The Department Head may reserve and establish any portion of the public forest or forest reserve as site or experimental forest for use of the Forest Research Institute.

When public interest so requires, any off-shore area needed for the preservation and protection of its educational, scientific, historical, ecological and recreational values including the marine life found therein, shall be established as marine parks.

CHAPTER III

UTILIZATION AND MANAGEMENT

Section 19

Multiple Use

The numerous beneficial uses of the timber, land, soil, water, wildlife, grass and recreation or aesthetic value of forest lands and grazing lands shall be evaluated and weighted before allowing their utilization, exploitation, occupation or possession thereof, or the conduct of any activity therein. Only the utilization, exploitation, occupation or possession of any forest lands and grazing lands, or any activity therein, involving one or more of its resources, which will produce the optimum benefits to the development and progress of the country, and the public welfare, without impairment or with the least injury to its resources, shall be allowed.

All forest reservations may be open to development or uses not inconsistent with the principal objectives of the reservation; Provided, That critical watersheds, national parks and established experimental forests shall not be subject to commercial logging or grazing operations, and game refuges, bird sanctuaries, marine and seashore parks shall not be subject to hunting or fishing and other activities of commercial nature. [As amended by PD No. 1559]

Section 20

License Agreement, License, Lease or Permit

No person may utilize, exploit, occupy, possess or conduct any activity within any forest and grazing land, or establish, install, add and operate any wood or

forest products processing plant, unless he had been authorized to do under a license agreement, license, lease or permit: Provided, That when the national interest so requires, the President may amend, modify, replace, or rescind any contract, concession, permit, license, or any other form of privilege granted herein: Provided, further, That upon the recommendation of the appropriate government agency, the President may, pending the conduct of appropriate hearing, order the summary suspension of any such contract, concession, license, permit, lease or privilege granted under this decree for violation of any of the conditions therein such as those pertaining but not limited to reforestation, pollution, environment protection, export limitation or such condition as are prescribed by the Department of Natural Resources in daily issued regulations. [As amended by PD No. 1559]

Section 21

Sustained Yield

All measures shall be taken to achieve an approximate balance between growth and harvest or use of forest products in forest lands.

A. Timber

Section 22

Silvicultural and Harvesting Systems

In any logging operations in production forests within forest lands, the proper silvicultural and harvesting system that will promote optimum sustained yield shall be practiced, to wit:

- a. For dipterocarp forest, selective logging with enrichment or supplemental planting when necessary.
- b. For pine or mangrove forest, the seed tree system with planting when necessary:

Provided, That subject to the approval of the Department Head, upon recommendation of the Director, any silvicultural and harvesting system that may be found suitable as a result of research may be adopted: Provided, further, That no authorized person shall cut, harvest or gather any timber, pulp-wood, or other products of logging unless he plants three times of the same variety for every tree cut or destroyed by such logging or removal of logs. Any violation of this provision shall be sufficient ground for the immediate cancellation of the license, agreement, lease or permit. [As amended by PD No. 1559]

Section 23

Timber Inventory

The Bureau shall conduct a program of progressive inventories of the har-

vestable timber and young trees in all forest lands, whether covered by any license agreement, license, lease or permit, or not, until a one hundred percent (100%) timber inventory thereon has been achieved.

Section 24

Required Inventory Prior to Timber Utilization in Forest Lands

No harvest of timber in any forest land shall be allowed unless it has been the subject of at least a five per cent (5%) timber inventory, or any statistically sound timber estimate, made not earlier than five (5) years prior to the issuance of a license agreement or license allowing such utilization.

Section 25

Cutting Cycle

The Bureau shall apply scientific cutting cycle and rotation in all forest lands, giving particular consideration to the age, volume and kind of healthy residual trees which may be left undisturbed and undamaged for future harvest and forest cover in dipterocarp area, and seed trees and reproduction in pine area.

Section 26

Annual Allowable Cut

The annual allowable cut or harvest of any particular forest land under a license agreement, license, lease or permit shall be determined on the basis of the size of the area, the volume and kind of harvestable timber or forest products and healthy residuals, seed trees and reproduction found therein, and the established cutting cycle and rotation thereof.

No person shall cut, harvest and gather any particular timber, pulpwood, firewood and other forest products unless he has been authorized under Section 20 hereof to do so and the particular annual allowable cut thereof has been granted.

In the public interest and in accordance with Section 21 hereof, the Department Head shall review all existing annual allowable cut and thereupon shall prescribe the level of annual allowable cut for the common dipterocarp timber, softwood and hardwood timber cutting of which is not prohibited, pulpwood, firewood and other forest products using as bases the factors as well as the updated aerial photographs and field inventories of such forest land: Provided, That pending the completion of such review and appropriate amendment of the annual allowable cut in existing license agreement, license, lease or permit existing annual allowable cut that not sufficiently supports wood or forest products processing plant or that will support duly approved processing expansion program or new processing projects may be allowed to

continue without change: Provided, further, That no additional or adjustment in annual allowable cut shall be made until after such a review has been made. [As amended by PD No. 1559]

Section 27

Duration of License Agreement or License to Harvest Timber in Forest Lands

The duration of the privilege to harvest timber in any particular forest land under a license agreement or license shall be fixed and determined in accordance with the annual allowable cut therein, the established cutting cycle thereof, the yield capacity of harvestable timber, and the capacity of healthy residuals for a second growth.

The privilege shall automatically terminate, even before the expiration of the license agreement or license, the moment the harvestable timber have been utilized without leaving any logged-over area capable of commercial utilization.

The maximum period of any privilege to harvest timber is twenty-five (25) years, renewable for a period, not exceeding twenty-five (25) years, necessary to utilize all the remaining commercial quantity or harvestable timber either from the unlogged or logged-over area.

It shall be a condition for the continued privilege to harvest timber under any license or license agreement that the licensee shall reforest all the areas which shall be determined by the Bureau.

Section 28

Size of Forest Concessions

Forest lands shall not be held in perpetuity.

The size of the forest lands which may be the subject of timber utilization shall be limited to that which a person may effectively utilize and develop for a period of fifty (50) years, considering the cutting cycle, the past performance of the applicant and his capacity not only to utilize but, more importantly, to protect and manage the whole area, and the requirements of processing plants existing or to be installed in the region.

Forest concessions which had been the subject of consolidations shall be reviewed and re-evaluated for the effective implementation of protection, reforestation and management thereof under the multiple use and sustained yield concepts, and for the processing locally of the timber resources therefrom.

B.

Wood-Processing

Section 29

Incentives to the Wood Industry

The Department Head, in collaboration with other government agencies and the wood industry associations and other private entities in the country, shall evolve incentives for the establishment of an integrated wood industry in designated wood industry centers and/or economic area.

The President of the Philippines, upon the recommendations of the National Economic Development Authority and the Department Head, may establish wood industry import-export centers in selected locations: Provided, That logs imported for such centers shall be subject to such precaution as may be imposed by the Bureau, in collaboration with proper government agencies, to prevent the introduction of pests, insects and/or diseases detrimental to the forests.

Section 30

Rationalization of the Wood or Forest Products Industry

While the expansion and integration of existing wood or forest products processing plants, as well as the establishment of new processing plants shall be encouraged, their locations and operations shall be regulated in order to rationalize the whole industry.

No expansion or integration of existing processing plant nor establishment of new processing plant shall be allowed unless environmental considerations are taken into account and adequate raw material supply on a sustained-yield basis is assured.

A long-term assurance of raw material source from forest concessions and/or from industrial tree plantations, tree farms or agro-forest farms whose annual allowable cut and/or whose harvest is deemed sufficient to meet the requirement of such processing plant shall govern, among others, the grant of the privilege to establish, install additional capacity or operate a processing plant.

Henceforth within one year from the date of this law, as a condition to exercise of the privileges granted them under a license agreement, license, lease or permit, wood or forest products processors without forest concessions or areas that may be developed into industrial tree plantations, tree farms or agro-forest farms and licensees, lessees or permittees without processing

plants shall jointly adopt any feasible scheme or schemes, other than log supply contract, for the approval of the Department Head, Provided, That no license agreement, license, lease or permit including processing plant permit, shall be granted or renewed unless said scheme or schemes are submitted to, and approved by, the Department Head.

All processing plants existing, to be expanded, to be integrated or to be established shall obtain operating permits, licenses and/or approval from the Bureau or the Department, as the case may be, and shall submit themselves to other regulations related to their operation.

The Department Head may cancel, suspend, or phaseout all inefficient, wasteful, uneconomical or perennially short in raw material wood or forest products processing plants which are not responsive to the rationalization program of the government. [As amended by PD No. 1569]

Section 31

Wood Wastes, Weed Trees and Residues

Timber licensees shall be encouraged and assisted to gather and save the wood wastes and weed trees in their concessions, and those with processing plants, the wood residues thereof, for utilization and conversion into wood by-products and derivatives.

Section 32

Log Production and Processing

Unless otherwise directed by the President, upon recommendation of the Department Head, the entire production of logs by all timber licensees shall, beginning January 1, 1976 be processed locally: Provided, That the following conditions must be complied with by those who apply be allowed to export a portion of their log production to be determined by the Department Head such that the total log export of these timber licensees shall not exceed twenty-five percent (25%) of the total national allowable cut:

1. Timber licensees with existing viable processing plants; or
2. Timber licensees with processing projects duly approved by the Department Head; or
3. Timber licensees who have acquired viable processing machinery and equipment which will be installed and will become operational in accordance with the schedule approved by the Department Head; and
4. Timber licensees whose log export support or are in line with, government-approved trade agreement.

Provided, further, That no person shall be given a permit to export if he has not

complied with the requirements on replanting and reforestation. Provided, That the President may, upon recommendation of the Department Head, whenever the export price of logs falls to unreasonably low level or whenever public interest so requires, cancel log exportation or reduce the maximum allowable proportion for log exports.

All timber licensees who have no processing plant and who have no plan to establish the same shall, jointly with wood processors, adopt a scheme or schemes for the processing of the log production in accordance with Section 30 hereof. [As amended by PD No. 865, and by PD No. 1559]

C.

Reforestation

Section 33

Lands to be Reforested and/or Afforested

Lands to be reforested and/or afforested are as follows:

- a. Public forest lands:
 1. Bare or grass-covered tracts of forest lands;
 2. Brushlands or tracts of forest lands generally covered with brush, which need to be developed to increase their productivity;
 3. Open tracts of forest lands interspersed with patches of forest;
 4. Denuded or inadequately timbered areas proclaimed by, the President as forest reserves and reservations as critical watersheds, national parks, game refuge, bird sanctuaries, national shrines, national historic sites;
 5. Inadequately-stock forest lands within forest concessions;
 6. Portions of areas covered by pasture leases or permits needing immediate reforestation;
 7. River banks, easements, road right-of-ways, deltas, swamps, former river beds, and beaches;
- b. Private lands:
 1. Portions of private lands required to be reforested or planted to trees pursuant to Presidential Decree Nos. 953 and 1153 and other existing laws. [As amended by PD No. 1559. PD 1153 repealed by EO No. 287, s. 1987]

Section 34

Industrial Tree Plantations, Tree Farms and Agro-Forestry Farms

A lease for a period of fifty (50) years for the establishment of an industrial tree plantations, tree farm or agro-forestry farm, may be granted by the Department Head, upon recommendation of the Director, to any person qualified to

develop and exploit natural resources, over timber or forest lands of the public domain categorized in Section 33(1) hereof except those under paragraphs d and g with a minimum area of one hundred (100) hectares for industrial tree plantations and agro-forestry farms and ten (10) hectares for tree farms: Provided, That the size of the area that may be granted under each category shall, in each case, depend upon the capability of the lessee to develop or convert the area into productive condition within the term of the lease.

The lease may be granted under such terms and conditions as the Department Head may prescribe, taking into account, among others, the raw material needs of forest based and other industries and the maintenance of a wholesome ecological balance.

Trees and other products raised within the industrial tree plantation, tree farm or agro-forestry farm belong to the lessee who shall have the right to sell, contract, convey, or dispose of said planted trees and other products in any manner he sees fit, in accordance with existing laws, rules and regulations.

Reforestation projects of the Government, or portion thereof, which, upon field evaluation, are found to be more suitable for, or can better be developed as industrial tree plantations, tree farms or agro-forestry farms, in terms of benefits to the Government and the general surrounding area, may be the subject of a lease under this Section. [As amended by PD No. 1559]

Section 35 *Property*

Over any suitable area covered by a timber license agreement or permit, the priority to establish industrial tree plantation, tree farms or agro-forestry farm shall be given to the holder thereof after the Bureau had determined the suitability of such area and has set aside the same for the purpose:

The priority herein granted must, however, be availed of within a reasonable period otherwise the area shall be declared open to any qualified person and consequently segregated from the licensee's or permittee's area.

Priority shall also be given to the establishment of communal industrial tree plantations by barangays, municipalities or cities and provinces. [As amended by PD No. 1559]

Section 36 *Incentives*

To encourage qualified persons to engage in industrial tree plantation, tree

farm and/or agro-forest farm, the following incentives are granted:

- a. Payment of a nominal filing fee of fifty centavos (P0.50) per hectare;
- b. No rental shall be collected during the first five (5) years from the date of the lease, from the sixth year to the tenth year, the annual rental shall be fifty centavos (P0.50) per hectare; and thereafter, the annual rental shall be one peso (P 1.00) per hectare: Provided, That lessees of areas long denuded, as certified by the Director and approved by the Department Head, shall be exempted from the payment of rental for the full term of the lease which shall not exceed twenty-five (25) years; for the first five (5)-years following the renewal of the lease, the annual rental shall be fifty centavos (P0.50) per hectare; and thereafter, the annual rental shall be one peso (P1.00) per hectare: Provided, further, That notwithstanding the foregoing, no rental shall be collected from a lessee who, upon verification by the Bureau, substantially meets the schedule of development of the industrial tree plantation, the tree farm, or agro-forestry farm, as the case may be, as prescribed in the development plan submitted to, and approved by the Department Head, upon recommendation of the Director;
- c. The forest charges payable by a lessee on the timber and other forest products grown and cut or gathered in an industrial tree plantation, tree farm, or agro-forestry farm shall only be twenty-five percent (25%) of the regular forest charges prescribed in the National Internal Revenue Code;
- d. Exemption from the payment of the percentage tax levied in Title V of the National Internal Revenue Code when the timber and forest products are sold, bartered or exchanged by the lessee, whether in their original state or not, as well as exemption from all forms of sales tax, local and municipal taxes, and from the real property tax under the provisions of Presidential Decree No. 853;
- e. A lessee shall not be subject to any obligation prescribed in, or arising out of, the provisions of the National Internal Revenue Code on withholding of tax at source upon interest paid on borrowing incurred for development and operation of the industrial tree plantation, tree farm, or agro-forestry farm;
- f. Except when public interest demands, the boundaries of an area covered by an industrial tree plantation, tree farm, or agro-forestry farm lease, once established on the ground, shall not be altered or modified;
- g. Amounts expended by a lessee in the development and operation of an industrial tree plantation, tree farm, or agro-forestry farm prior to the time when the production state is reached, may, at the option of the lessee, be regarded as ordinary and necessary business expenses or as capital expenditures;
- h. The Board of Investments shall, notwithstanding its nationality requirement on projects involving natural resources, classify industrial tree plantations,

tree farms and agro-forestry farms as pioneer areas of investment under its annual priority plan, to be governed by the rules and regulations of said Board;

In addition to the incentives under this section, private landowners who engage in tree farming on areas fifty hectares or below by planting their lands with Ipil-ipil and other fast growing trees shall be exempt from the inventory requirement and other requirements before harvest as provided in this Decree for lessees of forest lands of the public domain: Provided, That the transport of trees cut shall be accompanied by the corresponding certificate of origin duly issued by the authorized forest officer. [As added by BP Blg. 701, approved April 5, 1984]

- i. Approved industrial tree plantations, tree farms, and agro-forestry farms shall be given priority in securing credit assistance from the government and government-supported financing institutions which shall set aside adequate funds for lending to the lessee and/or investor at reasonable interest rates;
- j. The lessee and its field employees and workers shall be exempted from the provisions of Presidential Decree No. 1153;
- k. Government institutions administering or financing programs and projects requiring wood materials shall specify the purchase of, or utilize, manufactured products derived from trees grown and harvested from industrial tree plantations, tree farms or agro-forestry farms, whenever possible;
- l. No wood, wood products or wood-derived products including pulp paper, paperboard shall be imported if the same are available in required quantities and reasonable prices, as may be certified by the Department Head, from artificial or man-made forests, or local processing plants manufacturing the same;
- m. No processing plant of whatever nature or type, made of or utilization, as primary materials shall be allowed to be established, expanded or integrated, and operated without a long-term assurance or raw materials source from forest concessions and/or from industrial tree plantations, tree farms or agro-forestry farms in accordance with Section 30 hereof;
- n. Timber grown and harvested from industrial tree plantations, tree farms and agro-forestry farms may be exported without restriction in quantity or volume, and if the exporter is the same person or firm qualified and allowed to export logs under the provisions of this Decree, such timber from plantations/farms may be exported exclusive of the quantity or volume authorized under Section 32 hereof: Provided, That the rentals on the forest land and the forest charges on the plantation timber shall have been paid: Provided, further, That the export of the plantation timber shall be covered by a certificate to export issued by the Department Head on a yearly basis: Provided, finally, That the Department Head may at any

time review the exportation of timber harvested from the plantations/farms and either reduce or totally suspend the export of such plantation timber whenever public interest so requires; and

- o. Free technical advice from government foresters and farm technicians. The Department Head may provide other incentives in addition to those hereinafter granted to promote industrial tree plantations, tree farms and agro-forestry farms in special areas such as, but not limited to, those where there are no roads or where roads are inadequate, or areas with rough topography and remote areas far from processing plants. [As amended by PD No. 1559]

D.

Forest Protection

Section 37

Protection of All Resources

All measures shall be taken to protect the forest resources from destruction, impairment and depletion.

Section 38

Control of Concession Area

In order to achieve the effective protection of the forest lands and the resources thereof from illegal entry, unlawful occupation, kaingin, fire, insect infestation, theft, and other forms of forest destruction, the utilization of timber therein shall not be allowed except through license agreements under which the holders thereof shall have the exclusive privilege to cut all the allowable harvestable timber in their respective concessions, and the additional right of occupation, possession, and control over the same, to the exclusive of all others, except the government, but with the corresponding obligation to adopt all the protection and conservation measures to ensure the continuity of the productive condition of said areas, conformably with multiple use and sustained yield management.

If the holder of a license agreement over a forest area expressly or impliedly waives the privilege to utilize any softwood, hardwood or mangrove species therein, a license may be issued to another person for the harvest thereof without any right of possession or occupation over the areas where they are found, but he shall, likewise, adopt protection and conservation measures consistent with those adopted by the license agreement holder in the said areas.

Section 39

Regulation of Timber Utilization in All Other Classes of Lands and of Processing Plants

The utilization of timber in alienable and disposable lands, private lands, civil reserve preservations, and all lands containing standing or felled timber including those under the jurisdiction of other government agencies, and the establishment and operation of sawmills and other wood-processing plants, shall be regulated in order to prevent them from being used as shelters for excessive and unauthorized harvests in forest lands, and shall not therefore be allowed except through a license agreement, license, lease or permit.

Section 40

Timber Inventory in Other Lands Containing Standing or Felled Timber

The Bureau shall conduct a one hundred percent (100%) timber inventory in alienable and disposable lands and civil reservations immediately upon classification or reservation thereof.

No harvest of standing or felled timber in alienable and disposable lands, private lands, civil reservation, and all other lands, including those under the jurisdiction of other government agencies, shall be allowed unless a one hundred percent (100%) timber inventory has been conducted thereon.

Section 41

Sworn Timber Inventory Reports

All reports on timber inventories of forest lands, alienable and disposable lands, private lands, civil reservations, and all lands containing standing or felled timber must be subscribed and sworn to by all the forest officers who conducted the same.

Section 42

Participation in the Development of Alienable and Disposable Lands and Civil Reservations

The privilege to harvest timber in alienable and disposable lands and civil reservations shall be given to those who can best help in the delineation and development of such areas in accordance with the management plan of the appropriate government exercising jurisdiction over the same.

The extent of participation shall be based on the amount of timber which may be harvested therefrom.

Section 43

Swamplands and Mangrove Forests

Strips of mangrove forest bordering numerous islands which protect the shoreline, the shoreline roads, and even coastal communities from the destructive force of the sea during high winds and typhoons, shall be maintained and shall

not be alienated. Such strips must be kept from artificial obstruction so that flood water will flow unimpeded to the sea to avoid flooding or inundation of cultivated areas in the upstream.

All mangrove swamps set aside for coast-protection purposes shall not be subject to clear-cutting operation.

Mangrove and other swamps released to the Bureau of Fisheries and Aquatic Resources for fishpond purposes which are not utilized, or which have been abandoned for five (5) years from the date of such release shall revert to the category of forest land.

Section 44

Visitorial Power

The Department Head may, by himself or thru the Director or any qualified person duly designated by the Department Head, investigate, inspect and examine records, books and other documents relating to the operation of any holder of a license agreement, license, lease, or permit, and its subsidiary or affiliated companies to determine compliance with the terms and conditions thereof, this Code and pertinent laws, policies, rules and regulations.

Section 45

Authority of Forest Officers

When in the performance of their official duties, forest officers, or other government officials or employees duly authorized by the Department Head or Director, shall have free entry into areas covered by a license agreement, license, lease or permit.

Forest officers are authorized to administer oath and take acknowledgment in official matters connected with the functions of their office, and to take testimony in official investigations conducted under the authority of this Code and the implementing rules and regulations.

Section 46

Scaling Stations

In collaboration with appropriate government agencies, the Bureau shall establish control or scaling stations at suitably located outlets of timber and other forest products to insure that they were legally cut or harvested.

Section 47

Mining Operations

Mining operations in forest lands shall be regulated and conducted with due re-

gard to protection, development and utilization of other surface resources. Location, prospecting, exploration, utilization or exploitation of mineral resources in forest reservations shall be governed by Mining laws, rules and regulations. No location, prospecting, exploration, utilization, or exploitation of mineral resources inside forest concessions shall be allowed unless proper notice has been served upon the licensees thereof and the prior approval of the Director, secured.

Mine tailings and other pollutants affecting the health and safety of the people, water, fish, vegetation, animal life and other surface resources, shall be filtered in silt traps or other filtration devices and only clean exhausts and liquids shall be released therefrom.

Surface-mined areas shall be restored to as near its former natural configuration or as approved by the Director prior to its abandonment by the mining concern.

Section 48

Mineral Reservations

Mineral reservations which are not the subject of mining operations or where operations have been suspended for more than five (5) years shall be placed under forest management by the Bureau.

Mineral reservations where mining operations have been terminated due to the exhaustion of its minerals shall revert to the category of forest land, unless otherwise reserved for other purposes.

Section 49

Roads and Other Infrastructure

Roads and other infrastructure in forest lands shall be constructed with the least impairment to the resource values thereof.

Government agencies undertaking the construction of roads, bridges, communications, and other infrastructure and installations inside forest lands, shall coordinate with the Bureau, especially if it will involve the utilization or destruction of timber and/or other forest resources, or watershed disturbance therein, in order to adopt measures to avoid or reduce damage or injury to the forest resource values.

They shall likewise extend assistance in the planning and establishment of roads, wharves, piers, port facilities, and other infrastructure in locations designated as wood-processing centers or for the convenience of wood-based industries.

In order to coincide and conform to government plans, programs, standards, and specifications, holders of license agreements, licenses, leases and permits shall not undertake road or infrastructure construction or installation in forest lands without the prior approval of the Director, or in alienable and disposable lands, civil reservations and other government lands, without the approval of the government agencies having administrative jurisdiction over the same.

All roads and infrastructure constructed by holders of license agreements, licenses, leases and permits belong to the State and the use and administration thereof shall be transferred to the government immediately upon the expiration or termination thereof. Prior thereto the Bureau may authorize the public use thereof, if it will not be detrimental to forest conservation measures.

Where roads are utilized by more than one commercial forest user, the Bureau shall prescribe the terms and conditions of joint use including the equitable sharing of construction and/or maintenance costs, and of the use of these roads by other parties and the collection of such fees as may be deemed necessary.

Section 50

Logging Roads

There shall be indiscriminate construction of logging roads.

Such roads shall be strategically located and their widths regulated so as to minimize clear-cutting, unnecessary damage or injury to healthy residuals, and erosion. Their construction must not only serve the transportation need of the logger, but, most importantly, the requirement to save as many healthy residuals as possible during cutting and hauling operations.

Section 51

Management of Occupancy in Forest Lands

Forest occupancy shall henceforth be managed. The Bureau shall study, determine and defined which lands may be the subject of occupancy and prescribed therein, an agro-forestry development program.

Occupants shall undertake measures to prevent and protect forest resources. Any occupancy in forest land which will result in sedimentation, erosion, reduction in water yield and impairment of other resources to the detriment of community and public interest shall not allowed.

In areas above 50% in slope, occupation shall be conditioned upon the planting of desirable trees thereon and/or adoption of other conservation measures.

Section 52

Census of Kaingineros, Squatters, Cultural Minorities and Other Occupants and Residents in Forest Lands

Henceforth, no person shall enter into forest lands and cultivate the same without lease or permit.

A complete census of kaingineros, squatters, cultural minorities and other occupants and residents in forest lands with or without authority or permits from the government, showing the extent of their respective occupation and resulting damage, or impairment of forest resources, shall be conducted.

The Bureau may call upon other agencies of the government and holders of license agreement, license, lease and permits over forest lands to participate in the census.

Section 53

Criminal Prosecution

Kaingineros, squatters, cultural minorities and other occupants who entered into forest lands and grazing lands before May 19, 1975, without permit or authority, shall not be prosecuted: Provided, That they do not increase their clearings: Provided, further, That they undertake, within two (2) months from notice thereof, the activities to be imposed upon them by the Bureau in accordance with management plan calculated to conserve and protect forest resources in the area: Provided, finally, That kaingineros, squatters, cultural minorities and other occupants shall whenever the best land use of the area so demands as determined by the Director, be ejected and relocated to the nearest accessible government resettlement area. [As amended by PD No. 1559]

E.

Special Uses

Section 54

Pasture in Forest Lands

No forest land 50% in slope or over may be utilized for pasture purposes. Forest lands which are being utilized for pasture shall be maintained with sufficient grass cover to protect soil, water and other forest resources.

If grass cover is insufficient, the same shall be supplemented with trees or such vegetative cover as maybe deemed necessary.

The size of forest lands that may be allowed for pasture and other special uses shall be determined by rules and regulations, any provision of law to the contrary notwithstanding.

Section 55

Wildlife

All measures shall be adopted to conserve wildlife. The Director shall regulate the hunting of wildlife in forest lands in order to maintain an ecological balance of flora and fauna. [As amended by PD No. 1559]

Section 56

Recreation

The Bureau shall, in the preparation of multiple-use management plans, identify and provide for the protection of scenic areas in all forest lands which are potentially valuable for recreation and tourism, and plan for the development and protection of such areas to attract visitors thereto and meet increasing demands therefor.

The construction and operation of necessary facilities to accommodate outdoor recreation shall be done by the Bureau with the use of funds derived from rentals and fees for the operation and use of recreational facilities by private persons or operators, in addition to whatever funds may be appropriated for such purposes.

Section 57

Other Special Uses of Forest Lands

Forest lands may be leased for a period not exceeding twenty-five (25) years, renewable upon the expiration thereof for a similar period, or held under permit, for the establishment of sawmills, lumber yards, timber depots, logging camps, rights-of-way, or for the construction of sanatoria, bathing establishments, camps, salt works, or other beneficial purposes which do not in any way impair the forest resources therein.

F.

Qualifications

Section 58

Diffusion of Benefits

The privilege to utilize, exploit, occupy, or possess forest lands, or to conduct any activity therein, or to establish and operate wood-processing plants, shall be diffused to as many qualified and deserving applicants as possible.

Section 59

Citizenship

In the evaluation of applications of corporations, increased Filipino equity and participation beyond the 60% constitutional limitation shall be encour-

aged. All other factors being equal, the applicant with more Filipino equity and participation shall be preferred.

Section 60

Financial and Technical Capability

No license agreement, license, lease or permit over forest lands shall be issued to an applicant unless he proves satisfactorily that he has the financial resources and technical capability not only to minimize utilization, but also to practice forest protection, conservation and development measures to insure the perpetuation of said forest in productive condition.

Section 61

Transfers

Unless authorized by the Department Head, no licensee, lessee, or permittee may transfer, exchange, sell or convey his license agreement, license, lease or permit, or any of his rights or interests therein, or any of his assets used in connection therewith.

The licensee, lessee or permittee shall be allowed to transfer or convey his license agreement, license, lease or permit only if the license, lease or permit has been in existence for at least three (3) years, the licensee, lessee or permittee has not violated any forestry law, rule or regulation and has been faithfully complying with the terms and conditions of the license agreement, license, lease or permit, the transferee has all the qualifications and none of the disqualifications to hold a license agreement, license, lease or permit, there is no evidence that such transfer of conveyance is being made for purposes of speculation; and the transferee shall assume all the obligations of the transferor.

As used in this section, the term assets shall not include cattle and other livestock or animals raised in grazing lands and forest lands, and planted trees and other products raised in industrial tree plantations, tree farms and agro-forestry farms. [As amended by PD No. 1559]

Section 62

Service Contracts

The Department Head, may in the national interest, allow forest products licensees, lessees or permittees to enter into service contracts for financial, technical, management, or other forms of assistance, in consideration of a fee, with any foreign person or entity for the exploration, development, exploitation or utilization of the forest resources, covered by their license agreements, licenses, leases or permits. Existing valid and binding service

contracts for financial, technical, management or other forms of assistance are hereby recognized as such.

Section 63

Equity Sharing

Every corporation holding a license agreement, license, lease or permit to utilize, exploit, occupy or possess any forest land, or conduct any activity therein, or establish and operate a wood-processing plant, shall within one (1) year after the effectivity of this Code, formulate and submit to the Department Head for approval a plan for the sale of at least twenty percent (20%) of its subscribed capital stock in favor of its employees and laborers.

The plan shall be so implemented that the sale of the shares of stock shall be effected by the corporation not later than the sixth year of its operation, or the first year of the effectivity of this Code, if the corporation has been in operation for more than 5 years prior to such effectivity.

No corporation shall be issued any license agreement, license, lease or permit after the effectivity of this Code, unless it submits such a plan and the same is approved for implementation within the sixth year of its operation.

The Department Head shall promulgate the necessary rules and regulations to carry out the provisions of this section, particularly on the determination of the manner of payment factors affecting the selling price, establishment of priorities in the purchase of the shares of stock, and the capability of the deserving employees and laborers. The industries concerned shall extend all assistance in the promulgation of policies on the matter, such as the submission of all data and information relative to their operation, personnel management, and asset evaluation.

G.

Regulatory Fees

Section 64

Equity Sharing

Every corporation holding a license agreement, license, lease or permit to utilize, exploit, occupy or possess any forest land, or conduct any activity therein, or establish and operate a wood-processing plant, shall within one (1) year after the effectivity of this amendatory Decree, formulate and submit to the Department Head for approval a plan for the sale of at least ten percent (10%) of its subscribed capital stock in favor of employees, laborers and the general public.

The plan shall be so implemented that the sale of the shares of stock shall be effected by the corporation not later than the sixth year of its operation, or the first year of the effectivity of this amendatory Decree, if the corporation has been in operation for more than five (5) years prior to such effectivity.

No corporation shall be issued any license agreement, license, lease or permit after the effectivity of this amendatory Decree, unless it submits such a plan and the same is approved for implementation within the sixth year of its operation.

The Department Head shall promulgate the necessary rules and regulations to carry out the provisions of this section, particularly on the determination of the manner of payment, factors affecting the selling price, establishment of priorities in the purchase of the shares of stock, and the preparation of a fund to ensure the financial capability of the deserving employees and laborers. The industries concerned shall extend all assistance in the promulgation of policies on the matter, such as the submission of all data and information relative to their operation, personnel management and asset evaluation. [As amended by PD No. 1559]

Section 65

Authority of Department Head to Impose Other Fees

In addition to the fees and charges imposed under existing laws, rules and regulations, the Department Head is hereby authorized, upon recommendation of the Director and in consultation with representatives of the industries affected, to impose other fees for forest protection, management, reforestation, and development, the proceeds of which shall accrue into a special deposit of the Bureau as its revolving fund for the aforementioned purposes.

Section 66

Collection and Disbursement

The collection of the charges and fees above-mentioned shall be the responsibility of the Director or his authorized representative. The Director shall remit his monthly collection of fees and charges mentioned in Section 64 to the Treasurer of the Philippines within the first ten (10) days of the succeeding month; Provided, That the proceeds of the collection of the fees imposed under Section 65 and the special deposit heretofore required of licensees shall be constituted into a revolving fund for such purposes and be deposited in the Philippine National Bank, as a special deposit of the Bureau. The Budget Commissioner and the National Treasurer shall effect the quarterly releases out of the collection accruing to the general fund upon request of the Director on the basis of a consolidated annual budget of a work program approved by the Department Head and the President.

In the case of the special deposit revolving fund, withdrawals therefrom shall be effected by the Department Head on the basis of a consolidated annual budget prepared by the Director of a work program for the specific purposes mentioned in Section 65.

Section 67

Basis of Assessment

Tree measurement shall be the basis for assessing government charges and other fees on timber cut and removed from forest lands, alienable or disposable lands, and the civil reservations; Provided, That until such time as the mechanics of tree measurement shall have been developed and promulgated in rules and regulations, the present scaling method provided for in the National Internal Revenue Code shall be used.

The Director may, with the approval of the Department Head, prescribe a new method of assessment of forest products and collection of charges thereon based upon the result of production cost and market studies undertaken by the Bureau; Provided, That such charges shall not be lower than those now imposed.

H.

Taxation for Forest Products

Section 68

Measuring of Forest Products and Invoicing and Collection of Charges Thereon

The duties incident to the measuring of forest products shall be discharged by the Bureau of Forest Development under regulations of the Ministry of Natural Resources (now, Secretary of Environment and Natural Resources). The invoicing and collection of the charges thereon shall be done by the Bureau of Internal Revenue under regulations approved by the Minister of Finance (now Department of Finance). [As amended by BP Blg. 83, Sept. 17, 1980]

Section 69

Mode of Measuring Timber

Except as herein below provided, all timber shall be measured and manifested in the round or squared, before being sawn or manufactured. The volume of all round timber shall be ascertained by multiplying the area of the small end by the length of the log, the diameter of the log to be measured exclusive of the bark; but if the end of a log is irregular, the average diameter shall be used; and in order to ascertain the volume of a log more than eight meters long, the diameter of the middle of said log or the average of the diameters at both ends thereof shall be used as basis. If a log in the round, cut under license, is measured and manifested by forest officers, the Director of Forest Development

shall make due allowance for rot, cavities or other natural defects; but from any decision of the Director of Forest Development in this respect, an appeal shall lie to his Ministry Head (now, Department Head), whose decision shall be final. The manifest of timber cut by licensees operating sawmills in or near the forest shall be attested by forest officers whenever practicable.

The volume of squared timber shall be ascertained by multiplying the average of the cross section measured by the length, to which forty per centum shall be added for loss in squaring: Provided, however, That if squared timber cut under license is measured and manifested by forest officers, the Director of Forest Development shall make due allowance for rot, cavities, or other natural defects; but from any decision of the Director of Forest Development in this respect, an appeal shall lie to his Ministry Head (Department Head), whose decision shall be final. The privilege of manifesting timber after squaring shall, however, be granted only to licensees who have squared their logs in the forests with the ax and intend to take it to the market in this form.

If sawn or otherwise manufactured timber is found which has not been manifested in accordance with the provisions hereof, the corresponding forest charges shall be assessed on twice the volume of the actual contents of such sawn or manufactured timber. [As amended by BP Blg. 83, Sept. 17, 1980]

Section 70

Charges on Timber Cut in Forestland

There shall be collected charges on each cubic meter of timber cut in forestland, whether belonging to the first, second, third or fourth group, twenty-five percent (25%) of the actual FOB market price based on species and grading: Provided, however, That, in the case of pulpwood and matchwood cut in forestland, forest charges on each cubic meter shall be ten percent (10%) of the actual FOB market price. [As amended by RA No. 7161, 10 Oct. 1991]

Section 71

Charges on Firewood, Branches and Other Recoverable Wood Wastes of Timber

Except for all mangrove species whose cutting shall be banned, there shall be collected forest charges on each cubic meter of firewood cut in forestland, branches and other recoverable wood wastes of timber, such as timber ends, tops and stumps when used as raw materials for the manufacture of finished products. Ten pesos (P10.00).

Only third or fourth group wood can be taken for firewood. However, if jointly authorized by the Secretaries of both the Departments of Environment and

Natural Resources and Agriculture, first and second group woods may be removed for firewood purposes from land which is more valuable for agricultural than for forest purposes. [As amended by RA No. 7161]

Section 72

Charges on Minor Forest Products

All other forest products of forestland which are not covered by the preceding sections shall be exempt from any or all forest charges, except rattan, gums and resins, bees-wax, gutapercha, almaciga resin and bamboo which shall be charged at ten percent (10%) of the actual FOB market price. [As amended by RA No. 7161]

Section 73

Effectivity and Application of Forest Charges and Determination of Market Price of Forest Products

The rates of forest charges provided for in Sections 70, 71 and 72 hereof shall be effective upon approval of this Act. The new rates shall be published in the Official Gazette or in two (2) newspapers of national circulation and shall also be posted in conspicuous places in the different Department of Environment and Natural Resources field offices.

The actual FOB market price of forest products shall be justly determined once a year by the Secretary of Environment and Natural Resources: Provided, That he shall cause the creation of a committee to be composed of representatives of the Department of Environment and Natural Resources, the National Economic Development Authority the Department of Trade and Industry, the Bureau of Internal Revenue and the wood and furniture industry and consumer sectors which shall formulate the criteria and/or guidelines in the determination of the actual FOB market price to be used as the basis for the assessment of the ad valorem tax. Taking into consideration production cost (developing cost, contingencies and miscellaneous cost), species and grade of timber, government share, reforestation, tariff duties, taxes, risk involved and a reasonable margin of profit for domestic and export market prices for wood and wood products.

These forest charges shall be applied to naturally growing timber and forest products gathered within public forestlands, alienable and disposable lands and private lands. Forest charges collected shall be in lieu of the administrative charge on environment and other fees and charges imposed thereon: Provided, That planted trees and other forest products harvested from industrial tree plantations and private lands covered by existing tiller or by approved land application are exempted from payment of forest charges. [As amended by RA No. 7161]

products without the legal documents as required under existing forest laws and regulations, shall be punished with the penalties imposed under Articles 309 and 310 of the Revised Penal Code: Provided, That in the case of partnership, associations, or corporations, the officers who ordered the cutting, gathering, collection or possession shall be liable, and if such officers are aliens, they shall, in addition to the penalty, be deported without further proceedings on the part of the Commission on Immigration and Deportation.

The Court shall further order the confiscation in favor of the government of the timber or any forest products cut, gathered, collected, removed, or possessed, as well as the machinery, equipment, implements and tools illegally used in the area where the timber or forest products are found. [As amended by PD No. 1559, and by EO No. 277, prom. July 25, 1987, 83 OG No. 31, Aug. 3, 1987]

Section 78-A

Administrative Authority of the Department Head or His Duly Authorized Representative to Order Confiscation

In all cases of violations of this Code or other forest laws, rules and regulations, the Department Head or his duly authorized representative, may order the confiscation of any forest products illegally cut, gathered, removed, or possessed or abandoned, and all conveyances used either by land, water or air in the commission of the offense and to dispose of the same in accordance with pertinent laws, regulations or policies on the matter. [As added by EO No. 277]

Section 78-B

Rewards to Informants

Any person who shall provide any information leading to the apprehension and conviction of any offender for any violation of this Code or other forest laws, rules and regulations, or confiscation of forest products, shall be given a reward in the amount of twenty per centum (20%) of the proceeds of the confiscated forest products. [As added by EO No. 277]

Section 79

Unlawful Occupation or Destruction of Forest Lands and Grazing Lands

Any person who enters and occupies or possesses, or makes kaingin for his own private use or for others, any forest land or grazing land without authority under a license agreement, lease, license or permit, or in any manner destroys such forest land or grazing land or part thereof, or causes any damage to the timber stand and other products and forest growth found therein, or who assists, aids or abets any other person to do so, or sets a fire, or negligently permits a fire to be set in any forest land or grazing land, or refuses to

vacate the area when ordered to do so, pursuant to the provisions of Section 53 hereof shall, upon conviction, be fined in an amount of not less than five hundred pesos (P500.00), nor more than twenty thousand pesos (P20,000.00) and imprisoned for not less than six (6) months nor more than two (2) years for each such offense, and be liable to the payment of ten (10) times to the rental fees and other charges which would have accrued had the occupation and use of the land been authorized under a license agreement, lease, license or permit: Provided, That in the case of an offender found guilty of making kaingin, the penalty shall be imprisonment for not less than two (2) nor more than four (4) years and a fine equal to eight (8) times the regular forest charges due on the forest products destroyed, without prejudice to the payment of the full cost of production of the occupied area as determined by the Bureau: Provided, further, That the maximum of the penalty prescribed herein shall be imposed upon the offender who repeats the same offense and double the maximum of the penalty upon the offender who commits the same offense for the third time.

In all cases, the Court shall further order the eviction of the offender from the land the forfeiture to the government of all improvements made and all vehicles, domestic animals and equipment of any kind used in the commission of the offense. If not suitable for use by the Bureau, said vehicles, domestic animals, equipment and improvements shall be sold at public auction, the proceeds of which shall accrue to the Development Fund of the Bureau.

In case the offender is a government official or employee, he shall, in addition to the above penalties be deemed automatically dismissed from office and permanently disqualified from holding any elective or appointive position. [As amended by PD No. 1559]

Section 80

Pasturing Livestock

Imprisonment for not less than six (6) months nor more than two (2) years and a fine equal to ten (10) times the regular rentals due, in addition to the confiscation of such livestock and all improvements introduced in the area in favor of the government, shall be imposed upon any person, who shall, without authority under a lease or permit, graze or cause to graze livestock in forest lands, grazing lands and alienable and disposable lands which have not as yet been disposed of in accordance with the Public Land Act; Provided, That in case the offender is a corporation, partnership or association, the officers and directors thereof shall be liable.

Section 81

Illegal Occupation of National Parks System and Recreation Areas and Vandalism Therein

Any person who, shall, without permit, occupy for any length of time any portion of the national parks system or shall, in any manner cut, destroy, damage or remove timber or any species of vegetation or forest cover and other natural resources found therein, or shall mutilate, deface or destroy objects of natural beauty or of scenic value within areas in the national parks system, shall be fined not less than five hundred pesos (P500.00) pesos or more than twenty thousand (P20,000.00) pesos exclusive of the value of the thing damaged; Provided, That if the area requires rehabilitation or restoration as determined by the Director, the offender shall also be required to restore or compensate or the restoration of the damage: Provided, further, That any person who, without proper permit shall hurt, capture or kill any kind of bird, fish or wild animal life within the area in the national parks system shall be subject to the same penalty: Provided, finally, That the Court shall order eviction of the offender from the land and the forfeiture in favor of the government of all timber or any species or vegetation and other natural resources collected or removed, and any construction or improvement made thereon by the offender. If the offender is an association or corporation, the president or manager shall be directly responsible and liable for the act of his employees or laborers.

In the event that an official or employee of a city or municipal government is primarily responsible for detecting and convicting the violator of the provisions of this section, fifty per centum (50%) of fine collected shall accrue to such municipality or city for the development of local parks. [As amended by PD No. 1559]

Section 82

Destruction of Wildlife Resources

Any person violating the provisions of Section 55 of this Code, or the regulations promulgated thereunder, shall be fined not less than one hundred (P100.00) pesos for each such violation and in addition shall be denied a permit for a period of three (3) years from the date of the violation.

Section 83

Survey by Unauthorized Persons

Imprisonment for not less than two (2) nor more than four (4) years, in addition to the confiscation of the implements used in the violation of this section including the cancellation of the license, if any, shall be imposed upon any person who shall, without permit to survey from the Director, enter any forestlands, whether covered by a license agreement, lease, license, or permit,

or not, and conduct or undertake a survey for whatever purpose.

Section 84

Misclassification and Survey by Government Official or Employee

Any public officer or employee who knowingly surveys, classifies, or recommends the release of forestlands as alienable and disposable lands contrary to the criteria and standards established in this Code, or the rules and regulations promulgated hereunder, shall, after an appropriate administrative proceeding, be dismissed from the service with prejudice to re-employment, and upon conviction by a court of competent jurisdiction, suffer an imprisonment of not less than one (1) year and a fine of not less than one thousand (P1,000.00) pesos. The survey, classification or release of forestlands shall be null and void.

Section 85

Tax Declaration on Real Property

Imprisonment for a period of not less than two (2) nor more than four (4) years and perpetual disqualification from holding an elective or appointive office, shall be imposed upon any public officer or employee who shall issue a tax declaration on real property without a certification from the Director of Forest Development and the Director of Lands or their duly designated representatives that the area declared for taxation is alienable and disposable lands, unless the property is titled or has been occupied and possessed by members of the national cultural minorities prior to July 4, 1955.

Section 86

Coercion and Influence

Any person who coerces, influences, abets or persuades the public officer or employee referred to in Sections 74 and 75 commit any of the acts mentioned therein shall suffer imprisonment of not less than one (1) year and pay a fine of five hundred (P500.00) pesos for every hectare or a fraction thereof so improperly surveyed, classified or released.

In all other cases, any person who coerces, influences, abets or persuades the public officer or employee by using power and influence in deciding any pending case or matter in his favor shall be punished by a fine of not more than five thousand pesos (P5,000.00) and imprisonment of not less than one (1) year. [As amended by PD No. 1559]

Section 87

Payment, Collection and Remittance of Forest Charges

Any person who fails to pay the amount due and payable under the provisions

of this Code, the National Internal Revenue Code, or the rules and regulations promulgated thereunder, shall be liable to the payment of a surcharge of twenty-five per centum (25%) of the amount due and payable.

Any person who fails or refuses to remit to the proper authorities said forest charges collectible pursuant to the provisions of this Code or the National Internal Revenue Code, or who delays, obstructs or prevents the same, or who orders, causes or effects the transfer or diversion of the funds for purposes other than those specified in this Code, for each such offense shall, upon conviction, be punished by a fine of not exceeding one hundred thousand pesos (P100,000) and/or imprisonment for a period of not exceeding six (6) years in the discretion of the Court. If the offender is a government official or employee, he shall, in addition, be dismissed from the service with prejudice to reinstatement and with disqualification from holding any elective or appointive office.

If the offender is a corporation, partnership or association, the officers and directors thereof shall be liable.

Section 88

Sale of Wood Products

No person shall sell or offer for sale any log, lumber, plywood or other manufactured wood products in the international or domestic market unless he complies with grading rules and established or to be established by the Government.

Failure to adhere to the established grading rules and standards, or any act of falsification of the volume of logs, lumber, or other forest products shall be a sufficient cause for the suspension of the export, sawmill, or other license or permit authorizing the manufacture or sale of such products for a period of not less than two (2) years.

A duly accredited representative of the Bureau shall certify to the compliance by the licenses with grading rules.

Every dealer in lumber and other building material covered by this Code shall issue an invoice for each sale of such material and such invoice shall state that the kind, standard and size of material sold to each purchaser in exactly the same as described in the invoice. Any violation of this section shall be sufficient ground for the suspension of the dealer's license for a period of not less than two (2) years and, in addition thereto, the dealer shall be punished for each such offense by a fine of not less than two hundred pesos (P200.00)

or the total value of the invoice, whichever is greater.

Section 89

Arrest; Institution of Criminal Actions

A forest officer or employee of the Bureau or any personnel of the Philippine Constabulary/ Philippine National Police shall arrest even without warrant any person who has committed or is committing in his presence any of the offenses defined in this Chapter. He shall also seize and confiscate, in favor of the Government, the tools and equipment used in committing the offense, and the forest products cut, gathered or taken by the offender in the process of committing the offense. The arresting forest officer or employee shall thereafter deliver within six (6) hours from the time of arrest and seizure, the offender and the confiscated forest products, tools and equipment to, and file the proper complaint with, the appropriate official designated by law to conduct preliminary investigation and file information in Court.

If the arrest and seizure are made in the forest, far from the authorities designated by law to conduct preliminary investigations, the delivery to, and filing of the complaint with, the latter shall be done within a reasonable time sufficient to the place of delivery. The seized products, materials and equipment shall be immediately disposed of in accordance with forestry administrative orders promulgated by the Department Head.

The Department Head may deputize any agency, barangay or barrio official, or any qualified person to protect the forest and exercise the power or authority provided for in the preceding paragraph.

Reports and complaints regarding the commission of any of the offenses defined in this Chapter, not committed in the presence of any forest officer or employee, or any personnel of the Philippine Constabulary/Philippine National Police or any of the deputized officers or officials, shall immediately be investigated by the forest officer assigned in the area or any personnel of the Philippine Constabulary/Philippine National Police where the offense was allegedly committed, who shall thereupon receive the evidence supporting the report or complaint.

If there is *prima facie* evidence to support the complaint or report, the investigating forest officer and/or members of the Philippine Constabulary/Philippine National Police shall file the necessary complaint with the appropriate official authorized by law to conduct a preliminary investigation of criminal cases and file an information in Court. [As amended by PD No. 1775]

Section 89-A

The Armed Forces of the Philippines shall organize a special force in every region to help enforce the provisions of this act under such rules and regulations as may be agreed upon by the Secretaries of National Defense and Natural Resources. [As inserted by PD No. 1559.]

Section 89-B

Administrative Authority of the Director to Impose Fines

In all cases of violations of this Code and other forest laws, rules and regulations where fine is the principal penalty, the Director is hereby authorized to impose administratively the penalty consisting of the fine. [As inserted by PD No. 1559]

Section 90

Separability Clause

Should any provision herein be subsequently declared unconstitutional, the same shall not affect the validity or the legality of the other provisions.

Section 91

Repealing Clause

Presidential Decree Nos. 330, and 389, C.A. No. 452, R.A. No. 4715 and all laws, orders, rules and regulations or any part thereof which are inconsistent herewith are hereby repealed or amended accordingly.

Section 92

Date of Effectivity

This Code shall take effect immediately upon promulgation.

Approved: May 19, 1975

REPUBLIC ACT NO. 7076

AN ACT CREATING A PEOPLE'S SMALL-SCALE MINING PROGRAM AND FOR OTHER PURPOSES

Section 1. **Title.** — This Act shall be known as the "People's Small-scale Mining Act of 1991."

Section 2. **Declaration of Policy.** — It is hereby declared of the State to promote, develop, protect and rationalize viable small-scale mining activities in order to generate more employment opportunities and provide an equitable sharing of the nation's wealth and natural resources, giving due regard to existing rights as herein provided.

Section 3. **Definitions.** — For purposes of this Act, the following terms shall be defined as follows:

- (a) *Mineralized areas* refer to areas with naturally occurring mineral deposits of gold, silver, chromite, kaolin, silica, marble, gravel, clay and like mineral resources;
- (b) *Small-scale mining* refers to mining activities which rely heavily on manual labor using simple implement and methods and do not use explosives or heavy mining equipment;
- (c) *Small-scale miners* refer to Filipino citizens who, individually or in the company of other Filipino citizens, voluntarily form a cooperative duly licensed by the Department of Environment and Natural Resources to engage, under the terms and conditions of a contract, in the extraction or removal of minerals or ore-bearing materials from the ground;
- (d) *Small-scale mining contract* refers to co-production, joint venture or mineral production sharing agreement between the State and a small-scale mining contractor for the small-scale utilization of a plot of mineral land;
- (e) *Small-scale mining contractor* refers to an individual or a cooperative of small-scale miners, registered with the Securities and Exchange Commission or other appropriate government agency, which has entered into an agreement with the State for the small-scale utilization of a plot of mineral land within a people's small-scale mining area;
- (f) *Active mining area* refers to areas under actual exploration, development, exploitation or commercial production as determined by the Secretary after the necessary field investigation or verification including contiguous and geologically related areas belonging to the same claimowner and/or under contract with an operator, but in no case to exceed the maximum area allowed by law;

- (g) *Existing mining right* refers to perfected and subsisting claim, lease, license or permit covering a mineralized area prior to its declaration as a people's small-scale mining area;
- (h) *Claimowner* refers to a holder of an existing mining right;
- (i) *Processor* refers to a person issued a license to engage in the treatment of minerals or ore-bearing materials such as by gravity concentration, leaching, beneficiation, cyanidation, cutting, sizing, polishing and other similar activities;
- (j) *License* refers to the privilege granted to a person to legitimately pursue his occupation as a small-scale miner or processor under this Act;
- (k) *Mining plan* refers to a two-year program of activities and methodologies employed in the extraction and production of minerals or ore-bearing materials, including the financial plan and other resources in support thereof;
- (l) *Director* refers to the regional executive director of the Department of Environment and Natural Resources; and
- (m) *Secretary* refers to the Secretary of the Department of Environment and Natural Resources.

Section 4. *People's Small-scale Mining Program.* — For the purpose of carrying out the declared policy provided in Section 2 hereof, there is hereby established a People's Small-scale Mining Program to be implemented by the Secretary of the Department of Environment and Natural Resources, hereinafter called the Department, in coordination with other concerned government agencies, designed to achieve an orderly, systematic and rational scheme for the small-scale development and utilization of mineral resources in certain mineral areas in order to address the social, economic, technical, and environmental connected with small-scale mining activities.

The People's Small-scale Mining Program shall include the following features:

- (a) The identification, segregation and reservation of certain mineral lands as people's small-scale mining areas;
- (b) The recognition of prior existing rights and productivity;
- (c) The encouragement of the formation of cooperatives;
- (d) The extension of technical and financial assistance, and other social services;
- (e) The extension of assistance in processing and marketing;
- (f) The generation of ancillary livelihood activities;
- (g) The regulation of the small-scale mining industry with the view to encourage growth and productivity; and
- (h) The efficient collection of government revenue.

Section 5. *Declaration of People's Small-scale Mining Areas.* — The Board is hereby authorized to declare and set aside people's small-scale mining areas in sites onshore suitable for small-scale mining, subject to review by the Secretary, immediately giving priority to areas already occupied and actively mined by small-scale miners before August 1, 1987: Provided, That such areas are not considered as active mining areas: Provided, further, That the minerals found therein are technically and commercially suitable for small-scale mining activities: Provided, finally, That the areas are not covered by existing forest rights or reservations and have not been declared as tourist or marine reserved, parks and wildlife reservations, unless their status as such is withdrawn by competent authority.

Section 6. *Future People's Small-scale Mining Areas.* — The following lands, when suitable for small-scale mining, may be declared by the Board as people's small scale mining areas:

- (a) Public lands not subject to any existing right;
- (b) Public lands covered by existing mining rights which are not active mining areas; and
- (c) Private lands, subject to certain rights and conditions, except those with substantial improvements or in bona fide and regular use as a yard, stockyard, garden, plant nursery, plantation, cemetery or burial site, or land situated within one hundred meters (100 m.) from such cemetery or burial site, water reservoir or a separate parcel of land with an area of ten thousand square meters (10,000 sq. m.) or less.

Section 7. *Ancestral Lands.* — No ancestral land may be declared as a people's small-scale mining area without the prior consent of the cultural communities concerned: Provided, That, if ancestral lands are declared as people's small-scale mining areas, the members of the cultural communities therein shall be given priority in the awarding of small-scale mining contracts.

Section 8. *Registration of Small-scale Miners.* — All persons undertaking small-scale mining activities shall register as miners with the Board and may organize themselves into cooperatives in order to qualify for the awarding of a people's small-scale mining contract.

Section 9. *Award of People's Small-scale Mining Contracts.* — A people's small-scale mining contract may be awarded by the Board to small-scale miners who have voluntarily organized and have duly registered with the appropriate government agency as an individual miner or cooperative; Provided, That only one (1) people's small-scale mining contract may be awarded at any one time to a small-scale mining operations within one (1) year from the

date of award: Provided, further, That priority shall be given or city where the small-scale mining area is located.

Applications for a contract shall be subject to a reasonable fee to be paid to the Department of Environment and Natural Resources regional office having jurisdiction over the area.

Section 10. *Extent of Contract Area.* — The Board shall determine the reasonable size and shape of the contract area following the meridional block system established under Presidential Decree No. 463, as amended, otherwise known as the Mineral Resources Development Decree of 1974, but in no case shall the area exceed twenty hectares (20 has.) per contractor and the depth or length of the tunnel or adit not exceeding that recommended by the director taking into account the following circumstances:

- (a) Size of membership and capitalization of the cooperative;
- (b) Size of mineralized area;
- (c) Quantity of mineral deposits;
- (d) Safety of miners;
- (e) Environmental impact and other considerations; and
- (f) Other related circumstances.

Section 11. *Easement Rights.* — Upon the declaration of a people's small-scale mining area, the director, in consultation with the operator, claimowner, landowner or lessor of an affected area, shall determine the right of the small scale miners to existing facilities such as mining and logging roads, private roads, port and communication facilities, processing plants which are necessary for the effective implementation of the People's Small-scale Mining Program, subject to payment of reasonable fees to the operator, claimowner, landowner or lessor.

Section 12. *Rights Under a People's Small-scale Mining Contract.* — A people's small-scale mining contract entitles the small-scale mining contractor to the right to mine, extract and dispose of mineral ores for commercial purposes. In no case shall a small-scale mining contract be subcontracted, assigned or otherwise transferred.

Section 13. *Terms and Conditions of the Contract.* — A contract shall have a term of two (2) years, renewable subject to verification by the Board for like periods as long as the contractor complies with the provisions set forth in this Act, and confers upon the contractor the right to mine within the contract area: Provided, That the holder of a small-scale mining contract shall have the following duties and obligations:

- (a) Undertake mining activities only in accordance with a mining plan duly approved by the Board;
- (b) Abide by the Mines and Geosciences Bureau and the small-scale Mining Safety Rules and Regulations;
- (c) Comply with his obligations to the holder of an existing mining right;
- (d) Pay all taxes, royalties or government production share as are now or may hereafter be provided by law;
- (e) Comply with pertinent rules and regulations on environmental protection and conservation, particularly those on tree-cutting mineral-processing and pollution control;
- (f) File under oath at the end of each month a detailed production and financial report to the Board; and
- (g) Assume responsibility for the safety of persons working in the mines.

Section 14. *Rights of Claimowners.* — In case a site declared and set aside as a people's-scale mining area is covered by an existing mining right, the claimowner and the small-scale miners therein are encouraged to enter into a voluntary and acceptable contractual agreement with respect to the small-scale utilization of the mineral values from the area under claim. In case of disagreement, the claimowner shall be entitled to the following rights and privileges:

- (a) Exemption from the performance of annual work obligations and payment of occupation fees, rental, and real property taxes;
- (b) Subject to the approval of the Board, free access to the contract area to conduct metallurgical tests, explorations and other activities, provided such activities do not unduly interfere with the operations of the small-scale miners; and
- (c) Royalty equivalent to one and one half percent (1 1/2%) of the gross value of the metallic mineral output or one percent (1%) of the gross value of the nonmetallic mineral output to be paid to the claimowner: Provided, That such rights and privileges shall be available only if he is not delinquent and other performance of his annual work obligations and other requirements for the last two (2) years prior to the effectivity of this Act.

Section 15. *Rights of Private Landowners.* — The private landowner or lawful possessor shall be notified of any plan or petition to declare his land as a people's small-scale mining area. Said landowner may oppose such plan or petition in an appropriate proceeding and hearing conducted before the Board.

If a private land is declared as a people's small-scale mining area, the owner and the small-scale mining contractors are encouraged to enter into a volun-

tary and acceptable contractual agreement for the small-scale utilization of the mineral values from the private land: Provided, That the owner shall in all cases be entitled to the payment of actual damages which he may suffer as a result of such declaration: Provided, further, That royalties paid to the owner shall in no case exceed one percent (1%) of the gross value of the minerals recovered as royalty.

Section 16. **Ownership of Mill Tailings.** — The small-scale mining contractor shall be the owner of all mill tailings produced from the contract area. He may sell the tailings or have them processed in any custom mill in the area: Provided, That, if the small-scale mining contractor decide to sell its mill tailings, the claimowner shall have a preemptive right to purchase said mill tailings at the prevailing market price.

Section 17. **Sale of Gold.** — All gold produced by small-scale miners in any mineral area shall be sold to the Central Bank, or its duly authorized representatives, which shall buy it at prices competitive with those prevailing in the world market regardless of volume or weight.

The Central Bank shall establish as many buying stations in gold-rush areas to fully service the requirements of the small-scale minerals thereat.

Section 18. **Custom Mills.** — The establishment and operation of safe and efficient customs mills to process minerals or ore-bearing materials shall be limited to mineral processing zones duly designated by the local government unit concerned upon recommendation of the Board.

In mining areas where the private sector is unable to establish custom mills, the Government shall construct such custom mills upon the recommendation of the Board based on the viability of the project.

The Board shall issue licenses for the operation of custom mills and other processing plants subject to pollution control and safety standards.

The Department shall establish assay laboratories to cross-check the integrity of custom mills and to render metallurgical and laboratory services to mines.

Custom mills shall be constituted as withholding agents for the royalties, production share or other taxes due the Government.

Section 19. **Government Share and Allotment.** — The revenue to be derived by the Government from the operation of the mining program herein

established shall be subject to the sharing provided in the Local Government Code.

Section 20. **People's Small-scale Mining Protection Fund.** — There is hereby created a People's Small-scale Mining Protection Fund which shall be fifteen percent (15%) of the national government's share due the Government which shall be used primarily for information dissemination and training of small-scale miners on safety, health and environmental protection, and the establishment of mine rescue and recovery teams including the procurement of rescue equipment necessary in cases of emergencies such as landslides, tunnel collapse, or the like.

The fund shall also be made available to address the needs of the small-scale miners brought about by accidents and/or fortuitous events.

Section 21. **Rescission of Contracts and Administrative Fines.** — The noncompliance with the terms and conditions of the contract or violation of the rules and regulations issued by the Secretary pursuant to this Act, as well as the abandonment of the mining site by the contractor, shall constitute a ground for the cancellation of the contracts and the ejectment from the people's small-scale mining area of the contractor. In addition, the Secretary may impose fines against the violator in an amount of not less than Twenty thousand pesos (P20,000.00) and not more than One hundred thousand pesos (P100,000.00). Nonpayment of the fine imposed shall render the small-scale mining contractor ineligible for other small-scale mining contracts.

Section 22. **Reversion of People's Small-scale Mining Areas.** — The Secretary, upon recommendation of the director, shall withdraw the status of the people's small-scale mining area when it can no longer feasibly operated on a small-scale mining basis or when the safety, health and environmental conditions warrant that the same shall revert to the State for proper disposition.

Section 23. **Actual Occupation by Small-scale Miners.** — Small-scale miners who have been in actual operation of mineral lands on or before August 1, 1987 as determined by the Board shall not be dispossessed, ejected or removed from said areas: Provided, That they comply with the provisions of this Act.

Section 24. **Provincial/City Mining Regulatory Board.** — There is hereby created under the direct supervision and control of the Secretary a provincial/city mining regulatory board, herein called the Board, which shall be the implementing agency of the Department, and shall exercise the following powers and functions, subject to review by the Secretary:

- (a) Declare and segregate existing gold-rush areas for small-scale mining;
- (b) Reserve future gold and other mining areas for small-scale mining;
- (c) Award contracts to small-scale miners;
- (d) Formulate and implement rules and regulations related to small-scale mining;
- (e) Settle disputes, conflicts or litigations over conflicting claims within a people's small-scale mining area, an area that is declared a small-mining; and
- (f) Perform such other functions as may be necessary to achieve the goals and objectives of this Act.

Section 25. *Composition of the Provincial/City Mining Regulatory Board.*

— The Board shall be composed of the Department of Environment and Natural Resources representative as Chairman; and the representative of the governor or city mayor, as the representative of the governor or city mayor, as the case may be, one (1) small scale mining representative, one (1) big-scale mining representative, and the representative from a nongovernment organization who shall come from an environmental group, as members.

The representatives from the private sector shall be nominated by their respective organizations and appointed by the Department regional director. The Department shall provide the staff support to the Board.

Section 26. *Administrative Supervision over the People's Small-scale Mining Program.* — The Secretary through his representative shall exercise direct supervision and control over the program and activities of the small-scale miners within the people's small-scale mining area.

The Secretary shall within ninety (90) days from the effectivity of this Act promulgate rules and regulations to effectively implement the provisions of the same. Priority shall be given to such rules and regulations that will ensure the least disruption in the operations of the small-scale miners.

Section 27. *Penal Sanctions.* — Violations of the provisions of this Act or of the rules and regulations issued pursuant hereto shall be penalized with imprisonment of not less than six (6) months nor more than six (6) years and shall include the confiscation and seizure of equipment, tools and instruments.

Section 28. *Repealing Clause.* — All laws, decrees, letters of instruction, executive orders, rules and regulations, and other issuances, or parts thereof, in conflict or inconsistent with this Act are hereby repealed or modified accordingly.

Section 29. *Separability Clause.* — Any section or provision of this Act which may be declared unconstitutional shall not affect the other sections or provisions hereof.

Section 30. *Effectivity.* — This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a national newspaper of general circulation.

Approved: June 27, 1991

AN ACT PROVIDING FOR
THE ESTABLISHMENT AND MANAGEMENT OF
NATIONAL INTEGRATED PROTECTED AREAS SYSTEM,
DEFINING ITS SCOPE AND COVERAGE,
AND FOR OTHER PURPOSES
Republic Act No. 7586

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1 Title

This Act shall be known and referred to as the "National Integrated Protected Areas System Act of 1992".

Section 2 Declaration of Policy

Cognizant of the profound impact of man's activities on all components of the natural environment particularly the effect of increasing population, resource exploitation and industrial advancement and recognizing the critical importance of protecting and maintaining the natural biological and physical diversities of the environment notably on areas with biologically unique features to sustain human life and development, as well as plant and animal life, it is hereby declared the policy of the State to secure for the Filipino people of present and future generations the perpetual existence of all native plants and animals through the establishment of a comprehensive system of integrated protected areas within the classification of national park as provided for in the Constitution.

It is hereby recognized that these areas, although distinct in features, possess common ecological values that may be incorporated into a holistic plan representative of our natural heritage; that effective administration of these areas is possible only through cooperation among national government, local government and concerned private organizations; that the use and enjoyment of these protected areas must be consistent with the principles of biological diversity and sustainable development.

To this end, there is hereby established a National Integrated Protected Areas System (NIPAS), which shall encompass outstanding remarkable areas and biologically important public lands that are habitats of rare and endangered species of plants and animals, biogeographic zones and related ecosystems, whether terrestrial, wetland or marine, all of which shall be designated as protected areas.

Section 3 Categories

The following categories of protected areas are hereby established:

- a. Strict nature reserve;
- b. Natural park;
- c. Natural monument;
- d. Wildlife sanctuary;
- e. Protected landscapes and seascapes;
- f. Resource reserve;
- g. Natural biotic areas; and,
- h. Other categories established by law, conventions or international agreements which the Philippine Government is a signatory.

Section 4 Definition of Terms

For purposes of this Act, the following terms shall be defined as follows:

- a. *National Integrated Protected Areas Systems* (NIPAS) is the classification and administration of all designated protected areas to maintain essential ecological processes and life-support systems, to preserve genetic diversity, to ensure sustainable use of resources found therein, and to maintain their natural conditions to the greatest extent possible;
- b. *Protected area* refers to identified portions of land and water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation;
- c. *Buffer zones* are identified areas outside the boundaries of and immediately adjacent to designated protected areas pursuant to Section 8 that need special development control in order to avoid or minimize harm to the protected area;
- d. *Indigenous cultural community* refers to a group of people sharing common bonds of language, customs, traditions and other distinctive cultural traits, and who have, since time immemorial, occupied, possessed and utilized a territory;
- e. *National park* refers to a forest reservation essentially of natural wilderness character which has been withdrawn from settlement, occupancy or any form of exploitation except in conformity with approved management plan and set aside as such exclusively to conserve the area or preserve the scenery, the natural and historic objects, wild animals and plants therein and to provide enjoyment of these features in such areas;
- f. *Natural monument* is a relatively small area focused on protection of small features to protect or preserve nationally significant natural features on account of their special interest or unique characteristics;
- g. *Natural biotic area* is an area set aside to allow the way of life of societies living in harmony with the environment to adapt to modern technology

at their pace;

- h. *Natural park* is a relatively large area not materially altered by human activity where extractive resource uses are not allowed and maintained to protect outstanding natural and scenic areas of national or international significance for scientific, educational and recreational use;
- i. *Protected landscapes/seascapes* are areas of national significance which are characterized by the harmonious interaction of man and land while providing opportunities for public enjoyment through recreation and tourism within the normal lifestyle and economic activity of these areas;
- j. *Resource reserve* is an extensive and relatively isolated and uninhabited area normally with difficult access designated as such to protect natural resources of the area for future use and prevent or contain development activities that could affect the resource pending the establishment of objectives which are based upon appropriate knowledge and planning;
- k. *Strict nature reserve* is an area possessing some outstanding ecosystem, features and/or species of flora and fauna of national scientific importance maintained to protect nature and maintain processes in an undisturbed state in order to have ecologically representative examples of the natural environment available for scientific study, environmental monitoring, education, and for the maintenance of genetic resources in a dynamic and evolutionary state;
- l. *Tenured migrant communities* are communities within protected areas which have actually and continuously occupied such areas for five (5) years before the designation of the same as protected areas in accordance with this Act and are solely dependent therein for subsistence; and
- m. *Wildlife sanctuary* comprises an area which assures the natural conditions necessary to protect nationally significant species, groups of species, biotic communities or physical features of the environment where these may require specific human manipulation for the perpetuation.

Section 5 *Establishment and Extent of the System*

The establishment and operationalization of the System shall involve the following:

- a. All areas or islands in the Philippines proclaimed, designated or set aside, pursuant to a law, presidential decree, presidential proclamation or executive order as national park, game refuge, bird and wildlife sanctuary, wilderness area, strict nature reserve, watershed, mangrove reserve, fish sanctuary, natural and historical landmark, protected and managed landscape/seascape as well as identified virgin forests before the effectivity of this Act are hereby designated as initial components of the System. The initial components of the System shall be governed by existing laws, rules and regulations, not inconsistent with this Act;

- b. Within one (1) year from the effectivity of this Act, the DENR shall submit to the Senate and the House of Representatives a map and legal description or natural boundaries of each protected area initially comprising the System. Such maps and legal description shall, by virtue of this Act, constitute the official documentary representation of the entire System, subject to such changes as Congress deems necessary;
- c. All DENR records pertaining to said protected areas, including maps and legal descriptions or natural boundaries, copies of rules and regulations governing them, copies of public notices of, and reports submitted to Congress regarding pending additions, eliminations, or modifications shall be made available to the public. These legal documents pertaining to protected areas shall also be available to the public in the respective DENR Regional Offices, Provincial Environment and Natural Resources Offices (PENROs) and Community Environment and Natural Resources Offices (CENROs) where NIPAS areas are located;
- d. Within three (3) years from the effectivity of this Act, the DENR shall study and review each area tentatively composing the System as to its suitability or nonsuitability for preservation as protected area and inclusion in the System according to the categories established in Section 3 hereof and report its finding to the President as soon as each study is completed. The study must include in each area:
 - 1. A forest occupants survey;
 - 2. An ethnographic study;
 - 3. A protected area resource profile;
 - 4. Land use plans done in coordination with the respective Regional Development Councils; and
 - 5. Such other background studies as will be sufficient bases for selection.

The DENR shall:

- i. Notify the public of the proposed action through publication in a newspaper of general circulation, and such other means as the System deems necessary in the area or areas in the vicinity of the affected land thirty (30) days prior to the public hearing;
- ii. Conduct public hearings at the locations nearest to the area affected;
- iii. At least thirty (30) days prior to the date of hearing advise all local government units (LGUs) in the affected areas, national agencies concerned, people's organizations and non-government organizations and invite such officials to submit their views on the proposed action at the hearing not later than thirty (30) days following the date of the hearing; and
- iv. Give due consideration to the recommendations at the public hearing; and provide sufficient explanation for his recommendations contrary

- to the general sentiments expressed in the public hearing;
- e. Upon receipt of the recommendation of the DENR, the President shall issue a presidential proclamation designating the recommended areas as protected areas and providing for measures for their protection until such time when Congress shall have enacted a law finally declaring such recommended areas as part of the integrated protected area systems; and
 - f. Thereafter, the President shall send to the Senate and the House of Representatives his recommendations with respect to the designations as protected areas or reclassification of each area on which review has been completed, together with maps and legal description of boundaries. The President, in his recommendation, may propose the alteration of existing boundaries of any or all proclaimed protected areas, addition of any contiguous area of public land of predominant physical and biological value. Nothing contained herein shall limit the President to propose, as part of his recommendation to Congress, additional areas which have not been designated proclaimed or set aside by law, presidential decree, proclamation or executive order as protected area/s.

Section 6 *Additional Areas to be Integrated to the System*

Notwithstanding the establishment of the initial component of the System, the Secretary shall propose the inclusion in the System of additional areas with outstanding physical features, anthropological significance and biological diversity in accordance with the provisions of Section 5(d).

Section 7 *Disestablishment as Protected Area*

When in the opinion of the DENR a certain protected area should be withdrawn or disestablished, or its boundaries modified as warranted by a study and sanctioned by the majority of the members of the respective boards for the protected area as herein established in Section 11, it shall, in turn, advise Congress. Disestablishment of a protected area under the System or modification of its boundary shall take effect pursuant to an act of Congress.

Thereafter, said area shall revert to the category of public forest unless otherwise classified by Congress: Provided, however, That after disestablishment by Congress, the Secretary may recommend the transfer of such disestablished area to other government agencies to serve other priority programs of national interest.

Section 8 *Buffer Zones*

For each protected area, there shall be established peripheral buffer zones when necessary, in the same manner as Congress establishes the protected area, to protect the same from activities that will directly and indirectly harm

it. Such buffer zones shall be included in the individual protected area management plan that shall be prepared for each protected area. The DENR shall exercise its authority over protected areas as provided in this Act on such area designated as buffer zones.

Section 9 *Management Plans*

There shall be a general management planning strategy to serve as guide in formulating individual plans for each protected area. The management planning strategy shall, at the minimum, promote the adoption and implementation of innovative management techniques including, if necessary, the concept of zoning, buffer zone management for multiple use and protection, habitat conservation and rehabilitation, diversity management, community organizing, socioeconomic and scientific researches, site-specific policy development, pest management, and fire control. The management planning strategy shall also provide guidelines for the protection of indigenous cultural communities, other tenured migrant communities and sites and for close coordination between and among local agencies of the Government as well as private sector.

Each component area of the System shall be planned and administered to further protect and enhance the permanent preservation of its natural conditions. A management manual shall be formulated and developed which must contain the following: an individual management plan prepared by three (3) experts, basic background information, field inventory of the resources within the area, an assessment of assets and limitations, regional interrelationships, particular objectives for managing the area, appropriate division of the area into management zones, a review of the boundaries of the area, and a design of the management programs.

Section 10 *Administration and Management of the System*

The National Integrated Protected Area System is hereby placed under the control and administration of the Department of Environment and Natural Resources. For this purpose, there is hereby created a division in the regional offices of the Department to be called the Protected Areas and Wildlife Division in regions where protected areas have been established, which shall be under the supervision of a Regional Technical Director, and shall include subordinate officers, clerks, and employees as may be proposed by the Secretary, duly approved by the Department of Budget and Management, and appropriated for by Congress. The Service thus established shall manage protected areas and promote the permanent preservation, to the greatest extent possible of their natural conditions.

To carry out the mandate of this Act, the Secretary of the DENR is empowered

to perform any and all of the following acts:

- a. To conduct studies on various characteristic features and conditions of the different protected areas, using commonalities in their characteristics, classify and define them into categories and prescribe permissible or prohibited human activities in each category in the System;
- b. To adopt and enforce a land-use scheme and zoning plan in adjoining areas for the preservation and control of activities that may threaten the ecological balance in the protected areas;
- c. To cause the preparation of and exercise the power to review all plans and proposals for the management of protected areas;
- d. To promulgate rules and regulations necessary to carry out the provisions of this Act;
- e. To deputize field officers and delegate any of his powers under this Act and other laws to expedite its implementation and enforcement;
- f. To fix and prescribe reasonable NIPAS fees to be collected from government agencies or any person, firm or corporation deriving benefits from the protected areas;
- g. To exact administrative fees and fines as authorized in Section 21 for violations of guidelines, rules and regulations of this Act as would endanger the viability of protected areas;
- h. To enter into contracts and/or agreements with private entities or public agencies as may be necessary to carry out the purposes of this Act;
- i. To accept in the name of the Philippine Government and in behalf of NIPAS funds, gifts or bequests of money for immediate disbursement or other property in the interest of the NIPAS, its activities, or its services;
- j. To call on any agency or instrumentality of the Government as well as academic institutions, non-government organizations and the private sector as may be necessary to accomplish the objectives and activities of the System;
- k. To submit an annual report to the President of the Philippines and to Congress on the status of protected areas in the country;
- l. To establish a uniform marker for the System, including an appropriate and distinctive symbol for each category in the System, in consultation with appropriate government agencies and public and private organizations;
- m. To determine the specification of the class, type and style of building and other structures to be constructed in protected areas and the material to be used;
- n. Control the construction, operation and maintenance of roads, trails, waterworks, sewerage, fire protection, and sanitation systems and other public utilities within the protected area;
- o. Control occupancy of suitable portions of the protected area and resettle outside of said area forest occupants therein, with the exception of the

members of indigenous communities area; and

- p. To perform such other functions as may be directed by the President of the Philippines, and to do such acts as may be necessary or incidental to the accomplishment of the purpose and objectives of the System.

Section 11 *Protected Area Management Board*

A Protected Area Management Board for each of the established protected area shall be created and shall be composed of the following: the Regional Executive Director under whose jurisdiction the protected area is located; one (1) representative from the autonomous regional government, if applicable; the Provincial Development Officer; one (1) representative from the municipal government; one (1) representative from each barangay covering the protected area; one (1) representative from each tribal community, if applicable; and, at least three (3) representatives from non-government organizations/local community organizations, and if necessary, one (1) representative from other departments or national government agencies involved in protected area management.

The Board shall, by a majority vote, decide the allocations for budget, approve proposals for funding, decide matters relating to planning, peripheral protection and general administration of the area in accordance with the general management strategy. The members of the Board shall serve for a term of five (5) years without compensation, except for actual and necessary traveling and subsistence expenses incurred in the performance of their duties. They shall be appointed by the Secretary of the DENR as follows:

- a. A member who shall be appointed to represent each local government down to barangay level whose territory or portion is included in the protected area. Each appointee shall be the person designated by the head of such LGU, except for the Provincial Development Officer who shall serve ex officio;
- b. A member from non-government organizations who shall be endorsed by heads of organizations which are preferably based in the area or which have established and recognized interest in protected areas;
- c. The RED/s in the region/s where such protected area lies shall sit as ex officio member of the Board and shall serve as adviser/s in matters related to the technical aspect of management of the area; and
- d. The RED shall act as chairman of the Board. When there are two (2) or more REDs in the Board, the secretary shall designate one (1) of them to be the Chairman. Vacancies shall be filled in the same manner as the original appointment.

Section 12 Environmental Impact Assessment

Proposals for activities which are outside the scope of the management plan for protected areas shall be subject to an environmental impact assessment as required by law before they are adopted, and the results thereof shall be taken into consideration in the decision-making process. No actual implementation of such activities shall be allowed without the required Environmental Compliance Certificate (ECC) under the Philippine Environment Impact Assessment (EIA) system. In instances where such activities are allowed to be undertaken, the proponent shall plan and carry them out in such manner as will minimize any adverse effects and take preventive and remedial action when appropriate. The proponent shall be liable for any damage due to lack of caution or indiscretion.

Section 13 Ancestral Lands and Rights Over Them

Ancestral lands and customary rights and interest arising shall be accorded due recognition. The DENR shall prescribe rules and regulations to govern ancestral lands within protected areas: Provided, That the DENR shall have no power to evict indigenous communities from their present occupancy nor resettle them to another area without their consent: Provide, however, That all rules and regulations, whether adversely affecting said communities or not, shall be subjected to notice and hearing to be participated in by members of concerned indigenous community.

Section 14 Survey of Energy Resources

Consistent with the policies declared in Section 2, hereof, protected areas, except strict nature reserves and natural parks, may be subjected to exploration only for the purpose of gathering information on energy resources and only if such activity is carried out with the least damage to surrounding areas. Surveys shall be conducted only in accordance with a program approved by the DENR, and the result of such surveys shall be made available to the public and submitted to the President for recommendation to Congress. Any exploitation and utilization of energy resources found within NIPAS areas shall be allowed only through a law passed by Congress.

Section 15 Areas Under the Management of Other Departments and Government Instrumentalities

Should there be protected areas, or portions thereof, under the jurisdiction of government instrumentalities other than the DENR, such jurisdiction shall, prior to the passage of this Act, remain in the said department or government instrumentality; Provided, That the department or government instrumentality exercising administrative jurisdiction over said protected area or a portion thereof shall coordinate with the DENR in the preparation of its management

plans, upon the effectivity of this Act.

Section 16 Integrated Protected Areas Fund

There is hereby established a trust fund to be known as Integrated Protected Areas (IPAS) Fund for purposes of financing projects of the System.

The IPAS may solicit and receive donations, endowments, and grants in the form of contributions, and such endowments shall be exempted from income or gift taxes and all other taxes, charges or fees imposed by the Government or any political subdivision or instrumentality thereof.

All incomes generated from the operation of the System or management of wild flora and fauna shall accrue to the Fund and may be utilized directly by the DENR for the above purpose. These incomes shall be derived from:

- a. Taxed from the permitted sale and export of flora and fauna and other resources from protected areas;
- b. Proceeds from lease of multiple-use areas;
- c. Contributions from industries and facilities directly benefiting from the protected area; and
- d. Such other fees and incomes derived from the operation of the protected area.

Disbursements from the Fund shall be made solely for the protection, maintenance, administration, and management of the System, and duly approved projects endorsed by the PAMBs, in the amounts authorized by the DENR.

Section 17 Annual Report to Congress

At the opening of each session of Congress, the DENR shall report to the President, for transmission to Congress, on the status of the System, regulation in force and other pertinent information, together with recommendations.

Section 18 Field Officers

All officials, technical personnel and forest guards employed in the integrated protected area service or all persons deputized by the DENR, upon recommendation of the Management Board shall be considered as field officers and shall have the authority to investigate and search premises and buildings and make arrests in accordance with the rules on criminal procedure for the violation of laws and regulations relating to protected areas. Persons arrested shall be brought to the nearest police precinct for investigation.

Nothing herein mentioned shall be construed as preventing regular enforcers and police officers from arresting any person in the act of violating said laws and regulations.

Section 19 *Special Prosecutors*

The Department of Justice shall designate special prosecutors to prosecute violations of laws, rules and regulations in protected areas.

Section 20 *Prohibited Acts*

Except as may be allowed by the nature of their categories and pursuant to rules and regulations governing the same, the following acts are prohibited within protected areas:

- a. Hunting, destroying, disturbing, or mere possession of any plants or animals or products derived therefrom without a permit from the Management Board;
- b. Dumping of any waste products detrimental to the protected area, or to the plants and animals or inhabitants therein;
- c. Use of any motorized equipment without a permit from the Management Board;
- d. Mutilating, defacing or destroying objects of natural beauty, or objects of interest to cultural communities (of scenic value);
- e. Damaging and leaving roads and trails in a damaged condition;
- f. Squatting, mineral locating, or otherwise occupying any land;
- g. Constructing or maintaining any kind of structure, fence or enclosures, conducting any business enterprise without a permit;
- h. Leaving in exposed or unsanitary conditions refuse or debris, or depositing in ground or in bodies of water; and
- i. Altering, removing destroying or defacing boundary marks or signs.

Section 21 *Penalties*

Whoever violates this Act or any rules and regulations issued by the Department pursuant to this Act or whoever is found guilty by a competent court of justice of any of the offenses in the preceding section shall be fined in the amount of not less than Five thousand pesos (P5,000) nor more than Five hundred thousand pesos (P500,000), exclusive of the value of the thing damaged or imprisonment for not less than one (1) year but not more than six (6) years, or both, as determined by the court: Provided, That, if the area requires rehabilitation or restoration as determined by the court, the offender shall also be required to restore or compensate for the restoration to the damage: Provided, further, That the court shall order the eviction of the offender from the land and the forfeiture in favor of the Government of all minerals, timber or any species collected or removed including all equipment, devices and firearms used in connection therewith, and any construction or improvement made thereon by the offender. If the offender is an association or corporation, the president or manager shall be directly responsible for the act of his employees and laborers: Provided, finally, That the DENR may impose administrative

finances and penalties consistent with this Act.

Section 22 *Separability Clause*

If any part or section of this Act is declared unconstitutional, such declaration shall not affect the other parts or section of this Act.

Section 23 *Repealing Clause*

All laws, presidential decrees, executive orders, rules and regulations inconsistent with any provisions of this Act shall be deemed repealed or modified accordingly.

Section 24 *Effectivity Clause*

This Act shall take effect fifteen (15) days after its complete publication in two (2) newspapers of general circulation.

Approved,

Neptali A. Gonzales
President of the Senate

Ramon V. Mitra
Speaker of the House of Representatives

This Act which is a consolidation of House Bill No. 34696 and Senate Bill No. 1914 was finally passed by the House of Representatives and the Senate on February 6, 1992.

Anacleto D. Badoy, Jr.
Secretary of the Senate

Camilo L. Sabio
Secretary General, House of Representative

Approved: June 01, 1992

Corazon C. Aquino
President of the Philippines

ACT INSTITUTING A NEW SYSTEM
OF MINERAL RESOURCES EXPLORATION,
DEVELOPMENT, UTILIZATION, AND CONSERVATION
Republic Act No. 7942

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I
INTRODUCTORY PROVISIONS

Section 1 Title

This Act shall be known as the "Philippine Mining Act of 1995."

Section 2 Declaration of Policy

All mineral resources in public and private lands within the territory and exclusive economic zone of the Republic of the Philippines are owned by the State. It shall be the responsibility of the State to promote their rational exploration, development, utilization and conservation through the combined efforts of government and the private sector in order to enhance national growth in a way that effectively safeguards the environment and protect the rights of affected communities.

Section 3 Definition of Terms

As used in and for purposes of this Act, the following terms, whether in singular or plural, shall mean:

- a. *Ancestral lands* refers to all lands exclusively and actually possessed, occupied, or utilized by indigenous cultural communities by themselves or through their ancestors in accordance with their customs and traditions since time immemorial, and as may be defined and delineated by law.
- b. *Block or meridional block* means an area bounded by one-half (1/2) minute of latitude and one-half (1/2) minute of longitude, containing approximately eighty-one hectares (81 has.).
- c. *Bureau* means the Mines and Geosciences Bureau under the Department of Environment and Natural Resources.
- d. *Carrying capacity* refers to the capacity of natural and human environments to accommodate and absorb change without experiencing conditions of instability and attendant degradation.
- e. *Contiguous zone* refers to water, sea bottom and substratum measured twenty-four nautical miles (24 n.m.) seaward from the base line of the Philippine archipelago.
- f. *Contract area* means land or body of water delineated for purposes of exploration, development, or utilization of the minerals found therein.

- g. *Contractor* means a qualified person acting alone or in consortium who is a party to a mineral agreement or to a financial or technical assistance agreement.
- h. *Co-production agreement (CA)* means an agreement entered into between the Government and one or more contractors in accordance with Section 26(b) hereof.
- i. *Department* means the Department of Environment and Natural Resources.
- j. *Development* means the work undertaken to explore and prepare an ore body or a mineral deposit for mining, including the construction of necessary infrastructure and related facilities.
- k. *Director* means the Director of the Mines and Geosciences Bureau.
- l. *Ecological profile* or *eco-profile* refers to geographic-based instruments for planners and decision-makers which presents an evaluation of the environmental quality and carrying capacity of an area.
- m. *Environmental compliance certificate (ECC)* refers to the document issued by the government agency concerned certifying that the project under consideration will not bring about an unacceptable environmental impact and that the proponent has complied with the requirements of the environmental impact statement system.
- n. *Environmental impact statement (EIS)* is the document which aims to identify, predict, interpret, and communicate information regarding changes in environmental quality associated with a proposed project and which examines the range of alternatives for the objectives of the proposal and their impact on the environment.
- o. *Exclusive economic zone* means the water, sea bottom and subsurface measured from the baseline of the Philippine archipelago up to two hundred nautical miles (200 n.m.) offshore.
- p. *Existing mining/quarrying right* means a valid and subsisting mining claim or permit or quarry permit or any mining lease contract or agreement covering a mineralized area granted/issued under pertinent mining laws.
- q. *Exploration* means the searching or prospecting for mineral resources by geological, geochemical or geophysical surveys, remote sensing, test pitting, trenching, drilling, shaft sinking, tunneling or any other means for the purpose of determining the existence, extent, quantity and quality thereof and the feasibility of mining them for profit.
- r. *Financial or technical assistance agreement* means a contract involving financial or technical assistance for large-scale exploration, development, and utilization of mineral resources.
- s. *Force majeure* means acts or circumstances beyond the reasonable control of contractor including, but not limited to, war, rebellion, insurrection, riots, civil disturbance, blockade, sabotage, embargo, strike, lockout, any

- dispute with surface owners and other labor disputes, epidemic, earthquake, storm, flood or other adverse weather conditions, explosion, fire, adverse action by government or by any instrumentality or subdivision thereof, act of God or any public enemy and any cause that herein describe over which the affected party has no reasonable control.
- t. *Foreign-owned corporation* means any corporation, partnership, association, or cooperative duly registered in accordance with law in which less than fifty per centum (50%) of the capital is owned by Filipino citizens.
 - u. *Government* means the government of the Republic of the Philippines.
 - v. *Gross output* means the actual market value of minerals or mineral products from its mining area as defined in the National Internal Revenue Code.
 - w. *Indigenous cultural community* means a group or tribe of indigenous Filipinos who have continuously lived as communities on communally-bounded and defined land since time immemorial and have succeeded in preserving, maintaining, and sharing common bonds of languages, customs, traditions, and other distinctive cultural traits, and as may be defined and delineated by law.
 - x. *Joint venture agreement (JVA)* means an agreement entered into between the Government and one or more contractors in accordance with Section 26(c) hereof.
 - y. *Mineral processing* means the milling, beneficiation or upgrading of ores or minerals and rocks or by similar means to convert the same into marketable products.
 - z. *Mine wastes and tailings* shall mean soil and rock materials from surface or underground mining and milling operations with no economic value to the generator of the same.
 - aa. *Minerals* refers to all naturally occurring inorganic substance in solid, gas, liquid, or any intermediate state excluding energy materials such as coal, petroleum, natural gas, radioactive materials, and geothermal energy.
 - bb. *Mineral agreement* means a contract between the government and a contractor, involving mineral production-sharing agreement, co-production agreement, or joint-venture agreement.
 - cc. *Mineral land* means any area where mineral resources are found.
 - dd. *Mineral resource* means any concentration of minerals/rocks with potential economic value.
 - ee. *Mining area* means a portion of the contract area identified by the contractor for purposes of development, mining, utilization, and sites for support facilities or in the immediate vicinity of the mining operations.
 - ff. *Mining operation* means mining activities involving exploration, feasibility, development, utilization, and processing.
 - gg. *Nongovernmental organization (NGO)* includes nonstock, nonprofit organizations involved in activities dealing with resource and environmental

- conservation, management and protection.
- hh. *Net assets* refers to the property, plant and equipment as reflected in the audited financial statement of the contractor net of depreciation, as computed for tax purposes, excluding appraisal increase and construction in progress.
- ii. *Offshore* means the water, sea bottom and subsurface from the shore or coastline reckoned from the mean low tide level up to the two hundred nautical miles (200 n.m.) exclusive economic zone including the archipelagic sea and contiguous zone.
- jj. *Onshore* means the landward side from the mean tide elevation, including submerged lands in lakes, rivers and creeks.
- kk. *Ore* means a naturally occurring substance or material from which a mineral or element can be mined and/or processed for profit.
- ll. *Permittee* means the holder of an exploration permit.
- mm. *Pollution control and infrastructure devices* refers to infrastructure, machinery, equipment and/or improvements used for impounding, treating or neutralizing, precipitating, filtering, conveying and cleansing mine industrial waste and tailings as well as eliminating or reducing hazardous effects of solid particles, chemicals, liquids or other harmful byproducts and gases emitted from any facility utilized in mining operations for their disposal.
- nn. *President* means the President of the Republic of the Philippines.
- oo. *Private land* refers to any land belonging to any private person which includes alienable and disposable land being claimed by a holder, claimant, or occupant who has already acquired a vested right thereto under the law, although the corresponding certificate or evidence of title or patent has not been actually issued.
- pp. *Public land* refers to lands of the public domain which have been classified as agricultural lands and subject to management and disposition or concession under existing laws.
- qq. *Qualified person* means any citizen of the Philippines with capacity to contract, or a corporation, partnership, association, or cooperative organized or authorized for the purpose of engaging in mining, with technical and financial capability to undertake mineral resources development and duly registered in accordance with law at least sixty per centum (60%) of the capital of which is owned by citizens of the Philippines: Provided, That a legally organized foreign-owned corporation shall be deemed a qualified person for purposes of granting an exploration permit, financial or technical assistance agreement or mineral processing permit.
- rr. *Quarrying* means the process of extracting, removing and disposing quarry resources found on or underneath the surface of private or public land.
- ss. *Quarry permit* means a document granted to a qualified person for the

extraction and utilization of quarry resources on public or private lands.

- tt. *Quarry resources* refers to any common rock or other mineral substances as the Director of Mines and Geosciences Bureau may declare to be quarry resources such as, but not limited to, andesite, basalt, conglomerate, coral sand, diatomaceous earth, diorite, decorative stones, gabbro, granite, limestone, marble, marl, red burning clays for potteries and bricks, rhyolite, rock phosphate, sandstone, serpentine, shale, tuff, volcanic cinders, and volcanic glass: Provided, That such quarry resources do not contain metals or metallic constituents and/or other valuable minerals in economically workable quantities: Provided, further, That non-metallic minerals such as kaolin, feldspar, bull quartz, quartz or silica, sand and pebbles, bentonite, talc, asbestos, barite, gypsum, bauxite, magnesite, dolomite, mica, precious and semi-precious stones, and other non-metallic minerals that may later be discovered and which the Director declares the same to be of economically workable quantities, shall not be classified under the category of quarry resources.
- uu. *Regional director* means the regional director of any mines regional office under the Department of Environment and Natural Resources.
- vv. *Regional office* means any of the mines regional offices of the Department of Environment and Natural Resources.
- ww. *Secretary* means the Secretary of the Department of Environment and Natural Resources.
- xx. *Special allowance* refers to payment to the claim-owners or surface right-owners particularly during the transition period from Presidential Decree No. 463 and Executive Order No. 279, series of 1987.
- yy. *State* means the Republic of the Philippines.
- zz. *Utilization* means the extraction or disposition of minerals.

CHAPTER II GOVERNMENT MANAGEMENT

Section 4 *Ownership of Mineral Resources*

Mineral resources are owned by the State and the exploration, development, utilization, and processing thereof shall be under its full control and supervision. The State may directly undertake such activities or it may enter into mineral agreements with contractors.

The State shall recognize and protect the rights of the indigenous cultural communities to their ancestral lands as provided for by the Constitution.

Section 5 *Mineral Reservations*

When the national interest so requires, such as when there is a need to pre-

serve strategic raw materials for industries critical to national development, or certain minerals for scientific, cultural or ecological value, the President may establish mineral reservations upon the recommendation of the Director through the Secretary. Mining operations in existing mineral reservations and such other reservations as may thereafter be established, shall be undertaken by the Department or through a contractor: Provided, That a small scale-mining cooperative covered by Republic Act No. 7076 shall be given preferential right to apply for a small-scale mining agreement for a maximum aggregate area of twenty-five percent (25%) of such mineral reservation, subject to valid existing mining/quarrying rights as provided under Section 112 Chapter XX hereof. All submerged lands within the contiguous zone and in the exclusive economic zone of the Philippines are hereby declared to be mineral reservations.

A ten per centum (10%) share of all royalties and revenues to be derived by the government from the development and utilization of the mineral resources within mineral reservations as provided under this Act shall accrue to the Mines and Geosciences Bureau to be allotted for special projects and other administrative expenses related to the exploration and development of other mineral reservations mentioned in Section 6 hereof.

Section 6 *Other Reservations*

Mining operations in reserved lands other than mineral reservations may be undertaken by the Department, subject to limitations as herein provided. In the event that the Department cannot undertake such activities, they may be undertaken by a qualified person in accordance with the rules and regulations promulgated by the Secretary. The right to develop and utilize the minerals found therein shall be awarded by the President under such terms and conditions as recommended by the Director and approved by the Secretary: Provided, That the party who undertook the exploration of said reservation shall be given priority. The mineral land so awarded shall be automatically excluded from the reservation during the term of the agreement: Provided, further, That the right of the lessee of a valid mining contract existing within the reservation at the time of its establishment shall not be prejudiced or impaired.

Section 7 *Periodic Review of Existing Mineral Reservations*

The Secretary shall periodically review existing mineral reservations for the purpose of determining whether their continued existence is consistent with the national interest, and upon his recommendation, the President may, by proclamation, alter or modify the boundaries thereof or revert the same to the public domain without prejudice to prior existing rights.

Section 8 Authority of the Department

The Department shall be the primary government agency responsible for the conservation, management, development, and proper use of the State's mineral resources including those in reservations, watershed areas, and lands of the public domain. The Secretary shall have the authority to enter into mineral agreements on behalf of the Government upon the recommendation of the Director, promulgate such rules and regulations as may be necessary to implement the intent and provisions of this Act.

Section 9 Authority of the Bureau

The Bureau shall have direct charge in the administration and disposition of mineral lands and mineral resources and shall undertake geological, mining, metallurgical, chemical, and other researches as well as geological and mineral exploration surveys. The Director shall recommend to the Secretary the granting of mineral agreements to duly qualified persons and shall monitor the compliance by the contractor of the terms and conditions of the mineral agreements. The Bureau may confiscate surety, performance and guaranty bonds posted through an order to be promulgated by the Director. The Director may deputize, when necessary, any member or unit of the Philippine National Police, barangay, duly registered nongovernmental organization (NGO) or any qualified person to police all mining activities.

Section 10 Regional Offices

There shall be as many regional offices in the country as may be established by the Secretary, upon the recommendation of the Director.

Section 11 Processing of Applications

The system of processing applications for mining rights shall be prescribed in the rules and regulations of this Act.

Section 12 Survey, Charting and Delineation of Mining Areas

A sketch plan or map of the contract or mining area prepared by a deputized geodetic engineer suitable for publication purposes shall be required during the filing of a mineral agreement or financial or technical assistance agreement application. Thereafter, the contract or mining area shall be surveyed and monumented by a deputized geodetic engineer or bureau geodetic engineer and the survey plan shall be approved by the Director before the approval of the mining feasibility.

Section 13 Meridional Blocks

For purposes of the delineation of the contract or mining areas under this Act, the Philippine territory and its exclusive economic zone shall be divided

into meridional blocks of one-half (1/2) minute of latitude and one-half (1/2) minute of longitude.

Section 14 Recording System

There shall be established a national and regional filing and recording system. A mineral resource database system shall be set up in the Bureau which shall include, among others, a mineral rights management system. The Bureau shall publish at least annually, a mineral gazette of nationwide circulation containing among others, a current list of mineral rights, their location in the map, mining rules and regulations, other official acts affecting mining, and other information relevant to mineral resources development. A system and publication fund shall be included in the regular budget of the Bureau.

CHAPTER III SCOPE OF APPLICATION

Section 15 Scope of Application

This Act shall govern the exploration, development, utilization and processing of all mineral resources.

Section 16 Opening of Ancestral Lands for Mining Operations

No ancestral land shall be opened for mining-operations without prior consent of the indigenous cultural community concerned.

Section 17 Royalty Payments for Indigenous Cultural Communities

In the event of an agreement with an indigenous cultural community pursuant to the preceding section, the royalty payment, upon utilization of the minerals shall be agreed upon by the parties. The said royalty shall form part of a trust fund for the socioeconomic well-being of the indigenous cultural community.

Section 18 Areas Open to Mining Operations

Subject to any existing rights or reservations and prior agreements of all parties, all mineral resources in public or private lands, including timber or forestlands as defined in existing laws, shall be open to mineral agreements or financial or technical assistance agreement applications. Any conflict that may arise under this provision shall be heard and resolved by the panel of arbitrators.

Section 19 Areas Closed to Mining Applications

Mineral agreement or financial or technical assistance agreement applications shall not be allowed:

- a. In military and other government reservations, except upon prior written clearance by the government agency concerned;
- b. Near or under public or private buildings, cemeteries, archeological and historic sites, bridges, highways, waterways, railroads, reservoirs, dams or other infrastructure projects, public or private works including plantations or valuable crops, except upon written consent of the government agency or private entity concerned;
- c. In areas covered by valid and existing mining rights;
- d. In areas expressly prohibited by law;
- e. In areas covered by small-scale miners as defined by law unless with prior consent of the small-scale miners, in which case a royalty payment upon the utilization of minerals shall be agreed upon by the parties, said royalty forming a trust fund for the socioeconomic development of the community concerned; and
- f. Old growth or virgin forests, proclaimed watershed forest reserves, wilderness areas, mangrove forests, mossy forests, national parks provincial/municipal forests, parks, greenbelts, game refuge and bird sanctuaries as defined by law and in areas expressly prohibited under the National Integrated Protected Areas System (NIPAS) under Republic Act No. 7586, Department Administrative Order No. 25, series of 1992 and other laws.

CHAPTER IV EXPLORATION PERMIT

Section 20 *Exploration Permit*

An exploration permit grants the right to conduct exploration for all minerals in specified areas. The Bureau shall have the authority to grant an exploration Permit to a qualified person.

Section 21 *Terms and Conditions of the Exploration Permit*

An exploration permit shall be for a period of two (2) years, subject to annual review and relinquishment or renewal upon the recommendation of the Director.

Section 22 *Maximum Areas for Exploration Permit*

The maximum area that a qualified person may hold at any one time shall be:

- a. Onshore, in any one province
 - 1. For individuals, twenty (20) blocks; and
 - 2. For partnerships, corporations, cooperatives, or associations, two hundred (200) blocks.

- b. Onshore, in the entire Philippines
 - 1. For individuals, forty (40) blocks; and
 - 2. For partnerships, corporations, cooperatives, or associations, four hundred (400) blocks.
- c. Offshore, beyond five hundred meters (500m) from the mean low tide level
 - 1. For individuals, one hundred (100) blocks; and
 - 2. For partnerships, corporations, cooperatives, or associations, one thousand (1,000) blocks.

Section 23 *Rights and Obligations of the Permittee*

An exploration permit shall grant to the permittee, his heirs or successors-in-interest, the right to enter, occupy and explore the area: Provided, That if private or other parties are affected, the permittee shall first discuss with the said parties the extent, necessity, and manner of his entry, occupation and exploration and in case of disagreement, a panel of arbitrators shall resolve the conflict or disagreement.

The permittee shall undertake an exploration work on the area as specified by its permit based on an approved work program.

Any expenditure in excess of the yearly budget of the approved work program may be carried forward and credited to the succeeding years covering the duration of the permit. The Secretary, through the Director, shall promulgate rules and regulations governing the terms and conditions of the permit.

The permittee may apply for a mineral production sharing agreement, joint venture agreement, co-production agreement or financial or technical assistance agreement over the permit area, which application shall be granted if the permittee meets the necessary qualifications and the terms and conditions of any such agreement: Provided, That the exploration period covered by the exploration permit shall be included as part of the exploration period of the mineral agreement or financial or technical assistance agreement.

Section 24 *Declaration of Mining Project Feasibility*

A holder of an exploration permit who determines the commercial viability of a project covering a mining area may, within the term of the permit, file with the Bureau a declaration of mining project feasibility accompanied by a work program for development. The approval of the mining project feasibility and compliance with other requirements provided in this Act shall entitle the holder to an exclusive right to a mineral production sharing agreement or other mineral agreements or financial or technical assistance agreement.

Section 25 *Transfer or Assignment*

An exploration permit may be transferred or assigned to a qualified person subject to the approval of the Secretary upon the recommendation of the Director.

CHAPTER V MINERAL AGREEMENTS

Section 26 *Modes of Mineral Agreement*

For purposes of mining operations, a mineral agreement may take the following forms as herein defined:

- a. Mineral production sharing agreement is an agreement where the Government grants to the contractor the exclusive right to conduct mining operations within a contract area and shares in the gross output. The contractor shall provide the financing, technology, management and personnel necessary for the implementation of this agreement.
- b. Co-production agreement is an agreement between the Government and the contractor wherein the Government shall provide inputs to the mining operations other than the mineral resource.
- c. Joint venture agreement is an agreement where a joint-venture company is organized by the Government and the contractor with both parties having equity shares. Aside from earnings in equity, the Government shall be entitled to a share in the gross output.

A mineral agreement shall grant to the contractor the exclusive right to conduct mining operations and to extract all mineral resources found in the contract area. In addition, the contractor may be allowed to convert his agreement into any of the modes of mineral agreements or financial or technical assistance agreement covering the remaining period of the original agreement subject to the approval of the Secretary.

Section 27 *Eligibility*

A qualified person may enter into any of the three (3) modes of mineral agreement with the government for the exploration, development and utilization of mineral resources: Provided, That in case the applicant has been in the mining industry for any length of time, he should possess a satisfactory environmental track record as determined by the Mines and Geosciences Bureau and in consultation with the Environmental Management Bureau of the Department.

Section 28 *Maximum Areas for Mineral Agreement*

The maximum area that a qualified person may hold at any time under a

mineral agreement shall be:

- a. Onshore, in any one province
 1. For individuals, ten (10) blocks; and
 2. For partnerships, cooperatives, associations, or corporations, one hundred (100) blocks.
- b. Onshore, in the entire Philippines
 1. For individuals, twenty (20) blocks; and
 2. For partnerships, cooperatives, associations, or corporations, two hundred (200) blocks.
- c. Offshore, in the entire Philippines
 1. For individuals fifty (50) blocks;
 2. For partnerships, cooperatives, associations, or corporations, five hundred (500) blocks and
 3. For the exclusive economic zone, a larger area to be determined by the Secretary.

The maximum areas mentioned above that a contractor may hold under a mineral agreement shall not include mining/quarry areas under operating agreements between the contractor and a claimowner/lessee/permittee/licensee entered into under Presidential Decree No. 463.

Section 29 *Filing and Approval of Mineral Agreements*

All proposed mineral agreements shall be filed in the region where the areas of interest are located, except in mineral reservations which shall be filed with the Bureau.

The filing of a proposal for a mineral agreement shall give the proponent the prior right to areas covered by the same. The proposed mineral agreement will be approved by the Secretary and copies thereof shall be submitted to the President. Thereafter, the President shall provide a list to Congress of every approved mineral agreement within thirty (30) days from its approval by the Secretary.

Section 30 *Assignment/Transfer*

Any assignment or transfer of rights and obligations under any mineral agreement except a financial or technical assistance agreement shall be subject to the prior approval of the Secretary. Such assignment or transfer shall be deemed automatically approved if not acted upon by the Secretary within thirty (30) working days from official receipt thereof, unless patently unconstitutional or illegal.

Section 31 *Withdrawal from Mineral Agreements*

The contractor may, by giving due notice at any time during the term of the agreement, apply for the cancellation of the mineral agreement due to causes which, in the opinion of the contractor, make continued mining operations no longer feasible or viable. The Secretary shall consider the notice and issue its decision within a period of thirty (30) days: Provided, That the contractor has met all its financial, fiscal and legal obligations.

Section 32 *Terms*

Mineral agreements shall have a term not exceeding twenty-five (25) years to start from the date of execution thereof, and renewable for another term not exceeding twenty-five (25) years under the same terms and conditions thereof, without prejudice to changes mutually agreed upon by the parties. After the renewal period, the operation of the mine may be undertaken by the Government or through a contractor. The contract for the operation of a mine shall be awarded to the highest bidder in a public bidding after due publication of the notice thereof: Provided, That the contractor shall have the right to equal the highest bid upon reimbursement of all reasonable expenses of the highest bidder.

CHAPTER VI**FINANCIAL OR TECHNICAL ASSISTANCE AGREEMENT****Section 33 *Eligibility***

Any qualified person with technical and financial capability to undertake large-scale exploration, development, and utilization of mineral resources in the Philippines may enter into a financial or technical assistance agreement directly with the Government through the Department.

Section 34 *Maximum Contract Area*

The maximum contract area that may be granted per qualified person, subject to relinquishment shall be:

- a. 1,000 meridional blocks onshore;
- b. 4,000 meridional blocks offshore; or
- c. Combinations of a and b provided that it shall not exceed the maximum limits for onshore and offshore areas.

Section 35 *Terms and Conditions*

The following terms, conditions, and warranties shall be incorporated in the financial or technical assistance agreement, to wit:

- a. A firm commitment in the form of a sworn statement, of an amount corresponding to the expenditure obligation that will be invested in the contract

area: Provided, That such amount shall be subject to changes as may be provided for in the rules and regulations of this Act;

- b. A financial guarantee bond shall be posted in favor of the Government in an amount equivalent to the expenditure obligation of the applicant for any year;
- c. Submission of proof of technical competence, such as, but not limited to, its track record in mineral resource exploration, development, and utilization; details of technology to be employed in the proposed operation; and details of technical personnel to undertake the operation;
- d. Representations and warranties that the applicant has all the qualifications and none of the disqualifications for entering into the agreement;
- e. Representations and warranties that the contractor has or has access to all the financing, managerial and technical expertise and, if circumstances demand, the technology required to promptly and effectively carry out the objectives of the agreement with the understanding to timely deploy these resources under its supervision pursuant to the periodic work programs and related budgets, when proper, providing an exploration period up to two (2) years, extendible for another two (2) years but subject to annual review by the Secretary in accordance with the implementing rules and regulations of this Act, and further, subject to the relinquishment obligations;
- f. Representations and warranties that, except for payments for dispositions for its equity, foreign investments in local enterprises which are qualified for repatriation, and local supplier's credits and such other generally accepted and permissible financial schemes for raising funds for valid business purposes, the contractor shall not raise any form of financing from domestic sources of funds, whether in Philippine or foreign currency, for conducting its mining operations for and in the contract area;
- g. The mining operations shall be conducted in accordance with the provisions of this Act and its implementing rules and regulations;
- h. Work programs and minimum expenditures commitments;
- i. Preferential use of local goods and services to the maximum extent practicable;
- j. A stipulation that the contractors are obligated to give preference to Filipinos in all types of mining employment for which they are qualified and that technology shall be transferred to the same;
- k. Requiring the proponent to effectively use appropriate anti-pollution technology and facilities to protect the environment and to restore or rehabilitate mined out areas and other areas affected by mine tailings and other forms of pollution or destruction;
- l. The contractors shall furnish the Government records of geologic, accounting, and other relevant data for its mining operations, and that book of accounts and records shall be open for inspection by the government;

- m. Requiring the proponent to dispose of the minerals and byproducts produced under a financial or technical assistance agreement at the highest price and more advantageous terms and conditions as provided for under the rules and regulations of this Act;
- n. Provide for consultation and arbitration with respect to the interpretation and implementation of the terms and conditions of the agreements; and
- o. Such other terms and conditions consistent with the Constitution and with this Act as the Secretary may deem to be for the best interest of the State and the welfare of the Filipino people.

Section 36 *Negotiations*

A financial or technical assistance agreement shall be negotiated by the Department and executed and approved by the President. The President shall notify Congress of all financial or technical assistance agreements within thirty (30) days from execution and approval thereof.

Section 37 *Filing and Evaluation of Financial or Technical Assistance Agreement Proposals*

All financial or technical assistance agreement proposals shall be filed with the Bureau after payment of the required processing fees. If the proposal is found to be sufficient and meritorious in form and substance after evaluation, it shall be recorded with the appropriate government agency to give the proponent the prior right to the area covered by such proposal: Provided, That existing mineral agreements, financial or technical assistance agreements and other mining rights are not impaired or prejudiced thereby. The Secretary shall recommend its approval to the President.

Section 38 *Term of Financial or Technical Assistance Agreement*

A financial or technical assistance agreement shall have a term not exceeding twenty-five (25) years to start from the execution thereof, renewable for not more than twenty-five (25) years under such terms and conditions as may be provided by law.

Section 39 *Option to Convert into a Mineral Agreement*

The contractor has the option to convert the financial or technical assistance agreement to a mineral agreement at any time during the term of the agreement, if the economic viability of the contract area is found to be inadequate to justify large-scale mining operations, after proper notice to the Secretary as provided for under the implementing rules and regulations: Provided, That the mineral agreement shall only be for the remaining period of the original agreement.

In the case of a foreign contractor, it shall reduce its equity to forty percent (40%) in the corporation, partnership, association, or cooperative. Upon compliance with this requirement by the contractor, the Secretary shall approve the conversion and execute the mineral production-sharing agreement.

Section 40 *Assignment/Transfer*

A financial or technical assistance agreement may be assigned or transferred, in whole or in part, to a qualified person subject to the prior approval of the President: Provided, That the President shall notify Congress of every financial or technical assistance agreement assigned or converted in accordance with this provision within thirty (30) days from the date of the approval thereof.

Section 41 *Withdrawal from Financial or Technical Assistance Agreement*

The contractor shall manifest in writing to the Secretary his intention to withdraw from the agreement, if in his judgment the mining project is no longer economically feasible, even after he has exerted reasonable diligence to remedy the cause or the situation. The Secretary may accept the withdrawal: Provided, That the contractor has complied or satisfied all his financial, fiscal or legal obligations.

CHAPTER VII SMALL-SCALE MINING

Section 42 *Small-scale Mining*

Small-scale mining shall continue to be governed by Republic Act No. 7076 and other pertinent laws.

CHAPTER VIII QUARRY RESOURCES

Section 43 *Quarry Permit*

Any qualified person may apply to the provincial/city mining regulatory board for a quarry permit on privately-owned lands and/or public lands for building and construction materials such as marble, basalt, andesite, conglomerate, tuff, adobe, granite, gabbro, serpentine, inset filling materials, clay for ceramic tiles and building bricks, pumice, perlite and other similar materials that are extracted by quarrying from the ground. The provincial governor shall grant the permit after the applicant has complied with all the requirements as prescribed by the rules and regulations.

The maximum area which a qualified person may hold at any one time shall be

five hectares (5 has.): Provided, That in large-scale quarry operations involving cement raw materials, marble, granite, sand and gravel and construction aggregates, a qualified person and the government may enter into a mineral agreement as defined herein.

A quarry permit shall have a term of five (5) years, renewable for like periods but not to exceed a total term of twenty-five (25) years. No quarry permit shall be issued or granted on any area covered by a mineral agreement or financial or technical assistance agreement.

Section 44 *Quarry Fee and Taxes*

A permittee shall, during the term of his permit, pay a quarry fee as provided for under the implementing rules and regulations. The permittee shall also pay the excise tax as provided by pertinent laws.

Section 45 *Cancellation of Quarry Permit*

A quarry permit may be cancelled by the provincial governor for violations of the provisions of this Act or its implementing rules and regulations or the terms and conditions of said permit: Provided, That before the cancellation of such permit, the holder thereof shall be given the opportunity to be heard in an investigation conducted for the purpose.

Section 46 *Commercial Sand and Gravel Permit*

Any qualified person may be granted a permit by the provincial governor to extract and remove sand and gravel or other loose or unconsolidated materials which are used in their natural state, without undergoing processing from an area of not more than five hectares (5 has.) and in such quantities as may be specified in the permit.

Section 47 *Industrial Sand and Gravel Permit*

Any qualified person may be granted an industrial sand and gravel permit by the Bureau for the extraction of sand and gravel and other loose or unconsolidated materials that necessitate the use of mechanical processing covering an area of more than five hectares (5 has.) at any one time. The permit shall have a term of five (5) years, renewable for a like period but not to exceed a total term of twenty-five (25) years.

Section 48 *Exclusive Sand and Gravel Permit*

Any qualified person may be granted an exclusive sand and gravel permit by the provincial governor to quarry and utilize sand and gravel or other loose or unconsolidated materials from public lands for his own use, provided that there will be no commercial disposition thereof.

A mineral agreement or a financial technical assistance agreement contractor shall, however, have the right to extract and remove sand and gravel and other loose unconsolidated materials without need of a permit within the area covered by the mining agreement for the exclusive use in the mining operations: Provided, That monthly reports of the quantity of materials extracted therefrom shall be submitted to the mines regional office concerned: Provided, further, That said right shall be coterminous with the expiration of the agreement.

Holders of existing mining leases shall likewise have the same rights as that of a contractor: Provided, That said right shall be coterminous with the expiry dates of the lease.

Section 49 *Government Gratuitous Permit*

Any government entity or instrumentality may be granted a gratuitous permit by the provincial governor to extract sand and gravel, quarry or loose unconsolidated materials needed in the construction of building and/or infrastructure for public use or other purposes over an area of not more than two hectares (2 has.) for a period coterminous with said construction.

Section 50 *Private Gratuitous Permit*

Any owner of land may be granted a private gratuitous permit by the provincial governor.

Section 51 *Guano Permit*

Any qualified person may be granted a guano permit by the provincial governor to extract and utilize loose unconsolidated guano and other organic fertilizer materials in any portion of a municipality where he has established domicile. The permit shall be for specific caves and/or for confined sites with locations verified by the Department's field officer in accordance with existing rules and regulations.

Section 52 *Gemstone Gathering Permit*

Any qualified person may be granted a non-exclusive gemstone gathering permit by the provincial governor to gather loose stones useful as gemstones in rivers and other locations.

CHAPTER IX TRANSPORT, SALE AND PROCESSING OF MINERALS

Section 53 *Ore Transport Permit*

A permit specifying the origin and quantity of non-processed mineral ores or minerals shall be required for their transport. Transport permits shall be issued

by the mines regional director who has jurisdiction over the area where the ores were extracted. In the case of mineral ores or minerals being transported from the small-scale mining areas to the custom mills or processing plants, the Provincial Mining Regulatory Board (PMRB) concerned shall formulate their own policies to govern such transport of ores produced by small-scale miners. The absence of a permit shall be considered as prima facie evidence of illegal mining and shall be sufficient cause for the Government to confiscate the ores or minerals being transported, the tools and equipment utilized, and the vehicle containing the same. Ore samples not exceeding two metric tons (2 m.t.) to be used exclusively for assay or pilot test purposes shall be exempted from such requirement.

Section 54 *Mineral Trading Registration*

No person shall engage in the trading of mineral products, either locally or internationally, unless registered with the Department of Trade and Industry and accredited by the Department, with a copy of said registration submitted to the Bureau.

Section 55 *Minerals Processing Permit*

No person shall engage in the processing of minerals without first securing a minerals processing permit from the Secretary. Minerals processing permit shall be for a period of five (5) years renewable for like periods but not to exceed a total term of twenty-five (25) years. In the case of mineral ores or minerals produced by the small-scale miners, the processing thereof as well as the licensing of their custom mills, or processing plants shall continue to be governed by the provisions of Republic Act No. 7076.

Section 56 *Eligibility of Foreign-owned/-controlled Corporation*

A foreign-owned/-controlled corporation may be granted a mineral processing permit.

CHAPTER X

DEVELOPMENT OF MINING COMMUNITIES, SCIENCE AND MINING TECHNOLOGY

Section 57 *Expenditure for Community Development and Science and Mining Technology*

A contractor shall assist in the development of its mining community, the promotion of the general welfare of its inhabitants, and the development of science and mining technology.

Section 58 *Credited Activities*

Activities that may be credited as expenditures for development of mining communities, and science and mining technology are the following:

- a. Any activity or expenditure intended to enhance the development of the mining and neighboring communities of a mining operation other than those required or provided for under existing laws, or collective bargaining agreements, and the like; and
- b. Any activity or expenditure directed towards the development of geosciences and mining technology such as, but not limited to, institutional and manpower development, and basic and applied researches. Appropriate supervision and control mechanisms shall be prescribed in the implementing rules and regulations of this Act.

Section 59 *Training and Development*

A contractor shall maintain an effective program of manpower training and development throughout the term of the mineral agreement and shall encourage and train Filipinos to participate in all aspects of the mining operations, including the management thereof. For highly-technical and specialized mining operations, the contractor may, subject to the necessary government clearances, employ qualified foreigners.

Section 60 *Use of Indigenous Goods, Services and Technologies*

A contractor shall give preference to the use of local goods, services and scientific and technical resources in the mining operations, where the same are of equivalent quality, and are available on equivalent terms as their imported counterparts.

Section 61 *Donations/Turn Over of Facilities*

Prior to cessation of mining operations occasioned by abandonment or withdrawal of operations, on public lands by the contractor, the latter shall have a period of one (1) year therefrom within which to remove his improvements; otherwise, all the social infrastructure and facilities shall be turned over or donated tax-free to the proper government authorities, national or local, to ensure that said infrastructure and facilities are continuously maintained and utilized by the host and neighboring communities.

Section 62 *Employment of Filipinos*

A contractor shall give preference to Filipino citizens in all types of mining employment within the country insofar as such citizens are qualified to perform the corresponding work with reasonable efficiency and without hazard to the safety of the operations. The contractor, however, shall not be hindered from hiring employees of his own selection, subject to the provisions of Common-

wealth Act No. 613, as amended, for technical and specialized work which, in his judgment and with the approval of the Director, requires highly-specialized training or long experience in exploration, development or utilization of mineral resources: Provided, That in no case shall each employment exceed five (5) years or the payback period as represented in original project study, whichever is longer: Provided, further, That each foreigner employed as mine manager, vice-president for operations or in an equivalent managerial position in charge of mining, milling, quarrying or drilling operation shall:

- a. Present evidence of his qualification and work experience; or
- b. Shall pass the appropriate government licensure examination; or
- c. In special cases, may be permitted to work by the Director for a period not exceeding one (1) year: Provided, however, That if reciprocal privileges are extended to Filipino nationals in the country of domicile, the Director may grant waivers or exemptions.

CHAPTER XI SAFETY AND ENVIRONMENTAL PROTECTION

Section 63 *Mines Safety and Environmental Protection*

All contractors and permittees shall strictly comply with all the mines safety rules and regulations as may be promulgated by the Secretary concerning the safe and sanitary upkeep of the mining operations and achieve waste-free and efficient mine development. Personnel of the Department involved in the implementation of mines safety, health and environmental rules and regulations shall be covered under Republic Act No. 7305.

Section 64 *Mine Labor*

No person under sixteen (16) years of age shall be employed in any phase of mining operations and no person under eighteen (18) years of age shall be employed underground in a mine.

Section 65 *Mine Supervision*

All mining and quarrying operations that employ more than fifty (50) workers shall have at least one (1) licensed mining engineer with at least five (5) years of experience in mining operations, and one (1) registered foreman.

Section 66 *Mine Inspection*

The regional director shall have exclusive jurisdiction over the safety inspection of all installations, surface or underground, in mining operations at reasonable hours of the day or night and as much as possible in a manner that will not impede or obstruct work in progress of a contractor or permittee.

Section 67 *Power to Issue Orders*

The mines regional director shall, in consultation with the Environmental Management Bureau, forthwith or within such time as specified in his order, require the contractor to remedy any practice connected with mining or quarrying operations, which is not in accordance with safety and anti-pollution laws and regulations. In case of imminent danger to life or property, the mines regional director may summarily suspend the mining or quarrying operations until the danger is removed, or appropriate measures are taken by the contractor or permittee.

Section 68 *Report of Accidents*

In case of any incident or accident, causing or creating the danger of loss of life or serious physical injuries, the person in charge of operations shall immediately report the same to the regional office where the operations are situated. Failure to report the same without justifiable reason shall be a cause for the imposition of administrative sanctions prescribed in the rules and regulations implementing this Act.

Section 69 *Environmental Protection*

Every contractor shall undertake an environmental protection and enhancement program covering the period of the mineral agreement or permit. Such environmental program shall be incorporated in the work program which the contractor or permittee shall submit as an accompanying document to the application for a mineral agreement or permit. The work program shall include not only plans relative to mining operations but also to rehabilitation, regeneration, revegetation and reforestation of mineralized areas, slope stabilization of mined-out and tailings covered areas, aquaculture, watershed development and water conservation; and socioeconomic development.

Section 70 *Environmental Impact Assessment (EIA)*

Except during the exploration period of a mineral agreement or financial or technical assistance agreement or an exploration permit, an environmental clearance certificate shall be required based on an environmental impact assessment and procedures under the Philippine Environmental Impact Assessment System including Sections 26 and 27 of the Local Government Code of 1991 which require national government agencies to maintain ecological balance, and prior consultation with the local government units, nongovernmental and people's organizations and other concerned sectors of the community: Provided, That a completed ecological profile of the proposed mining area shall also constitute part of the environmental impact assessment. People's organizations and nongovernmental organizations shall be allowed and encouraged to participate in ensuring that contractors/permittees shall

observe all the requirements of environmental protection.

Section 71 *Rehabilitation*

Contractors and permittees shall technically and biologically rehabilitate the excavated, mined-out, tailings covered and disturbed areas to the condition of environmental safety, as may be provided in the implementing rules and regulations of this Act. A mine rehabilitation fund shall be created, based on the contractor's approved work program, and shall be deposited as a trust fund in a government depository bank and used for physical and social rehabilitation of areas and communities affected by mining activities and for research on the social, technical and preventive aspects of rehabilitation. Failure to fulfill the above obligation shall mean immediate suspension or closure of the mining activities of the contractor/permittee concerned.

CHAPTER XII AUXILIARY MINING RIGHTS

Section 72 *Timber Rights*

Any provision of law to the contrary notwithstanding, a contractor may be granted a right to cut trees or timber within his mining area as may be necessary for his mining operations subject to forestry laws, rules and regulations: Provided, That if the land covered by the mining area is already covered by existing timber concessions, the volume of timber needed and the manner of cutting and removal thereof shall be determined by the mines regional director, upon consultation with the contractor, the timber concessionaire/permittee and the Forest Management Bureau of the Department: Provided, further, That in case of disagreement between the contractor and the timber concessionaire, the matter shall be submitted to the Secretary whose decision shall be final. The contractor shall perform reforestation work within his mining area in accordance with forestry laws, rules and regulations.

Section 73 *Water Rights*

A contractor shall have water rights for mining operations upon approval of application with the appropriate government agency in accordance with existing water laws, rules and regulations promulgated thereunder: Provided, That water rights already granted or vested through long use, recognized and acknowledged by local customs, laws, and decisions of courts shall not thereby be impaired: Provided, further, That the Government reserves the right to regulate water rights and the reasonable and equitable distribution of water supply so as to prevent the monopoly of the use thereof.

Section 74 *Right to Possess Explosives*

A contractor/exploration permittee shall have the right to possess and use explosives within his contract/permit area as may be necessary for his mining operations upon approval of application with the appropriate government agency in accordance with existing laws, rules and regulations promulgated thereunder: Provided, That the Government reserves the right to regulate and control the explosive accessories to ensure safe mining operations.

Section 75 *Easement Rights*

When mining areas are so situated that for purposes of more convenient mining operations it is necessary to build, construct or install on the mining areas or lands owned, occupied or leased by other persons, such infrastructure as roads, railroads, mills, waste dump sites, tailings ponds, warehouses, staging or storage areas and port facilities, tramways, runways, airports, electric transmission, telephone or telegraph lines, dams and their normal flood and catchment areas, sites for water wells, ditches, canals, new river beds, pipelines, flumes, cuts, shafts, tunnels, or mills, the contractor, upon payment of just compensation, shall be entitled to enter and occupy said mining areas or lands.

Section 76 *Entry into Private Lands and Concession Areas*

Subject to prior notification, holders of mining rights shall not be prevented from entry into private lands and concession areas by surface owners, occupants, or concessionaires when conducting mining operations therein: Provided, That any damage done to the property of the surface owner, occupant, or concessionaire as a consequence of such operations shall be properly compensated as may be provided for in the implementing rules and regulations: Provided, further, That to guarantee such compensation, the person authorized to conduct mining operation shall, prior thereto, post a bond with the regional director based on the type of properties, the prevailing prices in and around the area where the mining operations are to be conducted, with surety or sureties satisfactory to the regional director.

CHAPTER XIII SETTLEMENT OF CONFLICTS

Section 77 *Panel of Arbitrators*

There shall be a panel of arbitrators in the regional office of the Department composed of three (3) members, two (2) of whom must be members of the Philippine Bar in good standing and one a licensed mining engineer or a professional in a related field, and duly designated by the Secretary as recommended by the Mines and Geosciences Bureau Director. Those designated as members of the panel shall serve as such in addition to their work in the Department

without receiving any additional compensation. As much as practicable, said members shall come from the different bureaus of the Department in the region. The presiding officer thereof shall be selected by the drawing of lots. His tenure as presiding officer shall be on a yearly basis. The members of the panel shall perform their duties and obligations in hearing and deciding cases until their designation is withdrawn or revoked by the Secretary. Within thirty (30) working days, after the submission of the case by the parties for decision, the panel shall have exclusive and original jurisdiction to hear and decide on the following:

- a. Disputes involving rights to mining areas;
- b. Disputes involving mineral agreements or permits;
- c. Disputes involving surface owners, occupants and claimholders/concessionaires; and
- d. Disputes pending before the Bureau and the Department at the date of the effectivity of this Act.

Section 78 *Appellate Jurisdiction*

The decision or order of the panel of arbitrators may be appealed by the party not satisfied thereto to the Mines Adjudication Board within fifteen (15) days from receipt thereof which must decide the case within thirty (30) days from submission thereof for decision.

Section 79 *Mines Adjudication Board*

The Mines Adjudication Board shall be composed of three (3) members. The Secretary shall be the chairman with the Director of the Mines and Geosciences Bureau and the Undersecretary for Operations of the Department as members thereof. The Board shall have the following powers and functions:

- a. To promulgate rules and regulations governing the hearing and disposition of cases before it, as well as those pertaining to its internal functions, and such rules and regulations as may be necessary to carry out its functions;
- b. To administer oaths, summon the parties to a controversy, issue subpoenas requiring the attendance and testimony of witnesses or the production of such books, papers, contracts, records, statement of accounts, agreements, and other documents as may be material to a just determination of the matter under investigation, and to testify in any investigation or hearing conducted in pursuance of this Act;
- c. To conduct hearings on all matters within its jurisdiction, proceed to hear and determine the disputes in the absence of any party thereto who has been summoned or served with notice to appear, conduct its proceedings or any part thereof in public or in private, adjourn its hearings at any time and place, refer technical matters or accounts to an expert and to accept

his report as evidence after hearing of the parties upon due notice, direct parties to be joined in or excluded from the proceedings, correct, amend, or waive any error, defect or irregularity, whether in substance or in form, give all such directions as it may deem necessary or expedient in the determination of the dispute before it, and dismiss the mining dispute as part thereof, where it is trivial or where further proceedings by the Board are not necessary or desirable;

1. To hold any person in contempt, directly or indirectly, and impose appropriate penalties therefor; and
2. To enjoin any or all acts involving or arising from any case pending before it which, if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social and economic stability.

In any proceeding before the Board, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Act that shall govern. The Board shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process. In any proceeding before the Board, the parties may be represented by legal counsel. The findings of fact of the Board shall be conclusive and binding on the parties and its decision or order shall be final and executory.

A petition for review by certiorari and question of law may be filed by the aggrieved party with the Supreme Court within thirty (30) days from receipt of the order or decision of the Board.

CHAPTER XIV GOVERNMENT SHARE

Section 80 *Government Share in Mineral Production Sharing Agreement*

The total government share in a mineral production sharing agreement shall be the excise tax on mineral products as provided in Republic Act No. 7729, amending Section 151(a) of the National Internal Revenue Code, as amended.

Section 81 *Government Share in Other Mineral Agreements*

The share of the Government in co-production and joint-venture agreements shall be negotiated by the Government and the contractor taking into consideration the:

- a. Capital investment of the project,

- b. Risks involved,
- c. Contribution of the project to the economy, and
- d. Other factors that will provide for a fair and equitable sharing between the Government and the contractor.

The Government shall also be entitled to compensations for its other contributions which shall be agreed upon by the parties, and shall consist, among other things, the contractor's income tax, excise tax, special allowance, withholding tax due from the contractor's foreign stockholders arising from dividend or interest payments to the said foreign stockholders, in case of a foreign national, and all such other taxes, duties and fees as provided for under existing laws.

The Government share in financial or technical assistance agreement shall consist of, among other things, the contractor's corporate income tax, excise tax, special allowance, withholding tax due from the contractor's foreign stockholders arising from dividend or interest payments to the said foreign stockholder in case of a foreign national and all such other taxes, duties and fees as provided for under existing laws.

The collection of Government share in financial or technical assistance agreement shall commence after the financial or technical assistance agreement contractor has fully recovered its pre-operating expenses, exploration, and development expenditures, inclusive.

Section 82 *Allocation of Government Share*

The Government share as referred to in the preceding sections shall be shared and allocated in accordance with Sections 290 and 292 of Republic Act No. 7160 otherwise known as the Local Government Code of 1991. In case the development and utilization of mineral resources is undertaken by a government-owned or -controlled corporation, the sharing and allocation shall be in accordance with Sections 291 and 292 of the said Code.

CHAPTER XV TAXES AND FEES

Section 83 *Income Taxes*

After the lapse of the income tax holiday as provided for in the Omnibus Investments Code, the contractor shall be liable to pay income tax as provided in the National Internal Revenue Code, as amended.

Section 84 *Excise Tax on Mineral Products*

The contractor shall be liable to pay the excise tax on mineral products as provided for under Section 151 of the National Internal Revenue Code: Provided, however, That with respect to a mineral production sharing agreement, the excise tax on mineral products shall be the government share under said agreement.

Section 85 *Mine Wastes and Tailings Fees*

A semi-annual fee to be known as mine wastes and tailings fee is hereby imposed on all operating mining companies in accordance with the implementing rules and regulations. The mine wastes and tailings fee shall accrue to a reserve fund to be used exclusively for payment for damages to:

- a. Lives and personal safety,
- b. Lands, agricultural crops and forest products, marine life and aquatic resources, cultural resources; and
- c. Infrastructure and the revegetation and rehabilitation of silted farm lands and other areas devoted to agriculture and fishing caused by mining pollution.

This is in addition to the suspension or closure of the activities of the contractor at any time and the penal sanctions imposed upon the same.

The Secretary is authorized to increase mine wastes and tailings fees, when public interest so requires, upon the recommendation of the Director.

Section 86 *Occupation Fees*

There shall be collected from any holder of a mineral agreement, financial or technical assistance agreement or exploration permit on public or private lands, an annual occupation fee in accordance with the following schedule:

- a. For exploration permit — Five pesos (P5.00) per hectare or fraction thereof per annum;
- b. For mineral agreements and financial or technical assistance agreements — Fifty pesos (P50.00) per hectare or fraction thereof per annum; and
- c. For mineral reservation — One hundred pesos (P100.00) per hectare or fraction thereof per annum.

The Secretary is authorized to increase the occupation fees provided herein when the public interest so requires, upon recommendation of the Bureau Director.

Section 87 *Manner of Payment of Fees*

The fees shall be paid on the date the mining agreement is registered with the appropriate office and on the same date every year thereafter. It shall be paid

to the treasurer of the municipality or city where the onshore mining areas are located, or to the Director in case of offshore mining areas. For this purpose, the appropriate officer shall submit to the treasurer of the municipality or city where the onshore mining area is located, a complete list of all onshore mining rights registered with his office, indicating therein the names of the holders, area in hectares, location, and date registered. If the fee is not paid on the date specified, it shall be increased by twenty-five per centum (25%).

Section 88 *Allocation of Occupation Fees*

Thirty per centum (30%) of all occupational fees collected from holders of mining rights in onshore mining areas shall accrue to the province and seventy per centum (70%) to the municipality in which the onshore mining areas are located. In a chartered city, the full amount shall accrue to the city concerned.

Section 89 *Filing Fees and Other Charges*

The Secretary is authorized to charge reasonable filing fees and other charges as he may prescribe in accordance with the implementing rules and regulations.

CHAPTER XVI INCENTIVES

Section 90 *Incentives*

The contractors in mineral agreements, and financial or technical assistance agreements shall be entitled to the applicable fiscal and non-fiscal incentives as provided for under Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987. Provided, That holders of exploration permits may register with the Board of Investments and be entitled to the fiscal incentives granted under the said Code for the duration of the permits or extensions thereof: Provided, further, That mining activities shall always be included in the investment priorities plan.

Section 91 *Incentives for Pollution Control Devices*

Pollution control devices acquired, constructed or installed by contractors shall not be considered as improvements on the land or building where they are placed, and shall not be subject to real property and other taxes or assessments: Provided, however, That payment of mine wastes and tailings fees is not exempted.

Section 92 *Income Tax-Carry Forward of Losses*

A net operating loss without the benefit of incentives incurred in any of the

first ten (10) years of operations may be carried over as a deduction from taxable income for the next five (5) years immediately following the year of such loss. The entire amount of the loss shall be carried over to the first of the five (5) taxable years following the loss, and any portion of such loss which exceeds the taxable income of such first year shall be deducted in like manner from the taxable income of the next remaining four (4) years.

Section 93 *Income Tax-Accelerated Depreciation*

Fixed assets may be depreciated as follows:

- a. To the extent of not more than twice as fast as the normal rate of depreciation or depreciated at normal rate of depreciation if the expected life is ten (10) years or less; or
- b. Depreciated over any number of years between five (5) years and the expected life if the latter is more than ten (10) years, and the depreciation thereon allowed as deduction from taxable income: Provided, That the contractor notifies the Bureau of Internal Revenue at the beginning of the depreciation period which depreciation rate allowed by this section will be used.

In computing for taxable income, unless otherwise provided in this Act, the contractor may, at his option, deduct exploration and development expenditures accumulated at cost as of the date of the prospecting or exploration and development expenditures paid or incurred during the taxable year: Provided, That the total amount deductible for exploration and development expenditures shall not exceed twenty-five per centum (25%) of the net income from mining operations. The actual exploration and development expenditures minus the twenty-five per centum (25%) net income from mining shall be carried forward to the succeeding years until fully deducted.

Net income from mining operation is defined as gross income from operations less allowable deductions which are necessary or related to mining operations. Allowable deductions shall include mining, milling and marketing expenses, depreciation of properties directly used in the mining operations. This paragraph shall not apply to expenditures for the acquisition or improvement of property of a character which is subject to the allowances for depreciation.

Section 94 *Investment Guarantees*

The contractor shall be entitled to the basic rights and guarantees provided in the Constitution and such other rights recognized by the government as enumerated hereunder:

- a. Repatriation of investments. The right to repatriate the entire proceeds of the liquidation of the foreign investment in the currency in which the

investment was originally made and at the exchange rate prevailing at the time of repatriation.

- b. Remittance of earnings. The right to remit earnings from the investment in the currency in which the foreign investment was originally made and at the exchange rate prevailing at the time of remittance.
- c. Foreign loans and contracts. The right to remit at the exchange rate prevailing at the time of remittance such sums as may be necessary to meet the payments of interest and principal on foreign loans and foreign obligations arising from financial or technical assistance contracts.
- d. Freedom from expropriation. The right to be free from expropriation by the Government of the property represented by investments or loans, or of the property of the enterprise except for public use or in the interest of national welfare or defense and upon payment of just compensation. In such cases, foreign investors or enterprises shall have the right to remit sums received as compensation for the expropriated property in the currency in which the investment was originally made and at the exchange rate prevailing at the time of remittance.
- e. Requisition of investment. The right to be free from requisition of the property represented by the investment or of the property of the enterprises except in case of war or national emergency and only for the duration thereof. Just compensation shall be determined and paid either at the time or immediately after cessation of the state of war or national emergency. Payments received as compensation for the requisitioned property may be remitted in the currency in which the investments were originally made and at the exchange rate prevailing at the time of remittance.
- f. Confidentiality. Any confidential information supplied by the contractor pursuant to this Act and its implementing rules and regulations shall be treated as such by the Department and the Government, and during the term of the project to which it relates.

CHAPTER XVII

GROUND FOR CANCELLATION, REVOCATION, AND TERMINATION

Section 95 *Late or Non-filing of Requirements*

Failure of the permittee or contractor to comply with any of the requirements provided in this Act or in its implementing rules and regulations, without a valid reason, shall be sufficient ground for the suspension of any permit or agreement provided under this Act.

Section 96 *Violation of the Terms and Conditions of Permits or Agreements*

Violation of the terms and conditions of the permits or agreements shall be a sufficient ground for cancellation of the same.

Section 97 *Non-Payment of Taxes and Fees*

Failure to pay the taxes and fees due the Government for two (2) consecutive years shall cause the cancellation of the exploration permit, mineral agreement, financial or technical assistance agreement and other agreements and the re-opening of the area subject thereof to new applicants.

Section 98 *Suspension or Cancellation of Tax Incentives and Credits*

Failure to abide by the terms and conditions of tax incentive and credits shall cause the suspension or cancellation of said incentives and credits.

Section 99 *Falsehood or Omission of Facts in the Statement*

All statements made in the exploration permit, mining agreement and financial or technical assistance agreement shall be considered as conditions and essential parts thereof and any falsehood in said statements or omission of facts therein which may alter, change or affect substantially the facts set forth in said statements may cause the revocation and termination of the exploration permit, mining agreement and financial or technical assistance agreement.

CHAPTER XVIII

ORGANIZATIONAL AND INSTITUTIONAL ARRANGEMENTS

Section 100 *From Staff Bureau to Line Bureau*

The Mines and Geosciences Bureau is hereby transformed into a line bureau consistent with Section 9 of this Act: Provided, That under the Mines and Geosciences Bureau shall be the necessary mines regional, district and other pertinent offices — the number and specific functions of which shall be provided in the implementing rules and regulations of this Act.

CHAPTER XIX

PENAL PROVISIONS

Section 101 *False Statements*

Any person who knowingly presents any false application, declaration, or evidence to the Government or publishes or causes to be published any prospectus or other information containing any false statement relating to mines, mining operations or mineral agreements, financial or technical assistance agreements and permits shall, upon conviction, be penalized by a fine of not

exceeding Ten thousand pesos (P10,000.00).

Section 102 *Illegal Exploration*

Any person undertaking exploration work without the necessary exploration permit shall, upon conviction, be penalized by a fine of not exceeding Fifty thousand pesos (P50,000.00).

Section 103 *Theft of Minerals*

Any person extracting minerals and disposing the same without a mining agreement, lease, permit, license, or steals minerals or ores or the products thereof from mines or mills or processing plants shall, upon conviction, be imprisoned from six (6) months to six (6) years or pay a fine from Ten thousand pesos (P10,000.00) to Twenty thousand pesos (P20,000.00) or both, at the discretion of the appropriate court. In addition, he shall be liable to pay damages and compensation for the minerals removed, extracted, and disposed of. In the case of associations, partnerships, or corporations, the president and each of the directors thereof shall be responsible for the acts committed by such association, corporation, or partnership.

Section 104 *Destruction of Mining Structures*

Any person who wilfully destroys or damages structures in or on the mining area or on the mill sites shall, upon conviction, be imprisoned for a period not to exceed five (5) years and shall, in addition, pay compensation for the damages which may have been caused thereby.

Section 105 *Mines Arson*

Any person who wilfully sets fire to any mineral stockpile, mine or workings, fittings or a mine, shall be guilty of arson and shall be punished, upon conviction, by the appropriate court in accordance with the provisions of the Revised Penal Code and shall, in addition, pay compensation for the damages caused hereby.

Section 106 *Wilfull Damage to a Mine*

Any person who wilfully damages a mine, unlawfully causes water to run into a mine, or obstructs any shaft or passage to a mine, or renders useless, damages or destroys any machine, appliance, apparatus, rope, chain, tackle, or any other things used in a mine, shall be punished, upon conviction, by the appropriate court, by imprisonment not exceeding a period of five (5) years and shall, in addition, pay compensation for the damages caused thereby.

Section 107 *Illegal Obstruction to Permittees or Contractors*

Any person who, without justifiable cause, prevents or obstructs the holder

of any permit, agreement or lease from undertaking his mining operations shall be punished, upon conviction by the appropriate court, by a fine not exceeding Five thousand pesos (P5,000.00) or imprisonment not exceeding one (1) year, or both, at the discretion of the court.

Section 108 *Violation of the Terms and Conditions of the Environmental Compliance Certificate*

Any person who wilfully violates or grossly neglects to abide by the terms and conditions of the environmental compliance certificate issued to said person and which causes environmental damage through pollution shall suffer the penalty of imprisonment of six (6) months to six (6) years or a fine of Fifty thousand pesos (P50,000.00) to Two hundred thousand pesos (P200,000.00), or both, at the discretion of the court.

Section 109 *Illegal Obstruction to Government Officials*

Any person who illegally prevents or obstructs the Secretary, the Director or any of their representatives in the performance of their duties under the provisions of this Act and of the regulations promulgated hereunder shall be punished upon conviction, by the appropriate court, by a fine not exceeding Five thousand pesos (P5,000.00) or by imprisonment not exceeding one (1) year, or both, at the discretion of the court.

Section 110 *Other Violations*

Any other violation of this Act and its implementing rules and regulations shall constitute an offense punishable with a fine not exceeding Five thousand pesos (P5,000.00).

Section 111 *Fines*

The Secretary is authorized to charge fines for late or non-submission of reports in accordance with the implementing rules and regulations of this Act.

CHAPTER XX

TRANSITORY AND MISCELLANEOUS PROVISIONS

Section 112 *Non-Impairment of Existing Mining/Quarrying Rights*

All valid and existing mining lease contracts, permits/licenses, leases pending renewal, mineral production-sharing agreements granted under Executive Order No. 279, at the date of effectivity of this Act, shall remain valid, shall not be impaired, and shall be recognized by the Government: Provided, That the provisions of Chapter XIV on government share in mineral production-sharing agreement and of Chapter XVI on incentives of this Act shall immediately govern and apply to a mining lessee or contractor unless the mining

lessee or contractor indicates his intention to the secretary, in writing, not to avail of said provisions: Provided, further, That no renewal of mining lease contracts shall be made after the expiration of its term: Provided, finally, That such leases, production-sharing agreements, financial or technical assistance agreements shall comply with the applicable provisions of this Act and its implementing rules and regulations.

Section 113 *Recognition of Valid and Existing Mining Claims and Lease/Quarry Applications*

Holders of valid and existing mining claims, lease/quarry applications shall be given preferential rights to enter into any mode of mineral agreement with the government within two (2) years from the promulgation of the rules and regulations implementing this Act.

Section 114 *Separability Clause*

If any of the provision of this Act is held or declared to be unconstitutional or invalid by a competent court, the other provisions hereof shall continue to be in force as if the provision so annulled or voided had never been incorporated in this Act.

Section 115 *Repealing and Amending Clause*

All laws, executive orders, presidential decrees, rules and regulations or parts thereof which are inconsistent with any of the provisions of this Act are hereby repealed or amended accordingly.

Section 116 *Effectivity Clause*

This Act shall take effect thirty (30) days following its complete publication in two (2) newspapers of general circulation in the Philippines.

Approved,

Edgardo J. Angara
President of the Senate

Jose De Venecia Jr.
Speaker of the House of Representatives

This Act which is a consolidation of House Bill No. 10816 and Senate Bill No. 1639 was finally passed by the House of Representatives and the Senate on February 20, 1995.

Edgardo E. Tumangan
Secretary of the Senate

Camilo L. Sabio
Secretary General, House of Representatives

Approved: March 03, 1995

Fidel V. Ramos
President of the Philippines

Republic of the Philippines
Congress of the Philippines
Metro Manila

REPUBLIC ACT NO. 8371

[AN ACT TO RECOGNIZE, PROTECT AND PROMOTE THE RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES/INDIGENOUS PEOPLE, CREATING A NATIONAL COMMISSION OF INDIGENOUS PEOPLE, ESTABLISHING IMPLEMENTING MECHANISMS, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES]

CHAPTER I
GENERAL PROVISIONS

Sec. 1. **Short Title.** - This Act shall be known as "The Indigenous Peoples Rights Act of 1997."

Sec. 2. **Declaration of State Policies.** - The State shall recognize and promote all the rights of Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) hereunder enumerated within the framework of the Constitution:

- a) The State shall recognize and promote the rights of ICCs/IPs within the framework of national unity and development;
- b) The State shall protect the rights of ICCs/IPs to their ancestral domains to ensure their economic, social and cultural well being and shall recognize the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain;
- c) The State shall recognize, respect and protect the rights of ICCs/IPs to preserve and develop their cultures, traditions and institutions. It shall consider these rights in the formulation of national laws and policies;
- d) The State shall guarantee that members of the ICCs/IPs regardless of sex, shall equally enjoy the full measure of human rights and freedoms without distinctions or discriminations;
- e) The State shall take measures, with the participation of the ICCs/IPs concerned, to protect their rights and guarantee respect for their cultural integrity, and to ensure that members of the ICCs/IPs benefit on an equal footing from the rights and opportunities which national laws and regulations grant to other members of the population; and
- f) The State recognizes its obligations to respond to the strong expression of the ICCs/IPs for cultural integrity by assuring maximum ICC/IP participation in the direction of education, health, as well as other services of ICCs/IPs, in order to render such services more responsive to the needs and desires of these communities.

Towards these ends, the State shall institute and establish the necessary mechanisms to enforce and guarantee the realization of these rights, taking into consideration their customs, traditions, values, beliefs, their rights to their ancestral domains.

CHAPTER II
DEFINITION OF TERMS

Sec. 3. **Definition of Terms.** - For purposes of this Act, the following terms shall mean:

- a) **Ancestral Domains** - Subject to Section 56 hereof, refer to all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals, corporations, and which are necessary to ensure their economic, social and cultural welfare. It shall include ancestral land, forests, pasture, residential, agricultural, and other lands individually owned whether alienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by ICCs/IPs but from which their traditionally had access to for their subsistence and traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators;
- b) **Ancestral Lands** - Subject to Section 56 hereof, 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;
- c) **Certificate of Ancestral Domain Title** - refers to a title formally recognizing the rights of possession and ownership of ICCs/IPs over their ancestral domains identified and delineated in accordance with this law;
- d) **Certificate of Ancestral Lands Title** - refers to a title formally recognizing the rights of ICCs/IPs over their ancestral lands;

- e) *Communal Claims* - refer to claims on land, resources and rights thereon, belonging to the whole community within a defined territory
- f) *Customary Laws* - refer to a body of written and/or unwritten rules, usages, customs and practices traditionally and continually recognized, accepted and observed by respective ICCs/IPs;
- g) *Free and Prior Informed Consent* - as used in this Act shall mean the consensus of all members of the ICCs/IPs to; be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the activity, in a language an process understandable to the community;
- h) *Indigenous Cultural Communities/Indigenous Peoples* - refer to a group of people or homogenous societies identified by self-ascription and ascription by other, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed customs, tradition and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and culture, became historically differentiated from the majority of Filipinos. ICCs/IPs shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains;
- i) *Indigenous Political Structure* - refer to organizational and cultural leadership systems, institutions, relationships, patterns and processed for decision-making and participation, identified by ICCs/IPs such as, but not limited to, Council of Elders, Council of Timuays, Bodong Holder, or any other tribunal or body of similar nature;
- j) *Individual Claims* - refer to claims on land and rights thereon which have been devolved to individuals, families and clans including, but not limited to, residential lots, rice terraces or paddies and tree lots;
- k) *National Commission on Indigenous Peoples (NCIP)* - refers to the office created under this Act, which shall be under the Office of the President, and which shall be the primary government agency responsible for the formulation and implementation of policies, plans and programs to recognize, protect and promote the rights of ICCs/IPs;
- l) *Native Title* - refers to pre-conquest rights to lands and domains which, as far back as memory reaches, have been held under a claim of private

- ownership by ICCs/IPs, have never been public lands and are thus indisputably presumed to have been held that way since before the Spanish Conquest;
- m) *Nongovernment Organization* - refers to a private, nonprofit voluntary organization that has been organized primarily for the delivery of various services to the ICCs/IPs and has an established track record for effectiveness and acceptability in the community where it serves;
- n) *People's Organization* - refers to a private, nonprofit voluntary organization of members of an ICC/IP which is accepted as representative of such ICCs/IPs;
- o) *Sustainable Traditional Resource Rights* - refer to the rights of ICCs/IPs to sustainably use, manage, protect and conserve a) land, air, water, and minerals; b) plants, animals and other organisms; c) collecting, fishing and hunting grounds; d) sacred sites; and e) other areas of economic, ceremonial and aesthetic value in accordance with their indigenous knowledge, beliefs, systems and practices; and
- p) *Time Immemorial* - refers to a period of time when as far back as memory can go, certain ICCs/IPs are known to have occupied, possessed in the concept of owner, and utilized a defined territory devolved to them, by operation of customary law or inherited from their ancestors, in accordance with their customs and traditions.

CHAPTER III RIGHTS TO ANCESTRAL DOMAINS

Sec. 4. *Concept of Ancestral Lands/Domains.*- Ancestral lands/domains shall include such concepts of territories which cover not only the physical environment but the total environment including the spiritual and cultural bonds to the area which the ICCs/IPs possess, occupy and use and to which they have claims of ownership.

Sec. 5. *Indigenous Concept of Ownership.*- Indigenous concept of ownership sustains the view that ancestral domains and all resources found therein shall serve as the material bases of their cultural integrity. The indigenous concept of ownership generally holds that ancestral domains are the ICC's/IP's private but community property which belongs to all generations and therefore cannot be sold, disposed or destroyed. It likewise covers sustainable traditional resource rights.

Sec. 6. *Composition of Ancestral Lands/Domains.*- Ancestral lands and domains shall consist of all areas generally belonging to ICCs/IPs as referred under Sec. 3, items (a) and (b) of this Act.

Sec. 7. *Rights to Ancestral Domains.*- The rights of ownership and possession of ICCs/IPs to their ancestral domains shall be recognized and protected. Such rights shall include:

- a. *Rights of Ownership.*- The right to claim ownership over lands, bodies of water traditionally and actually occupied by ICCs/IPs, sacred places, traditional hunting and fishing grounds, and all improvements made by them at any time within the domains;
- b. *Right to Develop Lands and Natural Resources.*- Subject to Section 56 hereof, right to develop, control and use lands and territories traditionally occupied, owned, or used; to manage and conserve natural resources within the territories and uphold the responsibilities for future generations; to benefit and share the profits from allocation and utilization of the natural resources found therein; the right to negotiate the terms and conditions for the exploration of natural resources in the areas for the purpose of ensuring ecological, environmental protection and the conservation measures, pursuant to national and customary laws; the right to an informed and intelligent participation in the formulation and implementation of any project, government or private, that will affect or impact upon the ancestral domains and to receive just and fair compensation for any damages which they sustain as a result of the project; and the right to effective measures by the government to prevent any interference with, alienation and encroachment upon these rights;
- c. *Right to Stay in the Territories.*- The right to stay in the territory and not be removed therefrom. No ICCs/IPs will be relocated without their free and prior informed consent, nor through any means other than eminent domain. Where relocation is considered necessary as an exceptional measure, such relocation shall take place only with the free and prior informed consent of the ICCs/IPs concerned and whenever possible, they shall be guaranteed the right to return to their ancestral domains, as soon as the grounds for relocation cease to exist. When such return is not possible, as determined by agreement or through appropriate procedures, ICCs/IPs shall be provided in all possible cases with lands of quality and legal status at least equal to that of the land previously occupied by them, suitable to provide for their present needs and future development. Persons thus relocated shall likewise be fully compensated for any resulting loss or injury;
- d. *Right in Case of Displacement.*- In case displacement occurs as a result of natural catastrophes, the State shall endeavor to resettle the displaced ICCs/IPs in suitable areas where they can have temporary life support system: Provided, That the displaced ICCs/IPs shall have the right to return to their abandoned lands until such time that the normalcy and safety of such lands shall be determined: Provided, further, That should their ancestral domain cease to exist and normalcy and safety of the previous settlements

are not possible, displaced ICCs/IPs shall enjoy security of tenure over lands to which they have been resettled: Provided, furthermore, That basic services and livelihood shall be provided to them to ensure that their needs are adequately addressed:

- e. *Right to Regulate Entry of Migrants.*- Right to regulate the entry of migrant settlers and organizations into the domains;
- f. *Right to Safe and Clean Air and Water.*- For this purpose, the ICCs/IPs shall have access to integrated systems for the management of their inland waters and air space;
- g. *Right to Claim Parts of Reservations.*- The right to claim parts of the ancestral domains which have been reserved for various purposes, except those reserved and intended for common and public welfare and service; and
- h. *Right to Resolve Conflict.*- Right to resolve land conflicts in accordance with customary laws of the area where the land is located, and only in default thereof shall the complaints be submitted to amicable settlement and to the Courts of Justice whenever necessary.

Sec. 8. *Rights to Ancestral Lands.*- The right of ownership and possession of the ICCs/IPs, to their ancestral lands shall be recognized and protected.

- a. *Right to Transfer Land/Property.*- Such right shall include the right to transfer land or property rights to/among members of the same ICCs/IPs, subject to customary laws and traditions of the community concerned.
- b. *Right to Redemption.*- In cases where it is shown that the transfer of land/property rights by virtue of any agreement or devise, to a non-member of the concerned ICCs/IPs is tainted by the vitiated consent of the ICCs/IPs, or is transferred for an unconscionable consideration or price, the transferor ICC/IP shall have the right to redeem the same within a period not exceeding fifteen (15) years from the date of transfer.

Sec. 9. *Responsibilities of ICCs/IPs to their Ancestral Domains.*- ICCs/IPs occupying a duly certified ancestral domain shall have the following responsibilities:

- a. *Maintain Ecological Balance.*- To preserve, restore, and maintain a balanced ecology in the ancestral domain by protecting the flora and fauna, watershed areas, and other reserves;
- b. *Restore Denuded Areas.*- To actively initiate, undertake and participate in the reforestation of denuded areas and other development programs and projects subject to just and reasonable remuneration; and
- c. *Observe Laws.*- To observe and comply with the provisions of this Act and the rules and regulations for its effective implementation.

Sec. 10. *Unauthorized and Unlawful Intrusion.*- Unauthorized and unlawful

intrusion upon, or use of any portion of the ancestral domain, or any violation of the rights herein before enumerated, shall be punishable under this law. Furthermore, the Government shall take measures to prevent non-ICC/IPs from taking advantage of the ICCs/IPs customs or lack of understanding of laws to secure ownership, possession of land belonging to said ICCs/IPs.

Sec. 11. *Recognition of Ancestral Domain Rights.*- The rights of ICCs/IPs to their ancestral domains by virtue of Native Title shall be recognized and respected. Formal recognition, when solicited by ICCs/IPs concerned, shall be embodied in a Certificate of Ancestral Domain Title (CADT), which shall recognize the title of the concerned ICCs/IPs over the territories identified and delineated.

Sec. 12. *Option to Secure Certificate of Title under Commonwealth Act 141, as amended, or the Land Registration Act 496.*- Individual members of cultural communities, with respect to individually-owned ancestral lands who, by themselves or through their predecessors-in-interest, have been in continuous possession and occupation of the same in the concept of owner since the immemorial or for a period of not less than thirty (30) years immediately preceding the approval of this Act and uncontested by the members of the same ICCs/IPs shall have the option to secure title to their ancestral lands under the provisions of Commonwealth Act 141, as amended, or the Land Registration Act 496.

For this purpose, said individually-owned ancestral lands, which are agricultural in character and actually used for agricultural, residential, pasture, and tree farming purposes, including those with a slope of eighteen percent (18%) or more, are hereby classified as alienable and disposable agricultural lands.

The option granted under this Section shall be exercised within twenty (20) years from the approval of this Act.

CHAPTER IV RIGHT TO SELF-GOVERNANCE AND EMPOWERMENT

Sec. 13. *Self-Governance.*- The State recognizes the inherent right of ICCs/IPs to self-governance and self-determination and respects the integrity of their values, practices and institutions. Consequently, the State shall guarantee the right of ICCs/IPs to freely pursue their economic, social and cultural development.

Sec. 14. *Support for Autonomous Regions.*- The State shall continue to strengthen and support the autonomous regions created under the Constitution as they may require or need. The State shall likewise encourage other ICCs/IPs not included or outside Muslim Mindanao and the Cordillera to use the form and content of their ways of life as may be compatible with the fundamental rights defined in the Constitution of the Republic of the Philippines and other internationally recognized human rights.

Sec. 15. *Justice System, Conflict Resolution Institutions and Peace Building Processes.*- The ICCs/IPs shall have the right to use their own commonly accepted justice systems, conflict resolution institutions, peace building processes or mechanisms and other customary laws and practices within their respective communities and as may be compatible with the national legal system and with internationally recognized human rights.

Sec. 16. *Right to Participate in Decision-Making.*- ICCs/IPs have the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through procedures determined by them as well as to maintain and develop their own indigenous political structures. Consequently, the State shall ensure that the ICCs/IPs shall be given mandatory representation in policy-making bodies and other local legislative councils.

Sec. 17. *Right to Determine and Decide Priorities for Development.*- The ICCs/IPs shall have the right to determine and decide their own priorities for development affecting their lives, beliefs, institutions, spiritual well-being, and the lands they own, occupy or use. They shall participate in the formulation, implementation and evaluation of policies, plans and programs for national, regional and local development which may directly affect them.

Sec. 18. *Tribal Barangays.*- The ICCs/IPs living in contiguous areas or communities where they form the predominant population but which are located in municipalities, provinces or cities where they do not constitute the majority of the population, may form or constitute a separate barangay in accordance with the Local Government Code on the creation of tribal barangays.

Sec. 19. *Role of Peoples Organizations.*- The State shall recognize and respect the role of independent ICCs/IPs organizations to enable the ICCs/IPs to pursue and protect their legitimate and collective interests and aspirations through peaceful and lawful means.

Sec. 20. *Means for Development/ Empowerment of ICCs/IPs.*- The Govern-

ment shall establish the means for the full development/empowerment of the ICCs/IPs own institutions and initiatives and, where necessary, provide the resources needed therefor.

CHAPTER V SOCIAL JUSTICE AND HUMAN RIGHTS

Sec. 21. *Equal Protection and Non-discrimination of ICCs/IPs.*- Consistent with the equal protection clause of the Constitution of the Republic of the Philippines, the Charter of the United Nations, the Universal Declaration of Human Rights including the Convention on the Elimination of Discrimination Against Women and International Human Rights Law, the State shall, with due recognition of their distinct characteristics and identity, accord to the members of the ICCs/IPs the rights, protections and privileges enjoyed by the rest of the citizenry. It shall extend to them the same employment rights, opportunities, basic services, educational and other rights and privileges available to every member of the society. Accordingly, the State shall likewise ensure that the employment of any form of force of coercion against ICCs/IPs shall be dealt with by law.

The State shall ensure that the fundamental human rights and freedoms as enshrined in the Constitution and relevant international instruments are guaranteed also to indigenous women. Towards this end, no provision in this Act shall be interpreted so as to result in the diminution of rights and privileges already recognized and accorded to women under existing laws of general application.

Sec. 22. *Rights during Armed Conflict.*- ICCs/IPs have the right to special protection and security in periods of armed conflict. The State shall observe international standards, in particular, the Fourth Geneva Convention of 1949, for the protection of civilian populations in circumstances of emergency and armed conflict, and shall not recruit members of the ICCs/IPs against their will into armed forces, and in particular, for the use against other ICCs/IPs; not recruit children of ICCs/IPs into the armed forces under any circumstance; nor force indigenous individuals to abandon their lands, territories and means of subsistence, or relocate them in special centers for military purposes under any discriminatory condition.

Sec. 23. *Freedom from Discrimination and Right to Equal Opportunity and Treatment.*- It shall be the right of the ICCs/IPs to be free from any form of discrimination, with respect to recruitment and conditions of employment, such that they may enjoy equal opportunities as other occupationally-related

benefits, informed of their rights under existing labor legislation and of means available to them for redress, not subject to any coercive recruitment systems, including bonded labor and other forms of debt servitude; and equal treatment in employment for men and women, including the protection from sexual harassment.

Towards this end, the State shall within the framework of national laws and regulations, and in cooperation with the ICCs/IPs concerned, adopt special measures to ensure the effective protection with regard to the recruitment and conditions of employment of persons belonging to these communities, to the extent that they are not effectively protected by the laws applicable to workers in general.

ICCs/IPs shall have the right to association and freedom for all trade union activities and the right to conclude collective bargaining agreements with employers' conditions. They shall likewise have the right not to be subject to working conditions hazardous to their health, particularly through exposure to pesticides and other toxic substances.

Sec. 24. *Unlawful Acts Pertaining to Employment.*- It shall be unlawful for any person:

- a. To discriminate against any ICC/IP with respect to the terms and conditions of employment on account of their descent. Equal remuneration shall be paid to ICC/IP and non-ICC/IP for work of equal value; and
- b. To deny any ICC/IP employee any right or benefit herein provided for or to discharge them for the purpose of preventing them from enjoying any of the rights or benefits provided under this Act.

Sec. 25. *Basic Services.*- The ICC/IP have the right to special measures for the immediate, effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing, sanitation, health and social security. Particular attention shall be paid to the rights and special needs of indigenous women, elderly, youth, children and differently-abled persons. Accordingly, the State shall guarantee the right of ICCs/IPs to government's basic services which shall include, but not limited to water and electrical facilities, education, health and infrastructure.

Sec. 26. *Women.*- ICC/IP women shall enjoy equal rights and opportunities with men, as regards the social, economic, political and cultural spheres of life. The participation of indigenous women in the decision-making process in all levels, as well as in the development of society, shall be given due respect and recognition.

The State shall provide full access to education, maternal and child care, health and nutrition, and housing services to indigenous women. Vocational, technical, professional and other forms of training shall be provided to enable these women to fully participate in all aspects of social life. As far as possible, the State shall ensure that indigenous women have access to all services in their own languages.

Sec. 27. *Children and Youth.* - The State shall recognize the vital role of the children and youth of ICCs/IPs in nation-building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being. Towards this end, the State shall support all government programs intended for the development and rearing of the children and youth of ICCs/IPs for civic efficiency and establish such mechanisms as may be necessary for the protection of the rights of the indigenous children and youth.

Sec. 28. *Integrated System of Education.* - The State shall, through the NCIP, provide a complete, adequate and integrated system of education, relevant to the needs of the children and Young people of ICCs/IPs.

CHAPTER VI CULTURAL INTEGRITY

Sec. 29. *Protection of Indigenous Culture, Traditions and Institutions.* - The state shall respect, recognize and protect the right of the ICCs/IPs to preserve and protect their culture, traditions and institutions. It shall consider these rights in the formulation of national plans and policies.

Sec. 30. *Educational Systems.* - The State shall provide equal access to various cultural opportunities to the ICCs/IPs through the educational system, public or cultural entities, scholarships, grants and other incentives without prejudice to their right to establish and control their educational systems and institutions by providing education in their own language, in a manner appropriate to their cultural methods of teaching and learning. Indigenous children/youth shall have the right to all levels and forms of education of the State.

Sec. 31. *Recognition of Cultural Diversity.* - The State shall endeavor to have the dignity and diversity of the cultures, traditions, histories and aspirations of the ICCs/IPs appropriately reflected in all forms of education, public information and cultural-educational exchange. Consequently, the State shall take effective measures, in consultation with ICCs/IPs concerned, to eliminate prejudice and discrimination and to promote tolerance, understanding and good relations among ICCs/IPs and all segments of society. Furthermore, the

Government shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. The State shall likewise ensure the participation of appropriate indigenous leaders in schools, communities and international cooperative undertakings like festivals, conferences, seminars and workshops to promote and enhance their distinctive heritage and values.

Sec. 32. *Community Intellectual Rights.* - ICCs/IPs have the right to practice and revitalize their own cultural traditions and customs. The State shall preserve, protect and develop the past, present and future manifestations of their cultures as well as the right to the restitution of cultural, intellectual, religious, and spiritual property taken without their free and prior informed consent or in violation of their laws, traditions and customs.

Sec. 33. *Rights to Religious, Cultural Sites and Ceremonies.* - ICCs/IPs shall have the right to manifest, practice, develop teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect and have access to their religious and cultural sites; the right to use and control of ceremonial object; and the right to the repatriation of human remains.

Accordingly, the State shall take effective measures, in cooperation with the burial sites, be preserved, respected and protected. To achieve this purpose, it shall be unlawful to:

- a. Explore, excavate or make diggings on archeological sites of the ICCs/IPs for the purpose of obtaining materials of cultural values without the free and prior informed consent of the community concerned; and
- b. Deface, remove or otherwise destroy artifacts which are of great importance to the ICCs/IPs for the preservation of their cultural heritage.

Sec. 34. *Right to Indigenous Knowledge Systems and Practices and to Develop own Sciences and Technologies.* - ICCs/IPs are entitled to the recognition of the full ownership and control and protection of their cultural and intellectual rights. They shall have the right to special measures to control, develop and protect their sciences, technologies and cultural manifestations, including human and other genetic resources, seeds, including derivatives of these resources, traditional medicines and health practices, vital medicinal plants, animals and minerals, indigenous knowledge systems and practices, knowledge of the properties of fauna and flora, oral traditions, literature, designs, and visual and performing arts.

Sec. 35. *Access to Biological and Genetic Resources.* - Access to biological and genetic resources and to indigenous knowledge related to the conservation, utilization and enhancement of these resources, shall be allowed within

ancestral lands and domains of the ICCs/IPs only with a free and prior informed consent of such communities, obtained in accordance with customary laws of the concerned community.

Sec. 36. *Sustainable Agro-Technical Development.* - The State shall recognize the right of ICCs/IPs to a sustainable agro-technological development and shall formulate and implement programs of action for its effective implementation. The State shall likewise promote the bio-genetic and resource management systems among the ICCs/IPs and shall encourage cooperation among government agencies to ensure the successful sustainable development of ICCs/IPs.

Sec. 37. *Funds for Archeological and Historical Sites.* - The ICCs/IPs shall have the right to receive from the national government all funds especially earmarked or allocated for the management and preservation of their archeological and historical sites and artifacts with the financial and technical support of the national government agencies.

CHAPTER VII

NATIONAL COMMISSION ON INDIGENOUS PEOPLES (NCIP)

Sec. 38. *National Commission on Indigenous Cultural Communities/Indigenous Peoples (NCCIP).* - to carry out the policies herein set forth, there shall be created the National Commission on ICCs/IPs (NCIP), which shall be the primary government agency responsible for the formulation and implementation of policies, plans and programs to promote and protect the rights and well-being of the ICCs/IPs and the recognition of their ancestral domains as well as their rights thereto.

Sec. 39. *Mandate.* - The NCIP shall protect and promote the interest and well-being of the ICCs/IPs with due regard to their beliefs, customs, traditions and institutions.

Sec. 40. *Composition.* - The NCIP shall be an independent agency under the Office of the President and shall be composed of seven (7) Commissioners belonging to ICCs/IPs, one (1) of whom shall be the Chairperson. The Commissioners shall be appointed by the President of the Philippines from a list of recommendees submitted by authentic ICCs/IPs: Provided, That the seven (7) Commissioners shall be appointed specifically from each of the following ethnographic areas: Region I and the Cordilleras; Region II; the rest of Luzon; Island Groups including Mindoro, Palawan, Romblon, Panay and the rest of the Visayas; Northern and Western Mindanao; Southern and Eastern

Mindanao; and Central Mindanao: Provided, That at least two (2) of the seven (7) Commissioners shall be women.

Sec. 41. *Qualifications, Tenure, Compensation.* - The Chairperson and the six (6) Commissioners must be natural born Filipino citizens, bonafide members of ICCs/IPs as certified by his/her tribe, experienced in ethnic affairs and who have worked for at least ten (10) years with an ICC/IP community and/or any government agency involved in ICC/IP, at least 35 years of age at the time of appointment, and must be of proven honesty and integrity: Provided, That at least two (2) of the seven (7) Commissioners shall be the members of the Philippine Bar: Provided, further, That the members of the NCIP shall hold office for a period of three (3) years, and may be subject to re-appointment for another term: Provided, furthermore, That no person shall serve for more than two (2) terms. Appointment to any vacancy shall only be for the unexpired term of the predecessor and in no case shall a member be appointed or designated in a temporary or acting capacity: Provided, finally, That the Chairperson and the Commissioners shall be entitled to compensation in accordance with the Salary Standardization Law.

Sec. 42. *Removal from Office.* - Any member of the NCIP may be removed from office by the President, on his own initiative or upon recommendation by any indigenous community, before the expiration of his term for cause and after complying with due process requirement of law.

Sec. 43. *Appointment of Commissioners.* - The President shall appoint the seven (7) Commissioners of the NCIP within ninety (90) days from the effectivity of this Act.

Sec. 44. *Powers and Functions.* - To accomplish its mandate, the NCIP shall have the following powers, jurisdiction and function:

- a) To serve as the primary government agency through which ICCs/IPs can seek government assistance and as the medium, thorough which such assistance may be extended;
- b) To review and assess the conditions of ICCs/IPs including existing laws and policies pertinent thereto and to propose relevant laws and policies to address their role in national development;
- c) To formulate and implement policies, plans, programs and projects for the economic, social and cultural development of the ICCs/IPs and to monitor the implementation thereof;
- d) To request and engage the services and support of experts from other agencies of government or employ private experts and consultants as may be required in the pursuit of its objectives;

- e) To issue certificate of ancestral land/domain title;
- f) Subject to existing laws, to enter into contracts, agreements, or arrangement, with government or private agencies or entities as may be necessary to attain the objectives of this Act, and subject to the approval of the President, to obtain loans from government lending institutions and other lending institutions to finance its programs;
- g) To negotiate for funds and to accept grants, donations, gifts and/or properties in whatever form and from whatever source, local and international, subject to the approval of the President of the Philippines, for the benefit of ICCs/IPs and administer the same in accordance with the terms thereof; or in the absence of any condition, in such manner consistent with the interest of ICCs/IPs as well as existing laws;
- h) To coordinate development programs and projects for the advancement of the ICCs/IPs and to oversee the proper implementation thereof;
- i) To convene periodic conventions or assemblies of IPs to review, assess as well as propose policies or plans;
- j) To advise the President of the Philippines on all matters relating to the ICCs/IPs and to submit within sixty (60) days after the close of each calendar year, a report of its operations and achievements;
- k) To submit to Congress appropriate legislative proposals intended to carry out the policies under this Act;
- l) To prepare and submit the appropriate budget to the Office of the President;
- m) To issue appropriate certification as a pre-condition to the grant of permit, lease, grant, or any other similar authority for the disposition, utilization, management and appropriation by any private individual, corporate entity or any government agency, corporation or subdivision thereof on any part or portion of the ancestral domain taking into consideration the consensus approval of the ICCs/IPs concerned;
- n) To decide all appeals from the decisions and acts of all the various offices within the Commission:
- o) To promulgate the necessary rules and regulations for the implementation of this Act;
- p) To exercise such other powers and functions as may be directed by the President of the Republic of the Philippines; and
- q) To represent the Philippine ICCs/IPs in all international conferences and conventions dealing with indigenous peoples and other related concerns.

Sec. 45. **Accessibility and Transparency.**- Subject to such limitations as may be provided by law or by rules and regulations promulgated pursuant thereto, all official records, documents and papers pertaining to official acts, transactions or decisions, as well as research data used as basis for policy development

of the Commission shall be made accessible to the public.

Sec. 46. **Officers within the NCIP.**- The NCIP shall have the following offices which shall be responsible for the implementation of the policies herein after provided:

- a. **Ancestral Domains Office** - The Ancestral Domain Office shall be responsible for the identification, delineation and recognition of ancestral land/domains. It shall also be responsible for the management of ancestral lands/domains in accordance with the master plans as well as the implementation of the ancestral domain rights of the ICCs/IPs as provided in Chapter III of this Act. It shall also issue, upon the free and prior informed consent of the ICCs/IPs concerned, certification prior to the grant of any license, lease or permit for the exploitation of natural resources affecting the interests of ICCs/IPs in protecting the territorial integrity of all ancestral domains. It shall likewise perform such other functions as the Commission may deem appropriate and necessary;
- b. **Office on Policy, Planning and Research** - The Office on Policy, Planning and Research shall be responsible for the formulation of appropriate policies and programs for ICCs/IPs such as, but not limited to, the development of a Five-Year Master Plan for the ICCs/IPs. Such plan shall undergo a process such that every five years, the Commission shall endeavor to assess the plan and make ramifications in accordance with the changing situations. The Office shall also undertake the documentation of customary law and shall establish and maintain a Research Center that would serve as a depository of ethnographic information for monitoring, evaluation and policy formulation. It shall assist the legislative branch of the national government in the formulation of appropriate legislation benefiting ICCs/IPs.
- c. **Office of Education, Culture and Health** - The Office on Culture, Education and Health shall be responsible for the effective implementation of the education, cultural and related rights as provided in this Act. It shall assist, promote and support community schools, both formal and non-formal, for the benefit of the local indigenous community, especially in areas where existing educational facilities are not accessible to members of the indigenous group. It shall administer all scholarship programs and other educational rights intended for ICC/IP beneficiaries in coordination with the Department of Education, Culture and Sports and the Commission on Higher Education. It shall undertake, within the limits of available appropriation, a special program which includes language and vocational training, public health and family assistance program and related subjects.

It shall also identify ICCs/IPs with potential training in the health profession and encourage and assist them to enroll in schools of medicine, nursing, physical therapy and other allied courses pertaining to the health

shall have the right to apply for the issuance of a Certificate of Ancestral Domain Title (CADT) over the area without going through the process outlined hereunder;

- b. Petition for Delineation - The process of delineating a specific perimeter may be initiated by the NCIP with the consent of the ICC/IP concerned, or through a Petition for Delineation filed with the NCIP, by a majority of the members of the ICCs/IPs;
- c. Delineation Paper - The official delineation of ancestral domain boundaries including census of all community members therein, shall be immediately undertaken by the Ancestral Domains Office upon filing of the application by the ICCs/IPs concerned. Delineation will be done in coordination with the community concerned and shall at all times include genuine involvement and participation by the members of the communities concerned;
- d. Proof required - Proof of Ancestral Domain Claims shall include the testimony of elders or community under oath, and other documents directly or indirectly attesting to the possession or occupation of the area since time immemorial by such ICCs/IPs in the concept of owners which shall be any one (1) of the following authentic documents:
 1. Written accounts of the ICCs/IPs customs and traditions;
 2. Written accounts of the ICCs/IPs political structure and institution;
 3. Pictures showing long term occupation such as those of old improvements, burial grounds, sacred places and old villages;
 4. Historical accounts, including pacts and agreements concerning boundaries entered into by the ICCs/IPs concerned with other ICCs/IPs;
 5. Survey plans and sketch maps;
 6. Anthropological data;
 7. Genealogical surveys;
 8. Pictures and descriptive histories of traditional communal forests and hunting grounds;
 9. Pictures and descriptive histories of traditional landmarks such as mountains, rivers, creeks, ridges, hills, terraces and the like; and
 10. Write-ups of names and places derived from the native dialect of the community.
- e. Preparation of Maps - On the basis of such investigation and the findings of fact based thereon, the Ancestral Domains Office of the NCIP shall prepare a perimeter map, complete with technical descriptions, and a description of the natural features and landmarks embraced therein;
- f. Report of Investigation and Other Documents - A complete copy of the preliminary census and a report of investigation, shall be prepared by the Ancestral Domains Office of the NCIP;
- g. Notice and Publication - A copy of each document, including a translation in the native language of the ICCs/IPs concerned shall be posted

in a prominent place therein for at least fifteen (15) days. A copy of the document shall also be posted at the local, provincial and regional offices of the NCIP, and shall be published in a newspaper of general circulation once a week for two (2) consecutive weeks to allow other claimants to file opposition thereto within fifteen (15) days from the date of such publication: Provided, That in areas where no such newspaper exists, broadcasting in a radio station will be a valid substitute: Provided, further, That mere posting shall be deemed sufficient if both newspaper and radio station are not available;

- h. Endorsement to NCIP - Within fifteen (15) days from publication, and of the inspection process, the Ancestral Domains Office shall prepare a report to the NCIP endorsing a favorable action upon a claim that is deemed to have sufficient proof. However, if the proof is deemed insufficient, the Ancestral Domains Office shall require the submission of additional evidence: Provided, That the Ancestral Domains Office shall reject any claim that is deemed patently false or fraudulent after inspection and verification: Provided, further, That in case of rejection, the Ancestral Domains Office shall give the applicant due notice, copy furnished all concerned, containing the grounds for denial. The denial shall be appealable to the NCIP: Provided, furthermore, That in cases where there are conflicting claims, the Ancestral Domains Office shall cause the contending parties to meet and assist them in coming up with a preliminary resolution of the conflict, without prejudice to its full adjudication according to the selection below.
- i. Turnover of Areas Within Ancestral Domains Managed by Other Government Agencies - The Chairperson of the NCIP shall certify that the area covered is an ancestral domain. The secretaries of the Department of Agrarian Reform, Department of Environment and Natural Resources, Department of the Interior and Local Government, and Department of Justice, the Commissioner of the National Development Corporation, and any other government agency claiming jurisdiction over the area shall be notified thereof. Such notification shall terminate any legal basis for the jurisdiction previously claimed;
- j. Issuance of CADT - ICCs/IPs whose ancestral domains have been officially delineated and determined by the NCIP shall be issued a CADT in the name of the community concerned, containing a list of all those identified in the census; and
- k. Registration of CADTs - The NCIP shall register issued certificates of ancestral domain titles and certificates of ancestral lands titles before the Register of Deeds in the place where the property is situated.

Sec. 53. Identification, Delineation and Certification of Ancestral Lands.-

- a. The allocation of lands within any ancestral domain to individual or indigenous corporate (family or clan) claimants shall be left to the ICCs/IPs concerned to decide in accordance with customs and traditions;
- b. Individual and indigenous corporate claimants of ancestral lands which are not within ancestral domains, may have their claims officially established by filing applications for the identification and delineation of their claims with the Ancestral Domains Office. An individual or recognized head of a family or clan may file such application in his behalf or in behalf of his family or clan, respectively;
- c. Proofs of such claims shall accompany the application form which shall include the testimony under oath of elders of the community and other documents directly or indirectly attesting to the possession or occupation of the areas since time immemorial by the individual or corporate claimants in the concept of owners which shall be any of the authentic documents enumerated under Sec. 52 (d) of this act, including tax declarations and proofs of payment of taxes;
- d. The Ancestral Domains Office may require from each ancestral claimant the submission of such other documents, Sworn Statements and the like, which in its opinion, may shed light on the veracity of the contents of the application/claim;
- e. Upon receipt of the applications for delineation and recognition of ancestral land claims, the Ancestral Domains Office shall cause the publication of the application and a copy of each document submitted including a translation in the native language of the ICCs/IPs concerned in a prominent place therein for at least fifteen (15) days. A copy of the document shall also be posted at the local, provincial, and regional offices of the NCIP and shall be published in a newspaper of general circulation once a week for two (2) consecutive weeks to allow other claimants to file opposition thereto within fifteen (15) days from the date of such publication: Provided, That in areas where no such newspaper exists, broadcasting in a radio station will be a valid substitute: Provided, further, That mere posting shall be deemed sufficient if both newspapers and radio station are not available
- f. Fifteen (15) days after such publication, the Ancestral Domains Office shall investigate and inspect each application, and if found to be meritorious, shall cause a parcellary survey of the area being claimed. The Ancestral Domains office shall reject any claim that is deemed patently false or fraudulent after inspection and verification. In case of rejection, the Ancestral Domains office shall give the applicant due notice, copy furnished all concerned, containing the grounds for denial. The denial shall be appealable to the NCIP. In case of conflicting claims among individual or indigenous corporate claimants, the Ancestral domains Office shall cause the contending parties to meet and assist them in coming up

- with a preliminary resolution of the conflict, without prejudice to its full adjudication according to Sec. 62 of this Act. In all proceedings for the identification or delineation of the ancestral domains as herein provided, the Director of Lands shall represent the interest of the Republic of the Philippines; and
- g. The Ancestral Domains Office shall prepare and submit a report on each and every application surveyed and delineated to the NCIP, which shall, in turn, evaluate or corporate (family or clan) claimant over ancestral lands.

Sec. 54. *Fraudulent Claims.*- The Ancestral Domains Office may, upon written request from the ICCs/IPs, review existing claims which have been fraudulently acquired by any person or community. Any claim found to be fraudulently acquired by, and issued to, any person or community may be cancelled by the NCIP after due notice and hearing of all parties concerned.

Sec. 55. *Communal Rights.*- Subject to Section 56 hereof, areas within the ancestral domains, whether delineated or not, shall be presumed to be communally held: Provide, That communal rights under this Act shall not be construed as co-ownership as provided in Republic Act. No. 386, otherwise known as the New Civil Code.

Sec. 56. *Existing Property Rights Regimes.*- Property rights within the ancestral domains already existing and/or vested upon effectivity of this Act, shall be recognized and respected.

Sec. 57. *Natural Resources within Ancestral Domains.*- The ICCs/IPs shall have the priority rights in the harvesting, extraction, development or exploitation of any natural resources within the ancestral domains. A non-member of the ICCs/IPs concerned may be allowed to take part in the development and utilization of the natural resources for a period of not exceeding twenty-five (25) years renewable for not more than twenty-five (25) years: Provided, That a formal and written agreement is entered into with the ICCs/IPs concerned or that the community, pursuant to its own decision making process, has agreed to allow such operation: Provided, finally, That the all extractions shall be used to facilitate the development and improvement of the ancestral domains.

Sec. 58. *Environmental Consideration.*- Ancestral domains or portion thereof, which are found necessary for critical watersheds, mangroves wild-life sanctuaries, wilderness, protected areas, forest cover, or reforestation as determined by the appropriate agencies with the full participation of the ICCs/IPs concerned shall be maintained, managed and developed for such purposes. The ICCs/IPs concerned shall be given the responsibility to main-

tain, develop, protect and conserve such areas with the full and effective assistance of the government agencies. Should the ICCs/IPs decide to transfer the responsibility over the areas, said decision must be made in writing. The consent of the ICCs/IPs should be arrived at in accordance with its customary laws without prejudice to the basic requirement of the existing laws on free and prior informed consent: Provided, That the transfer shall be temporary and will ultimately revert to the ICCs/IPs in accordance with a program for technology transfer: Provided, further, That no ICCs/IPs shall be displaced or relocated for the purpose enumerated under this section without the written consent of the specific persons authorized to give consent.

Sec. 59. **Certification Precondition.**- all department and other governmental agencies shall henceforth be strictly enjoined from issuing, renewing, or granting any concession, license or lease, or entering into any production-sharing agreement, without prior certification from the NCIP that the area affected does not overlap with any ancestral domain. Such certificate shall only be issued after a field-based investigation is conducted by the Ancestral Domain Office of the area concerned: Provided, That no certificate shall be issued by the NCIP without the free and prior informed and written consent of the ICCs/IPs concerned: Provided, further, That no department, government agency or government-owned or -controlled corporation may issue new concession, license, lease, or production sharing agreement while there is pending application CADT: Provided, finally, That the ICCs/IPs shall have the right to stop or suspend, in accordance with this Act, any project that has not satisfied the requirement of this consultation process.

Sec. 60. **Exemption from Taxes.**- All lands certified to be ancestral domains shall be exempt from real property taxes, specially levies, and other forms of exaction except such portion of the ancestral domains as are actually used for large-scale agriculture, commercial forest plantation and residential purposes and upon titling by other by private person: Provided, that all exactions shall be used to facilitate the development and improvement of the ancestral domains.

Sec. 61. **Temporary Requisition Powers.**- Prior to the establishment of an institutional surveying capacity whereby it can effectively fulfill its mandate, but in no case beyond three (3) years after its creation, the NCIP is hereby authorized to request the Department of Environment and Natural Resources (DENR) survey teams as well as other equally capable private survey teams, through a Memorandum of Agreement (MOA), to delineate ancestral domain perimeters. The DENR Secretary shall accommodate any such request within one (1) month of its issuance: Provided, That the Memorandum of Agree-

ment shall stipulate, among others, a provision for technology transfer to the NCIP.

Sec. 62. **Resolution of Conflicts.**- In cases of conflicting interest, where there are adverse claims within the ancestral domains as delineated in the survey plan, and which cannot be resolved, the NCIP shall hear and decide, after notice to the proper parties, the disputes arising from the delineation of such ancestral domains: Provided, That if the dispute is between and/or among ICCs/IPs regarding the traditional boundaries of their respective ancestral domains, customary process shall be followed. The NCIP shall promulgate the necessary rules and regulations to carry out its adjudicatory functions: Provided, further, That in any decision, order, award or ruling of the NCIP on any ancestral domain dispute or on any matter pertaining to the application, implementation, enforcement and interpretation of this Act may be brought for Petition for Review to the Court of Appeals within fifteen (15) days from receipt of a copy thereof.

Sec. 63. **Applicable Laws.**- Customary laws, traditions and practices of the ICCs/IPs of the land where the conflict arises shall be applied first with respect to property rights, claims and ownerships, hereditary succession and settlement of land disputes. Any doubt or ambiguity in the application of laws shall be resolved in favor of the ICCs/IPs.

Sec. 64. **Remedial Measures.**- Expropriation may be resorted to in the resolution of conflicts of interest following the principle of the "common good". The NCIP shall take appropriate legal action for the cancellation of officially documented titles which were acquired illegally: Provided, That such procedure shall ensure that the rights of possessors in good faith shall be respected: Provided, further, That the action for cancellation shall be initiated within two (2) years from the effectivity of this Act: Provided, finally, That the action for reconveyance shall be a period of ten (10) years in accordance with existing laws.

CHAPTER IX JURISDICTION AND PROCEDURES FOR ENFORCEMENT OF RIGHTS

Sec. 65. **Primary of Customary Laws and Practices.**- When disputes involve ICCs/IPs, customary laws and practices shall be used to resolve the dispute.

Sec. 66. **Jurisdiction of the NCIP.**- The NCIP, through its regional offices, shall have jurisdiction over all claims and disputes involving rights of ICCs/

IPs; Provided, however, That no such dispute shall be brought to the NCIP unless the parties have exhausted all remedies provided under their customary laws. For this purpose, a certification shall be issued by the Council of Elders/Leaders who participated in the attempt to settle the dispute that the same has not been resolved, which certification shall be a condition precedent to the filing of a petition with the NCIP.

Sec. 67. *Appeals to the Court of Appeals.*- Decisions of the NCIP shall be appealable to the Court of Appeals by way of a petition for review.

Sec. 68. *Execution of Decisions, Awards, Orders.*- Upon expiration of the period here provided and no appeal is perfected by any of the contending parties, the Hearing Officer of the NCIP, on its own initiative or upon motion by the prevailing party, shall issue a writ of execution requiring the sheriff or the proper officer to execute final decisions, orders or awards of the Regional Hearing Officer of the NCIP.

Sec. 69. *Quasi-Judicial Powers of the NCIP.*- The NCIP shall have the power and authority:

- a. To promulgate rules and regulations governing the hearing and disposition of cases filed before it as well as those pertaining to its internal functions and such rules and regulations as may be necessary to carry out the purposes of this Act;
- b. To administer oaths, summon the parties to a controversy, issue subpoenas requiring the attendance and testimony of witnesses or the production of such books, papers, contracts, records, agreements and other document of similar nature as may be material to a just determination of the matter under investigation or hearing conducted in pursuance of this Act;
- c. To hold any person in contempt, directly or indirectly, and impose appropriate penalties therefor; and
- d. To enjoin any or all acts involving or arising from any case pending therefore it which, if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social or economic activity.

Sec. 70. *No restraining Order or Preliminary Injunction* - No inferior court of the Philippines shall have the jurisdiction to issue any restraining order or writ of preliminary injunction against the NCIP or any of its duly authorized or designated offices in any case, dispute or controversy to, or interpretation of this Act and other pertinent laws relating to ICCs/IPs and ancestral domains.

CHAPTER IX ANCESTRAL DOMAINS FUND

Sec. 71. *Ancestral Domains Fund.*- There is hereby created a special fund, to be known as the Ancestral Domains Fund, an initial amount of the One Hundred thirty million pesos (P130,000,000) to cover compensation for expropriated lands, delineation and development of ancestral domains. An amount of Fifty million pesos (P50,000,000) shall be sourced from the gross income of the Philippine Charity Sweepstakes Office (PCSO) from its lotto operation, Ten millions pesos (P10,000,000) from the gross receipts of the travel tax of the preceding year, the fund of the Social Reform Council intended for survey and delineation of ancestral lands/domains, and such other source as the government may be deem appropriate. Thereafter such amount shall be included in the annual General Appropriations Act. Foreign as well as local funds which are made available for the ICCs/IPs through the government of the Philippines shall be coursed through the NCIP. The NCIP may also solicit and receive donations, endowments shall be exempted from income or gift taxes and all other taxes, charges or fees imposed by the government or any political subdivision or instrumentality thereof.

CHAPTER XI PENALTIES

Sec. 72. *Punishable Acts and Applicable Penalties.*- Any person who commits violation of any of the provisions of this Act, such as, but not limited to, authorized and/or unlawful intrusion upon any ancestral lands or domains as stated in Sec. 10, Chapter III, or shall commit any of the prohibited acts mentioned in Sections 21 and 24, Chapter V, Section 33, Chapter VI hereof, shall be punished in accordance with the customary laws of the ICCs/IPs concerned: Provided, That no such penalty shall be cruel, degrading or inhuman punishment: Provided, further, That neither shall the death penalty or excessive fines be imposed. This provision shall be without prejudice to the right of any ICCs/IPs to avail of the protection of existing laws. In which case, any person who violates any provision of this Act shall, upon conviction, be punished by imprisonment of not less than nine (9) months but not more than twelve (12) years or a fine not less than One hundred thousand pesos (P100,000) nor more than Five hundred thousand pesos (P500,000) or both such fine and imprisonment upon the discretion of the court. In addition, he shall be obliged to pay to the ICCs/IPs concerned whatever damage may have been suffered by the latter as a consequence of the unlawful act.

Sec. 73. *Persons Subject to Punishment.*- If the offender is a juridical per-

son, all officers such as, but not limited to, its president, manager, or head of office responsible for their unlawful act shall be criminally liable therefor, in addition to the cancellation of certificates of their registration and/or license: Provided, That if the offender is a public official, the penalty shall include perpetual disqualification to hold public office.

CHAPTER XII

MERGER OF THE OFFICE FOR NORTHERN CULTURAL COMMUNITIES (ONCC) AND THE OFFICE FOR SOUTHERN CULTURAL COMMUNITIES (OSCC)

Sec. 74. *Merger of ONCC/OSCC.*- The Office for Northern Cultural Communities (ONCC) and the Office of Southern Cultural Communities (OSCC), created under Executive Order Nos. 122-B and 122-C respectively, are hereby merged as organic offices of the NCIP and shall continue to function under a revitalized and strengthened structures to achieve the objectives of the NCIP: Provided, That the positions of Regional Directors and below, are hereby phased-out upon the effectivity of this Act: Provided, further, That officials and employees of the phased-out offices who may be qualified may apply for reappointment with the NCIP and may be given prior rights in the filing up of the newly created positions of NCIP, subject to the qualifications set by the Placement Committee: Provided, furthermore, That in the case where an indigenous person and a non-indigenous person with similar qualifications apply for the same position, priority shall be given to the former. Officers and employees who are to be phased-out as a result of the merger of their offices shall be entitled to gratuity a rate equivalent to one and a half (1 1/2) months salary for every year of continuous and satisfactory service rendered or the equivalent nearest fraction thereof favorable to them on the basis of the highest salary received. If they are already entitled to retirement benefits or the gratuity herein provided. Officers and employees who may be reinstated shall refund such retirement benefits or gratuity received: Provided, finally That absorbed personnel must still meet the qualifications and standards set by the Civil Service and the Placement Committee herein created.

Sec. 75. *Transition Period.*- The ONCC/OSCC shall have a period of six (6) months from the effectivity of this Act within which to wind up its affairs and to conduct audit of its finances.

Sec. 76. *Transfer of Assets/Properties.*- All real and personal properties which are vested in, or belonging to, the merged offices as aforesaid shall be transferred to the NCIP without further need of conveyance, transfer or assignment and shall be held for the same purpose as they were held by the

former offices: Provided, That all contracts, records and documents shall be transferred to the NCIP. All agreements and contracts entered into by the merged offices shall remain in full force and effect unless otherwise terminated, modified or amended by the NCIP.

Sec. 77. *Placement Committee.*- Subject to rules on government reorganization, a Placement Committee shall be created by the NCIP, in coordination with the Civil Service Commission, which shall assist in the judicious selection and placement of personnel in order that the best qualified and most deserving persons shall be appointed in the reorganized agency. The placement Committee shall be composed of seven (7) commissioners and an ICCs/IPs representative from each of the first and second level employees association in the Offices for Northern and Southern Cultural Communities (ONCC/OSCC), nongovernment organizations (NGOs) who have served the community for at least five (5) years and peoples organizations (POs) with at least five (5) years of existence. They shall be guided by the criteria of retention and appointment to be prepared by the consultative body and by the pertinent provisions of the civil service law.

CHAPTER XIII

FINAL PROVISIONS

Sec. 78. *Special Provision.*- The City of Baguio shall remain to be governed by its Chapter and all lands proclaimed as part of its townsite reservation shall remain as such until otherwise reclassified by appropriate legislation: Provided, That prior land rights and titles recognized and/or required through any judicial, administrative or other processes before the effectivity of this Act shall remain valid: Provided, further, That this provision shall not apply to any territory which becomes part of the City of Baguio after the effectivity of this Act.

Sec. 79. *Appropriations.*- The amount necessary to finance the initial implementation of this Act shall be charged against the current year's appropriation of the ONCC and the OSCC. Thereafter, such sums as may be necessary for its continued implementation shall be included in the annual General Appropriations Act.

Sec. 80. *Implementing Rules and Regulations.*- Within sixty (60) days immediately after appointment, the NCIP shall issue the necessary rules and regulations, in consultation with the Committees on National Cultural Communities of the House of Representatives and the Senate, for the effective implementation of this Act.

Sec. 81. **Saving Clause.**- This Act will not in any manner adversely affect the rights and benefits of the ICCs/IPs under other conventions, recommendations, international treaties, national laws, awards, customs and agreements.

Sec. 82. **Separability Clause.**- In case any provision of this Act or any portion thereof is declared unconstitutional by a competent court, other provisions shall not be affected thereby.

Sec. 83. **Repealing Clause.**- Presidential Decree NO. 410, Executive Order Nos. 122-B and 122-C, and all other laws, decrees, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

Sec. 84. **Effectivity.**- This Act shall take effect fifteen days (15) days upon its publication in the Official Gazette or in any two (2) newspapers of general circulation.

Approved: 29 October 1997.

REPUBLIC ACT NO. 8550

AN ACT PROVIDING FOR THE DEVELOPMENT, MANAGEMENT AND CONSERVATION OF THE FISHERIES AND AQUATIC RESOURCES, INTEGRATING ALL LAWS PERTINENT THERETO, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled.

SEC. 1. **Title.** This Act shall be known as "The Philippine Fisheries Code of 1998."

CHAPTER I DECLARATION OF POLICY AND DEFINITIONS

- SEC. 2. **Declaration of policy.** It is hereby declared the policy of the State:
- (a) To achieve food security as the overriding consideration in the utilization, management, development, conservation and protection of fishery resources in order to provide the food needs of the population. A flexible policy towards the attainment of food security shall be adopted in response to changes in demographic trends for fish, emerging trends in the trade of fish and other aquatic products in domestic and international markets, and the law of supply and demand;
 - (b) To limit access to the fishery and aquatic resources of the Philippines for the exclusive use and enjoyment of Filipino citizens;
 - (c) To ensure the rational and sustainable development, management and conservation of the fishery and aquatic resources in Philippine waters including the Exclusive Economic Zone (EEZ) and in adjacent high seas, consistent with the primordial objective of maintaining a sound ecological balance, protecting and enhancing the quality of environment;
 - (d) To protect the rights of fisherfolk, in the preferential use of municipal waters. Such preferential use, shall be based on, but not limited to, Maximum Sustainable Yield (MSY) or Total Allowable Catch (TAC) on the basis of resources and ecological conditions, and shall be consistent with our commitments under international treaties and agreements;
 - (e) To provide support to the fishery sector, primarily to the municipal fisherfolk, including women and youth sectors, through appropriate technology and research, adequate financial, production, construction of post-harvest facilities, marketing assistance, and other services. The protection of municipal fisherfolk against foreign intrusion shall extend to offshore fishing grounds. Fishworkers shall receive a just share for their labor in

the utilization of marine and fishery resources;

- (f) to manage fishery and aquatic resources, in a manner consistent with the concept of an integrated coastal area management in specific natural fishery management areas, appropriately supported by research, technical services and guidance provided by the State; and
- (g) to grant the private sector the privilege to utilize fishery resources under the basic concept that the grantee, licensee or permittee thereof shall not only be a privileged beneficiary of the State but also an active participant and partner of the Government in the sustainable development, management, conservation and protection of the fishery and aquatic resources of the country.

The State shall ensure the attainment of the following objectives of the fishery sector.

- (1) Conservation, protection and sustained management of the country's fishery and aquatic resources;
- (2) Poverty alleviation and the provision of supplementary livelihood among municipal fisherfolk;
- (3) Improvement of productivity of aquaculture within ecological limits;
- (4) Optimal utilization of offshore and deep-sea resources; and
- (5) Upgrading of post-harvest technology.

SEC. 3. *Application of its Provisions.* - The provisions of this Code shall be enforced in:

- (a) All Philippine waters including other waters over which the Philippines has sovereignty and jurisdiction, and the country's 200-nautical mile Exclusive Economic Zone (EEZ) and continental shelf;
- (b) All aquatic and fishery resources whether inland, coastal or offshore fishing areas, including but not limited to fishponds, fish pens/ cages; and
- (c) All lands devoted to aquaculture, or businesses and activities relating to fishery, whether private or public lands.

SEC. 4. *Definition of Terms.* - As used in this Code, the following terms and phrases shall mean as follows:

- (1) *Ancillary Industries.* - firms or companies related to the supply, construction and maintenance of fishing vessels, gears, nets and other fishing paraphernalia; fishery machine shops; and other facilities such as hatcheries, nurseries, feed plants, cold storage and refrigeration, processing plants and other pre-harvest and post-harvest facilities.
- (2) *Appropriate Fishing Technology.* - adaptable technology, both in fishing and ancillary industries, that is ecologically sound, locally source-based and labor intensive.

- (3) *Aquaculture* - fishery operations involving all forms of raising and culturing fish and other species in fresh, brackish and marine water areas.
- (4) *Aquatic Pollution* - the introduction by human or machine, directly or indirectly, of substances or energy to the aquatic environment which result or is likely to result in such deleterious effects as to harm living and non-living aquatic resources, pose potential and/or real hazard to human health, hindrance to aquatic activities such as fishing and navigation, including dumping/disposal of waste and other marine litters, discharge of petroleum or residual products of petroleum or carbonaceous materials/substances, and other, radioactive, noxious or harmful liquid, gaseous or solid substances, from any water, land or air transport or other-human-made structure. Deforestation, unsound agricultural practices such as the use of banned chemicals and excessive use of chemicals, intensive use of artificial fish feed, and wetland conversion, which cause similar hazards and deleterious effects shall also constitute aquatic pollution.
- (5) *Aquatic Resources* - includes fish, all other aquatic flora and fauna and other living resources of the aquatic environment, including, but not limited to salt and corals.
- (6) *Artificial Reefs* - any structure of natural or man-made materials placed on a body of water to serve as shelter and habitat, source of food, breeding area for fishery species and shoreline protection.
- (7) *Catch Ceilings* - refer to the annual catch limits allowed to be taken, gathered or harvested from any fishing area in consideration of the need to prevent overfishing and harmful depletion of breeding stocks of adequate organisms.
- (8) *Closed Season* - the period during which the taking of specified fishery species by a specified fishing gear is prohibited in a special area or areas in Philippine waters.
- (9) *Coastal Area/Zone* - is a band of dry land and adjacent ocean space (water and submerged land) in which terrestrial processes and uses directly affect oceanic extent may include areas within a landmark limit of one (1) kilometer from the shoreline at high tide to include mangrove swamps, brackish water ponds, nipa swamps, estuarine rivers, sandy beaches and other areas within a seaward limit of 200 meters isobath to include coral reefs, algal flats, seagrass beds and other soft-bottom areas.
- (10) *Commercial Fishing* - the taking of fishery species by passive or active gear for trade, business or profit beyond subsistence or sports fishing, to be further classified as:
 - (1) *Small Scale commercial fishing* - fishing with passive or active gear utilizing fishing vessel of 3.1 gross tons (GT) up to twenty (20) GT;
 - (2) *Medium Scale commercial fishing* - fishing utilizing active gears and vessels of 20.1 GT up to one hundred fifty (150) GT; and

- (3) *Large scale commercial fishing* - fishing utilizing active gears and vessels of more than one hundred fifty (150) GT.
- (11) *Commercial Scale* - a scheme of producing a minimum harvest per hectare per year of milkfish or other species including those raised in pens, cages, and tanks to be determined by the Department in consultation with the concerned sectors;
- (12) *Coral* - the hard calcareous substance made up of the skeleton of marine coelenterate polyps which include reefs, shelves and atolls or any of the marine coelenterate animals living in colonies where their skeletons form a stony mass. They include: (a) skeletons of anthozoan coelenterates characterized as having a rigid axis of compact calcareous or horny spicules, belonging to the genus corallium as represented by the red, pink, and white corals which are considered precious corals; (b) skeletons of anthozoan coelenterates characterized by thorny, horny axis such as the antipatharians represented by the black corals which are considered semi-precious corals; and (c) ordinary corals which are any kind of corals that are not precious nor semi-precious.
- (13) *Coral Reef* - a natural aggregation of coral skeleton, with or without living coral polyps, occurring in intertidal and subtidal marine waters.
- (14) *Demarcated Areas* - boundaries defined by markers and assigned exclusively to specific individuals or organizations for certain specified and limited uses such as;
- (a) Aquaculture, sea ranching and sea farming;
 - (b) Fish aggregating devices;
 - (c) Fixed and passive fishing gears; and
 - (d) Fry and fingerlings gathering.
- (15) *Department* - shall mean the Department of Agriculture.
- (16) *Electrofishing* - the use of electricity generated by batteries, electric generators and other source of electric power to kill, stupefy, disable or render unconscious fishery species, whether or not the same are subsequently recovered.
- (17) *Endangered, Rare and/or Threatened Species* - aquatic plants, animals, including some varieties of corals and sea shells in danger of extinction as provided for in existing fishery laws, rules and regulations or in the Protected Areas and Wildlife Bureau of the Department of Environment and Natural Resources (DENR) and in the Convention on the International Trade of Endangered Species of Flora and Fauna (CITES).
- (18) *Exclusive Economic Zone (EEZ)* - an area beyond and adjacent to the territorial sea which shall not extend beyond 200 nautical miles from the baselines as defined under existing laws.
- (19) *FARMCs* - the fisheries and Aquatic Resources Management Councils.
- (20) *Farm-to-Market Roads* - shall include roads linking the fisheries produc-

- tion sites, coastal landing points and other post-harvest facilities to major market and arterial roads and highways.
- (21) *Fine Mesh Net* - net with mesh size of less than three centimeters (3 cm) measured between two (2) opposite knots of a full mesh when stretched or as otherwise determined by the appropriate government agency.
- (22) *Fish and Fishery/Aquatic Products* - include not only finfish but also mollusks, crustaceans, echinoderms, marine mammals, and all other species of aquatic living resources in any form.
- (23) *Fish Cage* - refers to an enclosure which is either stationary or floating made up of nets or screens sewn or fastened together and installed in the water with opening at the surface or covered and held in a place by wooden/bamboo posts or various types of anchors and floats.
- (24) *Fish Corral or "baklad"* - a stationary weir or trap devised to intercept and capture fish consisting of rows of bamboo stakes, plastic nets and other materials fenced with split bamboo mattings or wire mattings with one or more enclosures, usually with easy entrance but difficult exit, and with or without leaders to direct the fish to the catching chambers, purse or bags.
- (25) *Fish fingerlings* - a stage in the life cycle of the fish measuring to about 6-13 cm. Depending on the species.
- (26) *Fish fry* - a stage at which a fish has just been hatched usually with sizes from 1-2.5 cm.
- (27) *Fish pen* - an artificial enclosure constructed within a body of water for culturing fish and fishery/aquatic resources made up of poles closely arranged in an enclosure with wooden materials, screen or nylon netting to prevent escape of fish.
- (28) *Fisherfolk* - people directly or personally engaged in taking and/or culturing and processing fishery and/or aquatic resources.
- (29) *Fisherfolk Cooperative* - a duly registered association of fisherfolk with a common bond of interest, who have voluntarily joined together to achieve a lawful common social or economic end, making equitable contribution to the capital requirement and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles.
- (30) *Fisherfolk Organization* - an organized group, association, federation, alliance or an institution of fisherfolk which has at least fifteen (15) members, a set of officers, a constitution and by-laws, an organizational structure and a program of action.
- (31) *Fisheries* - refers to all activities relating to the act or business of fishing, culturing, preserving, processing, marketing, developing, conserving and managing aquatic resources and the fishery areas, including the privilege to fish or take aquatic resource thereof.

- (32) *Fish Pond* – a land-based facility enclosed with earthen or stone material to impound water for growing fish.
- (33) *Fishing Boat/Gear License* – a permit to operate specific types of fishing boat/gear for specific duration in areas beyond municipal waters for demersal or pelagic fishery resources.
- (34) *Fishery Management Areas* – a bay, gulf, lake or any other fishery areas which may be delineated for fishery resource management purposes.
- (35) *Fishery Operator* – one who owns and provides the means including land, labor, capital, fishing gears and vessels, but does not personally engage in fishery.
- (36) *Fishery Refuge and Sanctuaries* – a designated area where fishing or other forms of activities which may damage the ecosystem of the area is prohibited and human access may be restricted.
- (37) *Fishery Reserve* – a designated area where activities are regulated and set for educational and research purposes.
- (38) *Fishery Species* – all aquatic flora and fauna including, but not restricted to, fish, algae, coelenterates, mollusks, crustaceans, echinoderms and cetaceans.
- (39) *Fishing* – the taking of fishery species from their wild state or habitat, with or without the use of fishing vessels.
- (40) *Fishing gear* – any instrument or device and its accessories utilized in taking fish and other fishery species.
 - (a) *Active fishing gear* – is a fishing device characterized by gear movement, and/or the pursuit of the target species by towing, lifting, and pushing the gears, surrounding, covering, dredging, pumping and scaring the target species to impoundments; such as, but not limited to, trawl, purse seines, Danish seines, bag nets, paaling, drift gill net and tuna longline.
 - (b) *Passive fishing gear* – is characterized by the absence of gear and/or the pursuit of the target species; such as, but not limited to, hook and line, fishpots, traps and gill nets across the path of the fish.
- (41) *Fishing vessel* – any boat, ship, or other watercraft equipped to be used for taking of fishery species or aiding or assisting one, (1) or more vessels in the performance of any activity relating to fishing, including, but not limited to, preservation, supply, storage, refrigeration, transportation and/or processing.
- (42) *Fishing with Explosives* – the use of dynamite, other explosives or other chemical compounds that contains combustible elements or ingredients which upon ignition by friction, concussion, percussion or detonation of all parts of the compound, will kill, stupefy, disable or render unconscious any fishery species. It also refers to the use of any other substance and/or device which causes an explosion that is capable of producing the said

- harmful effects on any fishery species and aquatic resources and capable of damaging and altering the natural habitat.
- (43) *Fishing with Naxious or Poisonous Substances* – the use of any substance, plant extracts or juice thereof, sodium cyanide and/or cyanide compounds or other chemical either in a raw or processed form, harmful, or harmless to human beings, which will kill, stupefy, disable or render unconscious any fishery species and aquatic resources and capable of damaging and altering the natural habitat.
- (44) *Fishworker* – a person regularly or not regularly employed in commercial fishing and related industries, whose income is either in wage, profit-sharing or stratified sharing basis, including those working in fish pens, fish cages, fish corals/traps, fishponds, prawn farms, sea farms, salt beds, fish ports, fishing boat or trawlers, or fish processing and/or packing plants. Excluded from this category are administrations, security guards and overseas.
- (45) *Food Security* – refers to any plan, policy or strategy aimed at ensuring adequate supplies of appropriate food at affordable prices. Food security may be achieved through self-sufficiency (i.e. ensuring adequate food supplies from domestic production), through self-reliance (i.e. ensuring adequate food supplies through a combination of domestic production and importation), or through pure importation.
- (46) *Foreshore Land* – a string of land margining a body of water; the part of a seashore between the low-water line usually at the seaward margin of a low tide terrace and the upper limit of wave wash at high tide usually marked by a beach scarp or benn.
- (47) *Fully-developed Fishpond Areas* – A clean leveled area enclosed by dikes, at least one foot higher than the highest floodwater level in the locality and strong enough to resist pressure at the highest flood tide; consists of at least a nursery pond, a transition pond, a rearing pond or a combination of any or all said classes of ponds, and a functional water control system and producing in a commercial scale.
- (48) *Grass Tonnage* – includes the underdeck tonnage, permanently enclosed spaces above the tonnage deck, except for certain exemptions in broad terms, all the vessel's closed in spaces expressed in volume terms on the bases of on hundred cubic feet (that equals one gross ton).
- (49) *Inland Fishery* – the freshwater fishery and brackishwater fishponds.
- (50) *Lake* – an inland body of water, an expanded part of a river, a reservoir formed by a dam, or a lake basin intermittently or formerly covered by water.
- (51) *Limited Access* – a fishery policy by which a system of equitable resource use and allocation is established by law through fishery rights granting and licensing procedure as provided by this Code.
- (52) *Mangroves* – a community of intertidal plants including all species of

trees, shrubs, vines and herbs found on coasts, swamps.

- (53) *Maximum Sustainable Yield (MSY)* – is the largest average quantity of fish that can be harvested from a fish stocks/resource within a period of time (e.g. one year) on a sustainable basis under existing environmental conditions.
- (54) *Migratory species* – refers to any fishery species which in the course of their life could travel from freshwater to marine water or vice versa, or any marine species which travel over great distances in waters of the ocean as part of their behavioral adaptation for survival and speciation:
 - (a) *Anadromous species* – marine fishes which migrate to marine areas to spawn;
 - (b) *Catadromous species* – freshwater fishes which migrate to marine areas to spawn.
- (55) *Monitoring, control, and surveillance* –
 - (a) *Monitoring* – the requirement of continuously observing: (1) fishing effort which can be expressed by the number of days or hours of fishing gears and number of fisherfolk; (2) characteristics of fishery resources; and (3) resource yields (catch);
 - (b) *Control* – the regulatory conditions (legal framework) under which the exploitation, utilization and disposition of the resources may be conducted; and
 - (c) *Surveillance* – the degree and types of observations required to maintain compliance with regulations.
- (56) *Municipal fisherfolk* – persons who are directly or indirectly engaged in municipal fishing and other related fishing activities.
- (57) *Municipal fishing* – refers to fishing within municipal waters using fishing vessel of three (3) gross tons or less, or fishing not requiring the use of fishing vessels.
- (58) *Municipal waters* – include not only streams, lakes, inland bodies of water and tidal waters within the municipality which are not included within the protected areas as defined under Republic Act No. 7586 (The NIPAS Law), public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two (2) lines drawn perpendicular to the general coastline from points where the boundary lines of the municipality touch the sea at low tide and a third line parallel with the general coastline including offshore islands and fifteen (15) kilometers from such coastline. Where two (2) municipalities are so situated on opposite shores that there is less than thirty (30) kilometers of marine waters between them, the third line shall be equally distant from opposite shore of the respective municipalities.
- (59) *Non-governmental organization (NGO)* – an agency, institution, a foundation or a group of persons whose purpose is to assist people's organiza-

- tions/associations in various ways including, but not limited to, organizing, education, training, research and/or resource accessing.
- (60) *Payao* – a fish aggregating device consisting of a floating raft anchored by a weighted line with suspended materials such as palm fronds to attract pelagic and schooling species common in deep waters.
- (61) *Pearl Farm Lease* – public waters leased for the purpose of producing cultured pearls.
- (62) *People's Organization* – a bonafide association of citizens with demonstrated capacity to promote the public interest and with identifiable leadership, membership and structure. Its members belong to a sector/s who voluntarily band themselves together to work for and by themselves for their own upliftment, development and greater good.
- (63) *Person* – natural or juridical entities such as individuals, associations, partnership, cooperatives or corporations.
- (64) *Philippine water* – include all bodies of water within the Philippine territory such as lakes, rivers, streams, creeks, brooks, ponds, swamps, lagoons, gulfs, bays and seas and other bodies of water now existing or which may hereafter exist in the provinces, cities, municipalities, and barangays and the waters around, between and connecting the islands of the archipelago regardless of their breadth and dimensions, the territorial sea, the sea beds, the insular shelves and all other waters over which the Philippines has sovereignty and jurisdiction including the 200-nautical miles Exclusive Economic Zone and the continental shelf.
- (65) *Post-harvest facilities* – these facilities include, but are not limited to, fishport, fishlanding, ice plants and cold storages, fish processing plants.
- (66) *Purse Seine* – a form of encircling net having a line at the bottom passing through rings attached to the net, which can be drawn or pursed. In general, the net is set from a boat or pair of boats around the school of fish. The bottom of the net is pulled closed with the purse line. The net is then pulled aboard the fishing boat or boats until the fish are concentrated in the bunt or fish bag.
- (67) *Resource rent* – the difference between the value of the products from harvesting a publicly owned resource less the cost of producing it, where cost includes the normal return to capital and normal return to labor.
- (68) *Sea farming* – the stocking of natural or hatchery-produced marine plants or animals, under controlled conditions, for purposes of rearing and harvesting, but not limited to commercially-important fishes, mollusks (such as pearl and giant clam culture), including seaweeds and seagrasses.
- (69) *Sea ranching* – the release of the young of fishery species reared in hatcheries and nurseries into natural bodies of water for subsequent harvest at maturity or the manipulation of fishery habitat, to encourage the growth of the wild stocks.

- (70) *Secretary* – the Secretary of the Department of Agriculture.
- (71) *Superlight* – also called magic light, is a type of light using halogen or metal halide bulb which may be located above the sea surface or submerged in the water. It consists of a ballast, regulator, electric cable and socket. The source of energy comes from a generator, battery or dynamo coupled with the main engine.
- (72) *Total Allowable Catch (TAC)* – the maximum harvest allowed to be taken during a given period of time from any fishery area, or from any fishery species or group of fishery species, or a combination of area and species and normally would not exceed the MSY.
- (73) *Trawl* – an active fishing gear consisting of a bag shaped net with or without otter boards to open its opening which is dragged or towed along the bottom or through the water columns to take fishery species by straining them from the water, including all variations and modifications of trawls (bottom, mid-water, and baby trawls) and tow nets.

CHAPTER II

UTILIZATION, MANAGEMENT, DEVELOPMENT, CONSERVATION AND ALLOCATION SYSTEM OF FISHERIES AND AQUATIC RE- SOURCES

SEC. 5. *Use of Philippine Waters.* – The use and exploitation of the fishery and aquatic resources in Philippine waters shall be reserved exclusively to Filipinos: Provided, however, That research and survey activities may be allowed under strict regulations, for purely research, scientific, technological and educational purposes that would also benefit Filipino citizens.

SEC. 6. *Fees and Other Fishery Charge.* – The rentals for fishpond areas covered by the Fishpond Lease Agreement (FLA) and license fees for Commercial Fishing Boat License (CFBL) shall be set at levels that reflect resources rent accruing from the utilization of resources and shall be determined by the Department: Provided, That the Department shall also prescribe fees and other fishery charges and issue the corresponding license or permit for fishing gear, fishing accessories and other fishery activities beyond the municipal waters: Provided, further, That the license fees of fishery activity in municipal waters shall be determined by the Local Government Units (LGUs) in consultation with the FARMCs. The FARMCs may also recommend the appropriate license fees that will be imposed.

SEC. 7. *Access to fishery Resources.* – The Department shall issue such number of licenses and permits for the conduct of fishery activities subject to the limits of the MSY of the resources as determined by scientific studies

or best available evidence. Preference shall be given to resource users in the local communities adjacent or nearest to the municipal waters.

SEC. 8. *Catch Ceiling Limitations.* – The Secretary may prescribe limitations or quota on the total quantity of fish captured, for a specified period of time and specified area based on the best available evidence. Such a catch ceiling may be imposed per species of fish whenever necessary and practicable: Provided, however, That in municipal waters and fishery management areas, and waters under the jurisdiction of special agencies, catch ceilings may be established upon the concurrence and approval or recommendation of such agency and the concerned LGU in consultation with the FARMCs for conservation or ecological purposes.

SEC. 9. *Establishment of Closed Season.* – The Secretary may declare, through public notice in at least two (2) newspaper of general circulation or in public service announcements, whichever is applicable, at least five (5) days before the declaration, a closed season in any or all Philippine waters outside the boundary of municipal waters and in bays, for conservation and ecological purposes. The Secretary may include waters under the jurisdiction of special agencies, municipal waters and bays, and/or other areas reserved for the use of the municipal fisherfolk in the area to be covered by the closed season: Provided, however, That this shall be done upon the concurrence and approval or recommendation of such special agency and the concerned LGU and FARMC: Provided, further, That in municipal waters, fishery management areas and other areas reserved for the use of the municipal fisherfolk, closed season may be established by the concerned LGU in consultation with the FARMC for conservation or ecological purposes. The FARMCs may also recommend the establishment of closed seasons in municipal waters, fisheries management and other areas reserved for the use of the municipal fisherfolk.

SEC. 10. *Introduction of Foreign Aquatic Species.* – No foreign finfish, mollusks, crustacean or aquatic plants shall be introduced in Philippine waters without a sound ecological, biological and environmental justification based on scientific studies subject to the bio-safety standards as provided for by existing laws: Provided, however, That the Department may approve the introduction of foreign aquatic species for scientific/research purposes.

SEC. 11. *Protection of Rare, Threatened and Endangered Species.* – The Department shall declare closed seasons and take conservation and rehabilitation measures to rare, threatened and endangered species, as it may determine, and shall ban the fishing and/or taking of rare, threatened and/or endangered

species, including their eggs/offspring as identified by existing laws in concurrence with concerned government agencies.

SEC. 12. *Environmental Impact Statement (EIS)*. - All government agencies as well as private corporations, firms and entities who intend to undertake activities or projects which will affect the quality of the environment shall be required to prepare a detailed Environmental Impact Statement (EIS) prior to undertaking such development activity. The preparation of the EIS shall form an integral part of the entire planning process pursuant to the provisions of Presidential Decree No. 1586 as well as its implementing rules and regulations.

SEC. 13. *Environmental Compliance Certificate (ECC)*. - All Environmental Impact Statements (EIS) shall be submitted to the Department of Environment and Natural Resources (DENR) for review and evaluation. No person, natural or juridical, shall undertake any development project without first securing an Environmental Compliance Certificate (ECC) from the Secretary of the DENR.

SEC. 14. *Monitoring, Control and Surveillance of Philippine Waters*. - A monitoring, control and surveillance system shall be established by the Department in coordination with LGUs, FARMCs, the private sector and other agencies concerned to ensure that the fisheries and aquatic resources in Philippine waters are judiciously and wisely utilized and managed on a sustainable basis and conserved for the benefit and enjoyment exclusively of Filipino citizens.

SEC. 15. *Auxiliary Invoices*. - All fish and fishery products must have an auxiliary invoice to be issued by the LGUs or their duly authorized representatives prior to their transport from their point of origin to their point of destination in the Philippines and/or export purposes upon payment of a fee to be determined by the LGUs to defray administrative costs therefor.

ARTICLE I MUNICIPAL FISHERIES

SEC. 16. *Jurisdiction of Municipality/City Governments*. - The municipal/city government shall have jurisdiction over municipal waters as defined in this Code. The municipal/city government, in conservation, development, protection, utilization, and disposition of all fish and fishery/aquatic resources within their respective municipal waters.

The municipal/city government may, in consultation with the FARMC, enact appropriate ordinances for this purpose and in accordance with the National Fisheries Policy. The ordinances enacted by the municipality and component city shall be reviewed pursuant to Republic Act No. 7160 by the sanggunian of the province which has jurisdiction over the same.

The LGUs shall also enforce all fishery laws, rules and regulations as well as valid fishery ordinances enacted by the municipal/city council.

The management of contiguous fishery resources such as bays which straddle several municipalities, cities or provinces, shall be done in an integrated manner, and shall not be based on political subdivisions of municipal waters in order to facilitate their management as single resource system. The LGUs which share or border such resources may group themselves and coordinate with each other to achieve the objectives of integrated fishery resource management. The Integrated Fisheries and Aquatic Resources Management Councils (FARMCs) established under Section 76 of this Code shall serve as the venues for close collaboration among LGUs in the management of contiguous resources.

SEC. 17. *Grant of Fishing Privileges in Municipal Waters*. - The duly registered fisherfolk organization/cooperatives shall have preference in the grant of fishery rights by the Municipal/City Council pursuant to Section 149 of the Local Government Code: Provided, That in areas where there are special agencies or offices vested with jurisdiction over municipal waters by virtue of special laws creating these agencies such as, but not limited to, the Laguna Lake Development Authority and the Palawan council for Sustainable Development, said offices and agencies shall continue to grant permits for proper management and implementation of the aforementioned structures.

SEC. 18. *Users of Municipal Waters*. - All fishery related activities in municipal waters, as defined in this Code, shall be utilized by municipal fisherfolk and their cooperatives/organizations who are listed as such in the registry of municipal fisherfolk.

The municipal or city government, however, may, through its local chief executive and acting pursuant to an appropriate ordinance, authorize or permit small and medium commercial fishing vessel to operate within the ten point one (10.1) to fifteen (15) kilometer area from the shoreline in municipal waters as defined herein, provided, that all the following are met:

- (a) No commercial fishing in municipal waters with a depth less than seven (7) fathoms as certified by the appropriate agency;

- (b) Fishing activities utilizing methods and gears that are determined to be consistent with national policies set by the Department;
- (c) Prior consultation, through public hearing, with the M/CFARMC has been conducted; and
- (d) The applicant vessel as well as the shipowner, employer, captain and crew have been certified by appropriate agency as not having violated this Code, environmental laws and related laws.

In no case shall the authorization or permit mentioned above be granted for fishing in bays as determined by the Department to be in an environmentally critical condition and during closed season as provided for in Section 9 of this Code.

SEC. 19. *Registry of Municipal Fisherfolk.* – The LGU shall maintain a registry of municipal fisherfolk, who are fishing or may desire to fish in municipal waters for the purpose of determining priorities among them, of limiting entry into the municipal waters, and of monitoring fishing activities and/or other related purposes: Provided, That the FARMC shall submit to the LGU the list of priorities for its consideration.

Such list or registry shall be updated annually or as may be necessary, and shall be posted in barangay halls or other strategic locations where it shall be open to public inspection, for the purpose of validating the correctness and completeness of the list. The LGU, in consultation with the FARMCs, shall formulate the necessary mechanisms for inclusion or exclusion procedures that be most beneficial to the resident municipal fisherfolk. The FARMCs may likewise recommend such mechanisms.

The LGU shall also maintain a registry of municipal fishing vessels by type of gear and other boat particulars with the assistance of the FARMC.

SEC. 20. *Fisherfolk Organizations and/or Cooperatives.* – Fisherfolk organizations/cooperatives whose members are listed in the registry of municipal fisherfolk, may be granted use of demarcated fishery areas to engage in fish capture, mariculture and/or fish farming: Provided, however, That an organization/cooperative member whose household is already in possession of a fishery right other than for fish capture cannot enjoy the fishing granted to the organization or cooperative.

SEC. 21. *Priority of Resident Municipal Fisherfolk.* – Resident municipal fisherfolk of the municipality concerned and their organizations/cooperatives shall have priority to exploit municipal and demarcated fishery areas of said municipality.

SEC. 22. *Demarcated Fishery Right.* – The LGU concerned shall grant demarcated fishery rights to fishery organizations/cooperatives for mariculture operation in specific areas identified by the Department.

SEC. 23. *Limited Entry Into Overfished Areas.* – Whenever it is determined by the LGUs and the Department that a municipal water is overfished based on available data or information or in danger of being overfished, and that there is a need to regenerate the fishery activities in the said waters.

SEC. 24. *Support to Municipal Fisherfolk.* – The Department and LGUs shall provide support to municipal fisherfolk through appropriate technology and research, credit, production and marketing assistance and other services such as, but not limited to training for additional/supplementary livelihood.

SEC. 25. *Rights and Privileges of Fishworkers.* – The fishworkers shall be entitled to the privileges accorded to other worker under the Labor Code, Social Security System and other benefits under other laws or social legislation for workers: Provided, That fishworkers on board any fishing vessels engaged in fishing operations are hereby covered by the Philippine Labor Code, as amended.

ARTICLE II COMERCIAL FISHERIES

SEC. 26. *Commercial Fishing Vessel License and Other Licenses.* – No person shall operate a commercial fishing vessel, pearl fishing vessel or fishing for scientific, research or educational purposes, or engage in any fishery activity, or seek employment as a fishworker or pearl diver without first securing a license from the Department, the period of which shall be prescribed by the Department: Provided, That no such license shall be required of a fishing vessel engaged in scientific, research or educational purposes within Philippine waters pursuant to an international agreement of which the Philippines is a signatory and which agreements defines the status, privileges and obligations of said vessel and its crew and non-Filipino officials of the international agency under which said vessel operates: Provided, further, That members of the crew and the non-Filipino officials of the international agency under which said vessel operates: Provided, furthermore, That members of the crew of a fishing vessel used for commercial fishing except the duly licensed and/or authorized patrons, marine engineers, radio operators and cooks shall be considered as fisherfolk: Provided, finally, That the large commercial fishing vessel license to operate only in Philippine waters seven (7) or more

fathoms deep, the depth to be certified by the NAMRIA, and subject to the conditions that may be stated therein and the rules and regulations that may be promulgated by the Department.

SEC. 27. *Persons Eligible for Commercial Fishing Vessel License.* - No commercial fishing vessel license shall be issued except to citizens of the Philippines, partnerships or to associations, cooperatives or corporations duly registered in the Philippines at least sixty percent (60%) of the capital stock of which is owned by Filipino citizens. No person to whom a license has been issued shall sell, transfer or assign, directly or indirectly, his stock or interest therein to any person not qualified to hold a license. Any such transfer, sale or assignment shall be null and void and shall not be registered in the books of the association, cooperative or corporation.

For purposes of commercial fishing, fishing vessels owned by citizens of the Philippines, partnership, corporations, cooperatives or associations qualified under this section shall secure Certificates of Philippine Registry and such other documents as are necessary for fishing operations from the concerned agencies: Provided, That the commercial fishing vessel license shall be valid for a period to be determined by the Department.

SEC. 28. *Commercial Fishing Registration.* - The registration, documentation, inspection and manning of the operation of all types of fishing vessels plying Philippine waters shall be in accordance with existing laws, rules and regulations.

SEC. 29. *Registration and Licensing of Fishing Gears Used in Commercial Fishing.* - Before a commercial fishing vessel holding a commercial fishing vessel license may begin fishing operations in Philippine waters, the fishing gear it will utilize in fishing shall be registered and a license granted therefore. The department shall promulgate guidelines to implement this provision within sixty (60) days from approval of this Code.

SEC. 30. *Renewal of Commercial Boat License.* - The commercial fishing boat license shall be renewed every three (3) years.

The owner /operator of a fishing vessel has a period of sixty (60) days prior to the expiration of the license within which to renew the same.

SEC. 31. *Report of Transfer of Ownership.* - The owner/operator of a registered fishing vessel shall notify the Department in writing of transfer of the ownership of the vessel with a copy of such document within ten (10) days

after its transfer to another person.

SEC. 32. *Fishing by Philippine Commercial Fishing Fleet in International Waters.* - Fishing vessels of Philippine registry may operate in international waters or waters of other countries which allow such fishing operations: Provided, That they comply with the safety, manning and other requirements of the Philippine Coast Guard, Maritime Industry Authority and other agencies concerned: Provided, however, That they secure an international fishing permit and certificates of clearance from the Department: Provided, further, That the fish caught by such vessels shall be considered as caught in the Philippine waters and therefore not subject to all import duties and taxes only when the same is landed in duly designated fish landings and fish ports in the Philippines: Provided, furthermore, That landing ports established by canneries, seafood processors and all fish landing sites established prior to the effectivity of this Code shall be considered authorized landing sites: Provided, finally, That fishworkers on board Philippine registered fishing vessels conducting fishing activities beyond the Philippine Exclusive Economic Zone are not considered as overseas Filipino workers.

SEC. 33. *Importation of Fishing Vessels or Construction of New Fishing Boats.* - Prior to the importation of fishing vessels and the construction of new fishing vessels, the approval/clearance of the Department must first be obtained.

SEC. 34. *Incentives for Municipal and Small-Scale Commercial Fisherfolk.* - Municipal and small-scale commercial fisherfolk shall be granted incentives which shall include, but are not limited to, the following:

- (a) At least ten percent (10%) of the credit and guarantee funds of government financing institutions shall be made available for post-harvest and marketing projects for the purpose of enhancing our fisherfolk competitiveness by reducing post-harvest losses. Qualified projects shall include, but shall not be limited to, ice plants, cold storage, canning, warehouse, transport and other related infrastructure projects and facilities; and
- (b) The Department shall undertake the following programs:
 - (1) a capability-building program for targeted parties shall be developed by the Department to promote greater bankability and credit worthiness of municipal and small-scale commercial fishers. Such program shall include organizing activities, technology transfer, and skills training related to commercial fishing as well as credit management. Groups and cooperatives organized under the program shall have priority access over credit and guarantee funds established under this Code; and
 - (2) An information campaign shall be conducted to promote the capa-

bility-building and credit programs. The campaign shall ensure greater information dissemination and accessibility to targeted fisherfolk.

SEC. 35. Incentives for Commercial Fishers to Fish Farther into the Exclusive Economic Zone (EEZ). - In order to encourage fishing vessel operators to fish farther in the EEZ and beyond, new incentives for improvement of fishing vessels and acquisition of fishing equipment shall be granted in addition to incentives already available from the Board of Investments (BOI). Such incentives shall include, but not limited to:

- (a) And/or improvement of fishing vessels and equipment;
- (b) Commercial fishing vessel operators of Philippine registry enjoy a limited period of tax and duty exemptions on the importation of fishing vessels not more than five (5) years old, equipment and paraphernalia, the period of exemption and guidelines shall be fixed by the Department within ninety (90) days from the effectivity of this Code;
- (c) Commercial fishing operator of Philippine registry engaged in fisheries in the high seas shall be entitled to duty and tax rebates on fuel consumption for commercial fisheries operations. Guidelines shall be promulgated within ninety (90) days from the effectivity of this Code by the Department; and
- (d) All applicable incentives available under the Omnibus investment Code of 1987: Provided, That the fishing operation project is qualified for registration and is duly registered with the BOI.

SEC. 36. Complement of Fishing Vessels. - Every commercial fishing vessel of Philippine registry when actually operated, shall be manned in accordance with the requirements of the Philippine Merchant Marine rules and regulations.

SEC. 37. Medical Supplies and Life-Saving Devices. - All fishing vessels shall be provided with adequate medical supplies and life-saving devices to be determined by the Occupational Safety and Health Center: Provided, That a fishing vessel of twenty (20) GT or more shall have as a member of its crew a person qualified as a first aider duly certified by the Philippine National Red Cross.

SEC. 38. Reportorial Requirements. - Each commercial fishing vessel shall keep a daily record of fish catch and spoilage, landing points, and quantity and value of fish caught, and off-loaded for transshipment, sale and/or other disposal. Detailed information shall be duly certified by the vessel's captain and transmitted monthly to the officer or representative of the Department, at the nearest designated landing point.

SEC. 39. Report of Meteorological and Other Data. - All vessels and crafts passing navigational lanes or engaged in fisheries activity shall be required to contribute to meteorological and other data, and shall assist the Department in documentation or reporting of information vital to navigation and the fishing industry.

SEC. 40. Color Code and radio Frequency. - For administrative efficiency and enforcement of regulations, registered fishing vessels shall bear a color code as may be determined by the Department and may be assigned a radio frequency specific and distinct to its area of operation.

SEC. 41. Passage. - Commercial and other passage not in the regular conduct of fisheries activity shall be made at designated navigational lanes.

SEC. 42. Transshipment. - Foreign fishing vessels wishing to avail of land, air and sea facilities available in the Philippines to transport fishery products which are caught outside Philippine territorial waters to its final destination shall call only at duly designated government owned or-controlled regional fishport complexes after securing clearance from the Department.

SEC. 43. Operation of Radio Communication Facilities on Board Fishing Vessels. - The Department shall promulgate guidelines in the operation of radio communication facilities on board fishing vessels and the assignment of radio frequencies specific and distinct to area of operation in coordination with the National Telecommunications Commission.

SEC. 44. Use of Superlight. - The number and wattage of superlights used in commercial fishing vessels shall be regulated by the Department: Provided, That the use of superlights is banned within municipal waters and bays.

ARTICLE III AQUACULTURE

SEC. 45. Disposition of Public Lands for Fishery Purposes. - Public lands such as tidal swamps, mangroves, marshes, foreshore lands alienated. Upon effectivity of this Code. FLA may be issued for public lands that may be declared available for fishpond development primarily to qualified fisherfolk cooperatives/associations: Provided, however, That upon the expiration of existing FLAs the current lessees shall be given priority and be entitled to an extension of twenty-five (25) years in the utilization of their respective leased areas. Thereafter, such FLAs shall be granted to any Filipino citizen with preference, primarily to qualified fisherfolk cooperatives/associations

as well as small and medium enterprises as defined under Republic Act No. 8289: Provided, further, That the Department shall declare a reservation, portions of available public lands certified as suitable for fishpond purposes for fish sanctuary, conservation, and ecological purposes: Provided, finally, That two(2) years after the approval of this Act, no fish pens or fish cages or fish traps shall be allowed in lakes.

SEC. 46. *Lease of Fishponds.* - Fishpond leased to qualified persons and fisherfolk organizations/cooperatives shall be subject to the following conditions:

- (a) Areas leased for fishpond purposes shall be no more than 50 hectares for individuals and 250 hectares for corporations or fisherfolk organizations;
- (b) The lease shall be for a period of twenty-five (25) years and renewable for another twenty-five(25) years: Provided, That in case of the death of the lessee, his spouse and/or children as his heirs, shall have preemptive rights to the unexpired term of his Fishpond Lease Agreement subject to the same terms of his Fishpond Lease Agreement subject to the same terms and conditions provided herein provided that the said heirs are qualified;
- (c) Lease rates for fishpond areas shall be determined by the Department: Provided, that all fees collected shall be remitted to the National Fisheries Research and Development Institute and other qualified institutions to be used for aquaculture research development;
- (d) The area leased shall be developed and producing on a commercial scale within three (3) years not fully producing within five(5) years from the date of approval of the lease contract shall automatically revert to the public domain for reforestation;
- (e) The fishpond shall not be subleased, in whole or in part, and failure to comply with this provision shall mean cancellation of FLA;
- (f) The transfer or assignment of rights to FLA shall be allowed only upon prior written approval of the Department;
- (g) The lessee shall undertake reforestation for river banks, bays, streams and seashore fronting the dike of his fishpond subject to the rules and regulations to be promulgated thereon; and
- (h) The lessee shall provided facilities that will minimize environmental pollution, i.e., settling ponds, reservoir, etc: Provided, That failure to comply with this provision shall mean cancellation of FLA.

SEC. 47. *Code of Practice for Aquaculture.* - The Department shall establish a code of practice for aquaculture that will outline general principles and guidelines for environmentally-sound design and operation to promote the sustainable development of the industry. Such Code shall be developed through a consultative process with the DENR, the fishworkers, FLA hold-

ers, fishpond owners, fisherfolk cooperatives, small-scale operators, research institutions and the academe, and other potential stakeholders. The Department may consult with specialized international organizations in the formulation of the Code of practice.

SEC. 48. *Incentives and Disincentives for Sustainable Aquaculture Practices.* - The Department shall formulate incentives and disincentives, such, as, but not limited to, effluent charges, user fees and negotiable permits, to encourage compliance with the environmental standards and to promote sustainable management practices.

SEC. 49. *Reservation of All Abandoned, Undeveloped or Underutilized Fishponds.* - The DENR, in coordination with the Department, LGUs, other concerned agencies and FARMCs shall determine which abandoned, undeveloped or underutilized fishponds covered by FLAs can be reverted to their original mangrove state and after having made such determination shall take all steps necessary to restore such areas in their original mangrove state.

SEC. 50. *Absentee Fishpond Lease Agreement Holders.* - Holders of fishpond lease agreements who have acquired citizenship in another country during the existence of the FLA shall have their lease automatically cancelled and the improvements thereon to be forfeited in favor of the government and disposed of in accordance with rules and regulations promulgated thereon.

SEC. 51. *License to Operate Fish Pens, Fish Cages, Fish Traps and Other Structures for the culture of Fish and Other Fishery Products.* - Fish pens, fish cages, fish traps and other structures for the culture of fish and other fishery products shall be constructed and shall operate only within established zones duly designated by LGUs in consultation with the FARMCs concerned consistent with national fisheries policies after the corresponding licenses thereof have been secured. The area to be utilized for this purpose for individual person shall be determined by the LGUs in consultation with the concerned FARMC: Provided, however, That not over ten percent (10%) of the suitable water surface area of all lakes and rivers shall be allotted for aquaculture purposes like fish pens, fish cages and fish traps; and the stocking density and feeding requirement which shall be controlled and determined by its carrying capacity: Provided, further, That fish pens and fish cages located outside municipal waters shall be constructed and operated only within fish pen and fish cage belts designated by the Department and after corresponding licenses therefore have been secured and the fees thereof paid.

SEC. 52. *Pearl Farm Leases.* - The foregoing provisions notwithstanding

existing pearl farm leases shall be respected and allowed to operate under the terms thereof. New leases may be granted to qualified persons who possess the necessary capital and technology, by the LGUs having jurisdiction over the area.

SEC. 53. *Grant of Privileges for Operations of Fish Pens, cages Corrals/ Traps and Similar Structures.* - No new concessions, licenses, permits, leases and similar privileges for the establishment or operation of fish pens, fish cages, fish corrals/traps and other similar structures in municipal areas shall be granted except to municipal fisherfolk and their organizations.

SEC. 54. *Insurance for Fishponds, Fish cages and Fish Pens.* - Inland fishponds, fish cages and fish pens shall be covered under the insurance program of the Philippine Corp Insurance Corporation for losses caused by force majeure and fortuitous events.

SEC. 55. *Non-Obstruction to Navigation.* - Nothing in the foregoing sections shall be construed as permitting the lessee, licensee, or permittee to undertake any construction which will obstruct the free navigation in any stream, river, river, lakes, or bays flowing through or adjoining the fish pens, fish cages, fish traps and fishponds, or impede the flow of the tide to and from the area. Any construction made in violation hereof shall be removed upon the order of the Department in coordination with the other government agencies concerned at the expense of the lessee, licensee, or occupants thereof, whenever applicable. The department shall within thirty (30) days after the effectivity of this Code formulate and implement rules and regulations for the immediate dismantling of existing obstruction to navigation.

SEC. 56. *Non-Obstruction to defined Migration Paths.* - Nothing in the forgoing sections shall be construed as permitting the lessee, permittee, or licensee to undertake any construction which will obstruct any defined migration path of migratory fish species such as river mouths and estuaries within distance determined by the concerned LGUs in consultation with and upon the recommendation of the FARMCs.

SEC. 57. *Registration of Fish Hactcheries and Private Fishponds, etc.* - All fish hatcheries, fish breeding facilities and private fishponds must be registered with the LGUs which shall prescribe minimum standards for such facilities in consultation with the Department: Provided, That the Department shall conduct a yearly inventory of all fishponds, fish pens and fish cages whether in public or private lands: Provided, further, That all fishpond, fish pen and fish cage operators shall annually report to the Department the type of species

and volume of production in areas devoted to aquaculture.

ARTICLE IV POST-HARVEST FACILITIES, ACTIVITIES AND TRADES

SEC. 58. *Comprehensive Post-harvest and Ancillary Industries Plan.* The Department shall conduct a regular study of fisheries post-harvest operations and ancillary industries, in the formulation of a comprehensive plan for post-harvest and ancillary industries. It shall take into account, among others, the following:

- (a) Detailed and clear guidelines on the distribution, construction, maintenance and use of post-harvest infrastructure facilities;
- (b) Extension of credit and incentives for post-harvest operations;
- (c) Promotion and strengthening of semi-processing, processing and handling;
- (d) Development of domestic fishmeal industry;
- (e) Development of fisheries ship-building and repair as a viable industry;
- (f) Development and strengthening of marketing facilities and activities, including the pricing system, with emphasis on collective marketing and the elimination of middlemen;
- (g) Increased participation of cooperatives and non-governmental organizations in post-harvest operations and ancillary industries; and
- (h) Integration of fisheries post-harvest operations into the national fisheries plan.

SEC. 59. *Establishment of Post-Harvest Facilities for Fishing Communities.* - The LGUs shall coordinate with the private sector and other concerned agencies and FARMCs in the establishment of post-harvest facilities for fishing communities such as, but not limited to, municipal fish processing establishment to serve primarily the needs of municipal fisherfolk: Provided, That such post-harvest facilities shall be consistent with the Comprehensive Post-harvest and Ancillary Industries Plan.

SEC. 60. *Registration and Licensing of all Post-Harvest Facilities.* - All post-harvest facilities such as fish processing plants, ice plants, and cold storages, fish ports/landings and other fishery business establishment must register with and be licensed by the LGUs which shall prescribe minimum standards for such facilities in consultation with the Department.

SEC. 61. *Importation and Exportation of Fishery Products.* -

- (a) Export of fishery products shall be regulated whenever such exportation affects domestic food security and production: provided, that exportation of

live fish shall be prohibited except those which are hatched or propagated in accredited hatcheries and ponds.

- (b) To protect and maintain the local biodiversity or ensure the sufficiency of domestic supply, spawners, breeders, eggs and fry of bangus, prawn and other endemic species, as may be determined by the Department, shall not be exported or caused to be exported by any person;
- (c) Fishery products may be imported only when the importation has been certified as necessary by the Department, in consultation with the FARMC, and all the requirements of this Code, as well as all existing rules and regulations have been complied with: Provided, that fish imports for canning/processing purposes only may be allowed without the necessary certification, but within the provisions of Section 61 (d) of this Code; and
- (d) No person, shall import and/or export fishery products of whatever size, stage or form for any purpose without securing a permit from the Department.

The Department in consultation with the FARMC shall promulgate rules and regulations on importation and exportation of fish and fishery/aquatic resources with the Government's export/import simplification procedures.

SEC. 62. *Instruments of Weights and Measures, and quality Grades/Standards.* - Standards for weights, volume and other measurements for all fishery transactions shall be set by the department.

All fish and fishery products for export, import and domestic consumption shall meet the quality grades/standards as determined by the Department.

The LGU concerned shall, by appropriate ordinance, penalize fraudulent practices and unlawful possession or use of instruments of weights measures.

CHAPTER III

RECONSTITUTION OF THE BUREAU OF FISHERIES AND AQUATIC RESOURCES AND CREATION OF FISHERIES AND AQUATIC RESOURCES MANAGEMENT COUNCILS

ARTICLE I

RECONSTITUTION OF THE BUREAU OF FISHERIES AND AQUATIC RESOURCES

SEC. 63. *Creation of the Position of Undersecretary for Fisheries and Aquatic Resources.* - There is hereby created in the Department of Agriculture of Undersecretary for Fisheries and Aquatic Resources, solely for the

purpose of attending to the needs of the fishing industry, to be appointed by the President. Such Undersecretary shall have the following functions:

- (a) Set policies and formulate standards for the effective, efficient and economical operations of the fishing industry in accordance with the programs of the government;
- (b) Exercise overall supervision over supervision over all functions and activities of all offices
- (c) Establish, with the assistance of the director, such regional, provincial and other fishery officers as may be necessary and appropriate and organize the internal structure of BFAR in such a manner as is necessary for the efficient and effective attainment of its objectives and purposes; and
- (d) Perform such other functions as maybe necessary or proper to attain the objectives of this Code.

SEC. 64. *Reconstitution of the BFAR.* - The Bureau of Fisheries and Aquatic Resources (BFAR) is hereby reconstituted as a line bureau under the Department of Agriculture.

SEC. 65. *Functions of the Bureau of Fisheries and Aquatic Resources.* - As a line bureau, the BFAR shall have the following functions:

- (a) Prepare and implement a Comprehensive National Fisheries Industry Development Plan;
- (b) Issue licenses for the operation of commercial fishing vessels;
- (c) Issue identification cards free of charge to fishworkers engaged in commercial fishing;
- (d) Monitor and review joint agreements between Filipino citizens and foreigners who conduct fishing activities in international waters, and ensure that such agreements are not contrary to Philippine commitment under international treaties and convention on fishing in the high seas;
- (e) Formulate and implement a Comprehensive Fishery Research and Development Program, such as, but not limited to, sea farming, sea ranching, tropical/ornamental fish and seaweed culture, aimed at increasing resource productivity, improving resource use efficiency, and ensuring the long-term sustainability of the country's fishery and aquatic resources;
- (f) Establish and maintain a Comprehensive Fishery Information System;
- (g) Provide extensive development support services in all aspects of fisheries production, processing and marketing;
- (h) Provide advisory services and technical assistance on the improvement of quality of fish from the time it is caught (i.e. on board fishing vessel, at landing areas, fish markets, to the processing plants and to the distribution and marketing chain);
- (i) Coordinate efforts relating to fishery production undertaken by the primary

fishery producers, LGUs, FARMCs, fishery and organizations/cooperatives;

- (j) Advise and coordinate with LGUs on the maintenance of proper sanitation and hygienic practices in fish markets and fish landing areas;
- (k) Establish a corps of specialists in collaboration with the Department of National Defense, department of Interior and Local Government, Department Affairs for the efficient monitoring, control and surveillance of fishing activities within Philippine territorial waters and provide the necessary facilities, equipment and training therefor.
- (l) Implement an inspection system for import and export of fishery/aquatic products and fish processing establishments consistent with international standards to ensure product quality and safety;
- (m) Coordinate with LGUs and other concerned agencies for the establishment of productivity enhancing and market development programs in fishing communities to enable women to engage in other fisheries/economic activities and contribute significantly to development efforts;
- (n) Enforce all laws, formulate and enforce all rules and regulations governing the conservation and management of fishery resources, except in municipal waters, and to settle conflicts of resource use and allocation in consultation with the NFARMC, LGU, and local FARMCs;
- (o) Develop value-added fishery-products for domestic consumption and export;
- (q) Recommend measures for the protection/enhancement of the fishery industries;
- (r) Assists the LGUs in developing their technical capability in the development, management, regulation, conservation, and protection of the fishery resources;
- (s) Formulate rules and regulations for the conservation and management of straddling fish stocks and highly migratory fish stocks; and
- (t) Perform such other related functions which shall promote the development, conservation, management, protection and utilization of fisheries and aquatic resources.

SEC. 66. *Composition of BFAR.* - As a line bureau, the BFAR shall be headed by a Director and assisted by two (2) Assistant Directors who shall supervise the administrative and technical services of the bureau respectively. It shall establish regional, provincial and municipal offices as may be appropriate and necessary to carry out effectively and efficiently the provisions of this Code.

SEC. 67. *Fisheries Inspection and Quarantine Service.* - For purposes of monitoring and regulating the importation and exportation of fish and fish-

ery/aquatic resources, the Fisheries Inspection and Quarantine Service in the BFAR is hereby strengthening and shall have the following functions:

- (a) Conduct fisheries quarantine and quality inspection of all fish and fishery/aquatic products coming into and going out of the country by air or water transport, to detect the presence of fish pest and diseases and if found to harbor fish pests or diseases shall be confiscated and disposed of in accordance with environmental standards and practices;
- (b) Implement international agreements/commitments on bio-safety and bio-diversity as well as prevent the movement or trade of endemic fishery and adequate resources to ensure that the same are not taken out of the country;
- (c) Quarantine such aquatic animals and other fishery products determined or suspended to be with fishery pests and diseases and prevent the movement or trade from and/or into the country of these products so prohibited or regulated under existing laws, rules and regulations as well as international agreements of which the Philippines is a State Party;
- (d) Examine all fish and fishery products coming into or going out of the country which may be a source or medium of fish pests or disease and/or regulated by existing fishery regulations and ensure that the quality of fish import and export meet international standards; and
- (e) Document and authorize the movement or trade of fish fishery products when found free of fish pests or disease and collect necessary fees prescribed by law and regulations.

ARTICLE II THE FISHERIES AND AQUATIC RESOURCES MANAGEMENT COUNCILS (FARMCS)

SEC. 68. *Development of Fisheries and Aquatic Resources in Municipal Waters and Bays.* - Fisherfolk and their organizations residing within the geographical jurisdiction of the barangays, municipalities or cities with the concerned LGUs shall develop the fishery/aquatic resources in municipal waters and bays.

SEC. 69. *Creation of Fisheries and aquatic Resources Management Councils (FARMCs).* - FARMCs shall be established in the national level and in all municipalities/cities abutting municipal waters as defined by this Code. The FARMCs shall be formed by fisherfolk organizations/cooperatives and NGOs in the locality and be assisted by the LGUs, NGOs, fisherfolk, and other concerned POs shall undergo consultation and orientation on the formation of FARMCs.

SEC. 70. *Creation and Composition of the National Fisheries and Aquatic Resources Management Council (NFARMC).* - There is hereby created a National Fisheries and Aquatic resources Management Council hereinafter referred to as NFARMC as an advisory/recommendatory body to the Department. The NFARMC shall be composed of fifteen (15) members consisting of:

- (a) The Undersecretary of Agriculture, as Chairman;
- (b) The Undersecretary of the Interior and Local Government;
- (c) Five (5) members representing the fisherfolk and fishworkers;
- (d) Five (5) members representing commercial fishing and aquaculture operators and the processing sectors;
- (e) Two (2) members from the academe; and
- (f) One (1) representative of NCOs involved in fisheries.

The members of the NFARMC, except for the Undersecretary of Agriculture and the Undersecretary of the Interior and Local Government, shall be appointed by the President upon the nomination of their respective organizations.

SEC. 71. *Terms of Office.* - The members of NFARMC, except the Undersecretary of Agriculture and the Undersecretary of the Interior and Local Government, shall serve for a term of three (3) years without reappointment.

SEC. 72. *Functions of the NFARMC.* - The NFARMC shall have the following functions:

- (a) assists in the formulation of national policies for the protection, sustainable development and management of fishery and aquatic resources for the approval of the Secretary;
- (b) assist the Department in the preparation of the National Fisheries and Industry Development Plan; and
- (c) perform such other functions as may be provided by law.

SEC. 73. *The Municipal/City Fisheries and Aquatic Resources Management Councils (M/CFARMCs)*

The M/CFARMCs shall be created in each of the municipalities and cities abutting municipal waters. However, the LGU may create the Barangay Fisheries and Aquatic Resources Management Councils (BFARMCs) and the Lakewide Fisheries and Aquatic Resources Management Councils (LFARMCs) whenever necessary. Such BFARMCs and LFARMCs shall serve in an advisory capacity to the LGUs.

SEC. 74. *Functions of the M/CFARMCs.* - The M/CFARMCs shall exercise

in the following functions:

- (a) Assist in preparation of the Municipal Fishery Development Plan and submit such plan to the Municipal Development Council;
- (b) Recommend the enactment of municipal fishery ordinances to the sangguniang bayan/sangguniang panlungsod through its Committee of Fisheries;
- (c) Assist in the enforcement of fishery laws, rules and regulations in municipal waters;
- (d) Advise the sangguniang bayan/panlungsod on fishery matters through its Committee of Fisheries, if such has been organized; and
- (e) Perform such other functions which may be assigned by the sangguniang bayan/panlungsod.

SEC. 75. *Composition of the M/CFARMC.* - The regular member of the M/CFARMCs shall be composed of:

- (a) Municipal/City Planning Development Officer;
 - (b) Chairperson, Agriculture/Fishery Committee of the Sangguniang Bayan/Panlungsod;
 - (c) Representative of the Municipal/City Development Council;
 - (d) Representative from the accredited non-government organization;
 - (e) Representative from the private sector;
 - (f) Representative from the Department of agriculture; and
 - (g) At least eleven (11) fisherfolk representative (seven (7) municipal fisherfolk, one (1) fishworker and three (3) commercial fishers) in each municipality/city which include representative from youth and women sector.
- The Council shall adopt rules and regulations necessary to govern its proceedings and election.

SEC. 76. *The Integrated Fisheries and Aquatic Resources Management Councils (IFARMCs).* - The IFARMCs shall be created in bays, gulfs, lakes and rivers and dams bounded by two (2) or more municipalities/cities.

SEC. 77. *Functions of IFARMCs.* - The IFARMC shall have the following functions:

- (a) Assist in the preparation of the Integrated Fishery Development Plan and submit such plan to the concerned Municipal Development Councils;
- (b) Recommend the enactment of integrated fishery ordinances to the concerned sangguniang bayan/panlungsod through its Committee on Fisheries, if such has been organized;
- (c) Assist in the enforcement of fishery laws, rules and regulations in concerned municipal waters;

- (d) Advise the concerned sangguniang bayan/panlungsod on fishery matters through its Committee on Fisheries, if such has been organized; and
- (e) Perform such other functions which may be assigned by the concerned sangguniang bayan/panlungsod.

SEC. 78. *Composition of the IFARMCs.* - The regular members of the IFARMCs shall be composed of the following:

- (a) The chairperson of the Committee on Agriculture/Fisheries of the concerned sangguniang bayan/panlungsod;
- (b) The Municipal/City Fisheries Officers of the concerned municipalities/cities;
- (c) The Municipal/City Development Officers of the concerned municipalities/cities;
- (d) One (1) representative from NGO;
- (e) One (1) representative from private sector; and
- (f) At least nine (9) representatives from the fisherfolk sector which include representatives from the youth and women sector.

The Council shall adopt rules and regulations necessary to govern its proceedings and election.

SEC. 79. *Source of Funds of the FARMCs.* - A separate fund for the NFARMCs, IFARMCs, and M/CFARMCs shall be established and administered by the Department from the regular annual budgetary appropriations.

CHAPTER IV FISHERY RESERVES, REFUGE AND SANCTUARIES

SEC. 80. *Fishing Areas Reserves for Exclusive Use of Government.* - The Department may designate area or areas in Philippine waters beyond fifteen (15) kilometers from shoreline as fishery reservation for the exclusive use of the government or any of its political subdivisions, agencies or instrumentalities, for propagation, educational, research and scientific purposes: Provided, That in municipalities or cities, the concerned LGUs in consultation with the FARMCs may recommend to the Department that portion of the municipal waters be declared as fishery reserves for special or limited use, for educational, research, and/or special management purposes. The FARMCs may recommend to the Department portions of the municipal waters which can be declared as fisheries reserves for special or limited use for educational, research and special management purposes.

SEC. 81. *Fish Refuge and Sancturaries.* - The Department may establish fish refuge and sanctuaries to be administered in the manner to be prescribed by

the BFAR at least twenty-five percent (25%) but not more than forty percent (40%) of bays, foreshore lands, continental shelf or any fishing ground shall be set aside for the cultivation of mangroves to strengthen the habitat and the spawning grounds of fish. Within these areas no commercial fishing shall be allowed. All marine fishery reserves, fish sanctuaries and mangrove swamp reservations already declared or proclaimed by the President or legislated by the Congress of the Philippines shall be continuously administered and supervised by the concerned agency: Provided, however, That in municipal waters, the concerned LGU in consultation with the FARMCs may also recommend fishery refuge and sanctuaries: provided, further, That at least fifteen percent (15%) where applicable of the total coastal areas in each municipality shall be identified, based on the best available scientific data and in consultation with the Department, and automatically designated as fish sanctuaries by the LGUs in consultation with the concerned FARMCs.

CHAPTER V. FISHERIES RESEARCH AND DEVELOPMENT

SEC. 82. *Creation of a National Fisheries Research and Development Institute (NFRDI).* - In recognition of the important role of fisheries research in the development, management, conservation and protection of the country's fisheries and aquatic resources, there is hereby created a National Fisheries Research and Development Institute (NFRDI).

The Institute shall form part of the National Research and Development Network Of the Department of Science and Technology (DOST).

The Institute, which shall be attached to the Department, shall serve as the primary research arm of the BFAR. The overall governance of the Institute shall be vested in governing the Board which shall formulate policy guidelines for its operation. The plans, programs and operational budget shall be passed by the Board. The Board may create such committees as it may deem necessary for the proper and effective performance of its functions. The composition of the Governing Board shall be as follows:

- (a) Undersecretary for Fisheries - Chairman
- (b) BFAR Director - Vice Chairman
- (c) NFRDI Executive Director - Member
- (d) PCAMRD Executive Director - Member
- (e) Representative from the academe - Member
- (f) Four (4) representative from the private sector who shall come from the following subsectors: Members
 - Municipal Fisherfolk

- Commercial Fishing Operator
- Aquaculture Operator
- Post-Harvest/Processor

The NFRDI shall have a separate budget specific to its manpower requirements and operations to ensure the independent and objective implementation of its research activities.

SEC. 83. *Qualification Standard.* - The Institute shall be headed by an Executive Director to be appointed by the President of the Philippines upon the recommendation of the government board. The Executive Director shall hold a Doctorate degree in fisheries and/or other related disciplines. The organizational structure and staffing pattern shall be approved by the Department: Provided, however, That the staffing pattern and remunerations for scientific and technical staff shall be based on the qualification standards for science and technology personnel.

SEC. 84. *Research and Development Objectives.* - Researches to be done by the NFRDI are expected to result in the following:

- (a) To raise the income of the fisherfolk and to elevate the Philippines among the top five (5) in the world ranking in the fish productions;
- (b) To make the country's fishing industry in the high seas competitive;
- (c) To conduct social research on fisherfolk families for a better understanding of their conditions and needs; and
- (d) To coordinate with the fisheries schools, LGUs and private sectors regarding the maximum utilization of available technology, including the transfer of such technology to the industry particularly the fisherfolk.

SEC. 85. *Functions of the NFRDI.* - As a national institute, the NFRDI shall have the following functions:

- (a) Establish a national infrastructure unit complete with technologically-advanced features and modern scientific equipment, which shall facilitate, monitor, and implement various research needs and activities of the fisheries sector;
- (b) Provide a venue for intensive training and development of human resources in the field of fisheries, a repository of all fisheries researches and scientific information;
- (c) Provide intensive training and development of human resources in the field of fisheries for the maximum utilization of available technology;
- (d) Hasten the realization of the economic potential of the fisheries sector by maximizing development research efforts in accordance with the requirements of the national fisheries conservations and development programs,

also possibly through collaborative effort with international institutions; and

- (e) Formally establish, strengthen and expand the network of fisheries-researching communities through effective communication linkages nationwide.

CHAPTER VI PROHIBITIONS AND PENALTIES

SEC. 86. *Unauthorized Fishing or Engaging in Other Unauthorized Fisheries Activities.* - No person shall exploit, occupy, produce, breed, culture, capture or gather fish, fry or fingerlings of any fishery species or fishery products, or engage in any fishery activity in Philippine waters without a license, lease or permit.

Discovery of any person in an area where he has no permit or registration papers for a fishing vessel shall constitute a prima facie presumption that the person and/or vessel is engaged in unauthorized fishing: Provided, That fishing for daily food sustenance or for leisure which is not for commercial, occupation or livelihood purposes may be allowed.

It shall be unlawful for any commercial fishing vessel to fish in bays and in such other fishery management areas which may hereinafter be declared as over-exploited.

Any commercial fishing boat captain or three (3) highest officers of the boat who commit any of the above prohibited acts upon conviction shall be punished by a fine equivalent to the value of catch or Ten thousand pesos (P10,000.00) whichever is higher, and imprisonment of six (6) months, confiscation of catch and fishing gears, and automatic revocation of license.

It shall be unlawful for any person not listed in the registry of municipal fisherfolk to engage in any commercial fishing activity in municipal waters. Any municipal fisherfolk who commits such violation shall be punished by confiscation of catch and a fine of Five hundred pesos (P500.00).

SEC. 87. *Poaching in Philippine Waters.* - It shall be unlawful for any foreign person, corporation or entity to fish or operate any fishing vessel in Philippine waters.

The entry of any foreign fishing vessel in Philippine waters shall constitute a prima facie evidence that the vessel is engaged in fishing in Philippine waters.

Violation of the above shall be punished by a fine of One hundred thousand U.S. Dollars (US\$100,000.00), in addition to the confiscation of its catch, fishing equipment and fishing vessel: Provided, That the Department is empowered to impose an administrative fine of not less than Fifty thousand U.S. Dollars (US\$50,000.00) but not more than Two hundred thousand U.S. Dollars (US\$200,000.00) or its equivalent in the Philippine Currency.

SEC. 88. Fishing Through Explosives, Noxious or Poisonous Substance, and/or Electricity. -

- (1) It shall be unlawful for any person to catch, take or gather or cause to be caught, taken or gathered, fish or any fishery species in Philippine waters with the use of electricity, explosives, noxious or poisonous substance such as sodium cyanide in the Philippine fishery areas, which will kill, stupefy, disable or render unconscious fish or fishery species: Provided, That the Department, subject to such safeguards and conditions deemed necessary and endorsement from the concerned LGUs, may allow, for research, educational or scientific purposes only, the use of electricity, poisonous or noxious substances to catch, take or gather fish or fishery species: Provided, further, That the use of poisonous or noxious substances to eradicate predators in fishponds in accordance with accepted scientific practices and without causing adverse environmental impact in neighboring waters and grounds shall not be construed as illegal fishing.

It will likewise be unlawful for any person, corporation or entity to possess, deal in, sell or in any manner dispose of, any fish or fishery species which have been illegally caught, taken or gathered.

The discovery of dynamite, other explosives and chemical compounds which contain combustible elements, or noxious or poisonous substances, or equipment or device for electro-fishing in any fishing vessel or in the possession of any fisherfolk, operator, fishing boat, official or fishworker shall constitute prima facie evidence, that the same was used for fishing in violation of this Code. The discovery in any fishing vessel of fish or fish caught or killed with the use of explosive prima facie evidence that the fisherfolk, operator, boat official or fishworker is fishing with the use thereof.

- (2) Mere possession of explosive, noxious or poisonous substances or electrofishing devices for illegal fishing shall be punishable by imprisonment ranging from six (6) months to two (2) years
- (3) Actual use of explosive, noxious or poisonous substances or electrofishing devices for illegal fishing shall be punishable by imprisonment ranging from five (5) years to ten (10) years without prejudice to the filing of separate criminal cases when the use of the same result to physical injury or loss of human life.

- (4) Dealing in, selling, or in any manner disposing of, for profit, illegally caught/gathered fisheries species shall be punished by imprisonment ranging from six (6) months to two (2) years.
- (5) In all cases enumerated above, the explosives, noxious or poisonous substances and/or electrical devices, as well as the fishing vessels, fishing equipment and catch shall be forfeited.

SEC. 89. Use of Fine Mesh Net. - It shall be unlawful to engage in fishing using nets with mesh smaller than that with which may be fixed by the Department: Provided, That the prohibition on the use of fine mesh net shall not apply to the gathering of fry, glass eels, elvers, tabios, and alamang and such species which by their nature are small but already mature to be identified in the implementing rules and regulations by the Department.

Violation of the above shall subject the offender to a fine from Two thousand pesos (P2,000.00) to Twenty thousand pesos (P20,000.00) or imprisonment from six (6) months to two (2) years or both such fine and imprisonment at the discretion of the court: Provided, That if the offense is committed by a commercial fishing vessel, the boat captain and the master fisherman shall also be subject to the penalties provided herein: Provided, further, That the owner/operator of the commercial fishing vessel who violates this provision shall be subjected to the same penalties provided herein: Provided, finally, That the Department is hereby empowered to impose upon the offender an administrative fine and/or cancel his permit or license or both.

SEC. 90. Use of Active Gear in the Municipal Waters and Bays and Other Fishery Management Areas. - It shall be unlawful to engage in fishing in municipal waters and in all bays as well as other fishery management areas using active fishing gears as defined in this Code.

Violators of the above prohibitions shall suffer the following penalties:

- (1) The boat captain and master fisherman of the vessels who participated in the violation shall suffer the penalty of imprisonment from two (2) years to six (6) years;
- (2) The owner/operator of the vessel shall be fined from Two thousand pesos (P2,000.00) to Twenty thousand pesos (P20,000.00) upon the discretion of the court. If the owner/operator is a corporation, the penalty shall be imposed on the managing partner.
- (3) The catch shall be confiscated and forfeited.

SEC. 91. Ban on Coral Exploitation and Exportation. - It shall be unlawful for any person or corporation to gather, possess, sell or export ordinary pre-

cious and semi-precious corals, whether raw or in processed form, except for scientific or research purposes.

Violations of this provision shall be punished by imprisonment from six (6) months to two (2) years and a fine from Two thousand pesos (P2,000.00) to Twenty thousand pesos (20,000.00) or both such fine and imprisonment, at the discretion of the court, and forfeiture of the subject corals, including the vessel and its proper disposition.

The confiscated corals shall either be returned to the sea or donated to schools and museums for educational or scientific purposes or disposed through other means.

SEC. 92. *Ban on Muro-Ami, Other Methods and Gear Destructive to Coral Reefs and Other Marine Habitat.* – It shall be unlawful for any person, natural or juridical, to fish with gear method that destroys coral reefs, seagrass beds, and other fishery marine life habitats as may be determined by the Department. "Muro-Ami" and any of its variation, and such similar gear and methods that require diving, other physical or mechanical acts to pound the coral reefs and other habitat to entrap, gather or catch fish and other fishery species are also prohibited.

The operator, boat captain, master fisherman, and recruiter or organizer of fishworkers who violate this provision shall suffer a penalty of two (2) years to ten (10) years imprisonment and a fine of not less than One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) or both such fine and imprisonment, at the discretion of the court. The catch and gear used shall be confiscated.

It shall likewise be unlawful for any person or corporation to gather, sell or export white sand, silica, pebbles and any other substances which make up any marine habitat.

The person or corporation who violates This provision shall suffer a penalty of two (2) years to ten (10) years imprisonment and a fine of not less than One hundred thousand pesos (100,000.00) to Five hundred thousand pesos (P500,000.00) or both such fine and imprisonment, at the discretion of the court. The substance taken from its marine habitat shall be confiscated.

SEC.93. *Illegal Use of Superlights.* - It shall be unlawful to engage in fishing with the use of superlights in municipal waters or in violation of the rules and regulations which may be promulgated by the Department on the use of

superlights outside municipal waters.

Violations of this provision shall be punished by imprisonment from six (6) months to two (2) years or a fine of Five thousand pesos (P5,000.00) per superlight, or both such fine and imprisonment at the discretion of the courts. The superlight, fishing gears and vessel shall be confiscated.

SEC. 94. *Conversion of Mangroves.* – It shall be unlawful for any person to convert mangroves into fishponds or for any other purposes.

Violation of the provision of this section shall be punished by imprisonment of six (6) years and one (1) day to twelve (12) years and/or a fine of Eighty thousand pesos (P80,000.00): Provided, That if the area requires rehabilitation or restoration as determined by the court, the offender should also be required to restore or compensate for the restoration of the damage.

SEC. 95. *Fishing in Overfished Area and During Closed Season.* - It shall be unlawful to fish in overfished area and during closed season.

Violation of the provision of this section shall be punished by imprisonment of six (6) months and one (1) day to six (6) years and/or fine of Six thousand pesos (P6,000.00) and by forfeiture of the catch and cancellation of fishing permit or license.

SEC. 96. *Fishing in Fishery Reserves, Refuge and Sanctuaries.* - It shall be unlawful to fish in fishery areas declared by the Department as fishery reserves, refuge and sanctuaries.

Violation of the provision of this section shall be punished by imprisonment of two (2) years to six (6) years and/or fine of Two thousand pesos (P2,000.00) to twenty thousand pesos (P20,000.00) and by forfeiture of the catch and the cancellation of fishing permit or license.

SEC. 97. *Fishing or Taking of Rare, Threatened or Endangered Species.* - It shall be unlawful to fish or take rare, threatened or endangered species as listed in the CITES and as determined by the Department.

Violation of the provision of this section shall be punished by imprisonment of twelve (12) years to twenty (20) years and/or a fine of One hundred and twenty thousand pesos (P120,000.00) and forfeiture of the catch, and the cancellation of fishing permit.

SEC. 98. *Capture of Sabalo and Other Breeders/Spawners.* - It shall be unlawful for any person to catch, gather, capture or possess mature milkfish or "sabalo" and such other breeders or spawners of other fishery species as may be determined by the Department: Provided, That catching of "sabalo" and other breeders/spawners for local breeding purposes or scientific or research purposes may be allowed subject to guidelines to be promulgated by the Department.

Violation of the provision of this section shall be punished by imprisonment of six (6) months and one (1) day to eight (8) years and/or a fine of Eighty thousand pesos (P80,000.00) and forfeiture of the catch, and fishing equipment used and revocation of license.

SEC. 99. *Exportation of Breeders, Spawners, Eggs or Fry.* - Exportation of breeders, spawners, eggs or fry as prohibited in this Code shall be punished by imprisonment of eight (8) years, confiscation of the same or a fine equivalent to double the value of the same, and revocation of the fishing and/or export license/permit.

SEC. 100. *Importation or Exportation of Fish or Fishery Species.* - Any importation or exportation of fish or fisheries species in violation of this Code shall be punished by eight (8) years of imprisonment, a fine of Eighty thousand pesos (P80,000.00) and destruction of live fishery species or forfeiture of non-live fishery species in favor of the department for its proper disposition: Provided, That violator of this provision shall be banned from being members or stock holders of companies currently engaged in fisheries or companies to be created in the future, the guidelines for which shall be promulgated by the Department.

SEC. 101. *Violation of Catch Ceilings.* - It shall be unlawful for any person to fish in violation of catch ceilings as determined by the Department. Violation of the provision of this section shall be punished by imprisonment of six (6) months and one (1) day to six (6) years and/or a fine of Fifty thousand pesos (P50,000.00) and forfeiture of the catch, and fishing equipment used and revocation of license.

SEC. 102. *Aquatic Pollution.* - Aquatic pollution, as defined in this Code shall be unlawful.

Violation of the provision of this section shall be punished by imprisonment of six (6) years and one (1) day to twelve years and/or a fine of Eighty thousand pesos (P80,000.00) plus an additional fine of Eight thousand pesos (P8,000.00)

per day until such violation ceases and the fines paid.

SEC. 103. *Other Violations.* - The following fisheries activities shall also be considered as a violation of this Code:

- (a) *Failure to Comply with Minimum Safety Standards.* - the owner and captain of a commercial fishing vessel engaged in fishing who, upon demand by proper authorities, fails to exhibit or show proof of compliance with the safety standards provided in this Code, shall be immediately prevented from continuing with his fishing activity and escorted to the nearest port or landing point. The license to operate the commercial fishing vessel shall be suspended until the safety standards has been complied with.
- (b) *Failure to Conduct a Yearly Report on all Fishponds, Fish Pens and Fish Cages.* - The FLA of the holder who fails to render a yearly report shall be immediately cancelled: Provided, That if the offender be the owner of the fishpond, fish pen or fish cage, he shall be subjected to the following penalties: (1) first offense, a fine of Five hundred pesos (P500.00) per unreported hectare; (2) subsequent offenses, a fine of One thousand pesos (P1,000.00) per unreported hectare.
- (c) *Gathering and Marketing of shell Fishes.* - It shall be unlawful for any person to take, sell, transfer, or have in possession for any purpose any shell fish which is sexually mature or below the minimum size or above the maximum quantities prescribed for the particular species.
- (d) *Obstruction to Navigation or Flow and Ebb of tide in any Stream, river, Luke or Bay.* - It shall be unlawful for any person who causes obstruction to navigation or flow or ebb of tide.
- (e) *Construction and Operation of Fish Corrals/Traps, Fish Pens and Fish Cages.* - It shall be unlawful to construct and operate fish corrals/traps, fish pens and fish cages without a license/permit.

Subject to the provision of subparagraph (b) of this section, violation of the above-enumerated prohibited acts shall subject the offender to a fine ranging from Two thousand pesos (P2,000.00) to ten Thousand pesos (P10,000.00) or imprisonment from one (1) month and one (1) day to six (6) months, or both such fine and imprisonment, upon the discretion of the court: Provided, That the Secretary is hereby empowered to impose upon the offender an administrative fine of not more than Ten thousand pesos (P10,000.00) or to cancel his permit or license, in the discretion of the Secretary: Provided, further, That the secretary, or his duly authorized representative, and law enforcement agents are hereby empowered to impound with the assistance of the Philippine Coast Guard, PNP-Maritime Command: Provided, finally, That any person who unlawfully obstructs or delays the inspection and/or movement of fish and fishery/aquatic products when such inspection and/or movement is authorized

under this Code, shall be subject to a fine of not more than two (2) years, or both such fine and imprisonment, upon the discretion of the court.

Every penalty imposed for the commission of an offense shall carry with it the forfeiture of the proceeds of such offense and the instruments or tools with which it was committed.

Such proceeds and instruments or tools shall be confiscated and forfeited in favor of the Government, unless they be the property of a third person not liable for the offense, but those articles which are not subject of unlawful commerce shall be destroyed.

SEC. 104. *Commercial Fishing Vessel Operators Employing Unlicensed Fisherfolk or Fishworker or Crew.* - the owner/operator of a commercial fishing vessel employing unlicensed fisherfolk or fishworker shall be fined Five hundred pesos (P500.00) each for every month that the same has been employed and/or One thousand pesos (P1,000.00) for every month for each unlicensed crew member who has been employed.

SEC. 105. *Obstruction of Defined Migration Paths.* - Obstruction of any defined migration paths of anadromous, catadromous and other migratory species, in areas including, but not limited to river mouths and estuaries within a distance determined by the concerned FARMCs shall be punished by imprisonment of seven (7) years to twelve (12) years or a fine from Fifty thousand pesos (P50,000.00) to One hundred thousand pesos (P100,000.00) or both imprisonment and fine at the discretion of the court, and cancellation of permit/license, if any, and dismantling of obstruction shall be at his own expense and confiscation of same.

SEC. 106. *Obstruction to Fishery Law Enforcement Officer.* - The boat owner, master or operator or any person acting on his behalf of any fishing vessel who evades, obstructs or hinder any fishery law enforcement officer of the Department to perform his duty, shall be fined Ten thousand pesos (P10,000.00). In addition, the registration, permit and/or license of the vessel including the license of the master fisherman shall be cancelled.

Section 107. *Promulgation of Administrative Orders.* - For purposes of fishery regulation or other fishery adjustments, the Department in consultation with the LGUs and local FARMCs, shall issue Fishery Administrative Orders or regulations for the conservation, preservation, management and sustainable development of fishery and aquatic resources.

CHAPTER VII GENERAL PROVISIONS

SEC. 108. *Fisherfolk Settlement Areas.* - The Department shall establish and create fisherfolk settlement areas in coordination with concerned agencies of the government, where certain areas of the public domain, specifically near the fishing grounds, shall be reserved for the settlement of the municipal fisherfolk. Nothing in this section shall be construed to vest ownership of any resettlement area to a municipal fisherfolk for whom said areas may have been reserved for or had been actually granted to.

SEC. 109. *Municipal Fisheries Grant Fund.* - For the development, management and conservation of the municipal resources, there is hereby created a Fishery Grant Fund to finance fishery projects of the LGUs primarily for the upliftment of the municipal fisherfolk. The amount of One hundred million pesos (P100,000.00) is hereby appropriated out of the Department's allocation in the General Appropriations Act (GAA) to support the Grant Fund.

For the purpose, the Department may seek financial assistance from any source and may receive any donation therefore.

SEC. 110. *Fishery Loan and Guarantee Fund.* - Pursuant to Section 7, Article XIII of the Constitution, there is hereby created a Fishery Loan and Guarantee Fund with an initial of One hundred million pesos (P100,000,000.00), which shall be administered by the Land Bank of the Philippines. The fund shall be made available for lending to qualified borrowers to finance the development of the fishery industry under a program to be prescribed by the Department.

For the same purpose, the Department may seek financial assistance from any source and may receive any donation therefrom.

SEC. 111. *Fishing Vessels Development Fund.* - There is hereby created a Fishing Vessels Development Fund to enhance the building and/or acquisition of fishing vessels. This shall be a long-term loan facility that shall be administered by the Development Bank of the Philippines. The fund shall be made available for lending to qualified borrowers to finance the development of the fishery industry under a program to be prescribed by the Department.

For the same purpose, the Department may seek financial assistance from any source and may receive any donation therefrom.

SEC. 112. *Special Fisheries Science and Appropishtech Fund.* - The De-

partment shall provided subsidy for full technical and financial support to the development of appropriate technology, both in fishery and ancillary industries, that are ecologically sound, locally source-based and labor intensive, based on the requirement and needs of the FARMCs. An initial amount of One hundred million pesos (P100,000,000.00) shall be authorized for the purpose of a Special Fisheries Science and Approfishtech Fund, and thereafter shall be included in the GAA.

SEC. 113. *Aquaculture Investment Fund.* - An aquaculture Investment Fund in the minimum amount of Fifty million pesos (P50,000,000.00) shall be established for soft loans which shall be extended to municipal fisherfolk and their organization who will engage in aquaculture, and for the development of underdeveloped or underutilized inland fishponds.

SEC. 114. *Other Fisheries Financing Facilities.* - In addition to fisheries credit guarantee, grant and other similar facilities granted under this Code, qualified Filipino fisherfolk and fisheries enterprises shall enjoy such other facilities granted them under existing and/or new laws, specially as to rural credit, with preference being given to fisheries cooperatives.

SEC. 115. *Professionalization of Fisheries Graduates.* - There is hereby created a Fisheries Board of Examiners in the Professional Regulation Commission to upgrade the Fisheries Profession: Provided, however, That those who have passed the Civil Service Examination for Fisheries shall automatically be granted eligibility by the Fisheries Board of Examiners: Provided, further, That they have served the industry in either public or private capacity for not less than five (5) years: Provided, finally, That the first Board Examination for B.S. Fisheries Graduates shall be conducted within one (1) year from the approval of this Code.

SEC. 116. *Upgrading of State Fisheries School/Colleges.* - The Department, in coordination with the Commission on Higher Education (CHED), Department of Education, Culture and Sports (DECS), and Technical Education and Skills Development Authority (TESDA), shall upgrade State Fisheries Schools/Colleges which provide both formal and non-formal education: Provided, however, That the CHED shall incorporate Approfishtech in the curricula of fisheries schools/colleges.

The Department and the CHED shall jointly formulate standards to upgrade all fisheries schools/colleges. Fisheries schools/colleges that do not meet minimum standards shall be closed.

SEC. 117. *Inclusion of Fisheries Conservation Subjects in School Curriculum.* - Fisheries conservation subjects shall be incorporated in the curricula of elementary and secondary schools both private and public.

SEC. 118. *Educational campaign at all levels.* - the Department, the CHED, the DECS, and the Philippine Information Agency shall launch and pursue a nationwide educational campaign to:

- (a) Help realize the policies and implement the provisions of this Code;
- (b) Promote the development, management, conservation and proper use of the environment;
- (c) Promote the principle of sustainable development; and
- (d) Promote the development of truly Filipino-oriented fishing and ancillary industries.

SEC. 119. *Infrastructure Support.* - The Department in cooperation with concerned agencies shall:

- (a) Prepare and implement a nationwide plan for the development of municipal fishing ports and markets;
- (b) Prioritize the construction of farm-to-market roads linking the fisheries production sites, coastal landing points and other post-harvest facilities to major market and arterial roads/highways;
- (c) Identify community infrastructure facilities such as fish landing ports, ice plant and cold storage facilities in consultation with fishery cooperatives/associations and prepare plans and designs for their construction that would be consistent with international environmental standards and occupational safety in sanitation and environmental impact;
- (d) Establish and maintain quality laboratories in major fish ports and prescribe the highest standards for the operation and maintenance of such post-harvest facilities;
- (e) Arrange and make representation with appropriate funding institutions to finance such facilities for the use of the fishery cooperatives/associations;
- (f) Develop and strengthen marketing facilities and promote cooperative marketing systems; and
- (g) Promote and strengthen local fisheries ship-building and repair industry.

SEC. 120. *Extension Services.* - The Department shall develop cost-effective practical and efficient extension services on a sustained basis, in addition to those provided by state educational institutions, especially to municipal fisherfolk in undeveloped areas, utilizing practicable and indigenous resources and government agencies available, and based upon a system of self-reliance and self-help.

SEC. 121. **Protection of Sensitive Technical Information.** - The Department shall take such measures as may be necessary in order to protect trade, industrial and policy information of Filipino fisherfolk, fisheries owners/operators, entrepreneurs, manufacturers and researchers, when disclosure of such information will injure the competitiveness or viability of domestic fisheries.

SEC. 122. **Assistance in Collecting Information.** - The Department, in coordination with other government entities concerned, may require Filipino representatives abroad and foreign-based personnel to assist in the collection of fisheries data and information.

SEC. 123. **Charting of Navigational Lanes and delineation of Municipal Waters.** - The Department shall authorize the National Mapping and Resource Information Authority (NAMRIA) for the designation and charting of navigational lanes in fishery areas and delineation of municipal waters. The Philippine Coast Guard shall exercise control and supervision over such designated navigational lanes.

SEC. 124. **Persons and Deputies Authorized to Enforce this Code and Other Fishery laws, Rules and Regulations.** - The law enforcement officers of the department, the Philippine Navy, Philippine Coast Guard, Philippine national Police (PNP), PNP-Maritime Command, law enforcement officers of the LGUs and other government enforcement agencies, are hereby authorized to enforce this Code and other fishery laws, rules and regulations. Other competent government officials and employees, punong barangays and officers and members of fisherfolk associations who have undergone training on law enforcement may be designated in writing by the Department as deputy fish wardens in the enforcement of this Code and other fishery laws, rules and regulations.

SEC. 125. **Strengthening Prosecution and Conviction of Violators of Fishery Laws.** - The Department of justice (DOJ) shall embark on a program to strengthen the prosecution and conviction aspects of fishery law enforcement through augmentation of the current complement of state prosecutors and through their continuous training and reorientation on fishery laws, rules and regulations.

SEC. 126. **Foreign Grants and Aids.** - All foreign grants, aids, exchange programs, loans, researches and the like shall be evaluated and regulated by the Department to ensure that such are consistent with the Filipinization, democratization and industrialization of fishing industry and the development of the entire country.

SEC. 127. **Mandatory Review.** - The Congress of the Philippines shall undertake a mandatory review of this Code at least once every five (5) years and as often as it may deem necessary, to ensure that fisheries policies and guidelines remain responsive to changing circumstances.

CHAPTER VIII TRANSITORY PROVISIONS

SEC. 128. **Moratoria.** - the Department shall, upon the recommendation of the Bureau, have the power to declare a moratorium on the issuance of licenses for commercial fishing vessels to operate in specified area or areas in Philippine waters for a limited period of time if there are indications of overfishing brought about by a decrease in the volume and sizes of fish caught therein or for conservation or ecological purposes.

No new licenses and similar privileges on exploitation of specific fisheries areas in Philippine waters and aquaculture production areas shall be issued in accordance with this Code. Such moratoria shall not exceed five (5) years from the effectivity of this Code.

SEC. 129. **Formulation of Implementing Rules and Regulations.** - An Inter-agency Committee is hereby created to formulate rules and regulations for the full implementation of this Code within ninety (90) days of its effectivity: Provided, however, That the formulated rules and regulations shall be submitted to both House of Congress for information and guidance. Such rules and regulations shall take effect upon publication in a newspaper of general circulation.

The Inter-agency Committee shall be composed of the following:

- (a) Secretary of Agriculture as Chairman;
- (b) Secretary of the Interior and Local government;
- (c) Secretary of environment and Natural resources;
- (d) Secretary of Justice;
- (e) Secretary of Finance;
- (f) Secretary of Budget and Management;
- (g) Secretary of Labor and Employment;
- (h) Secretary of National Defense;
- (i) Commissioner of Civil Service Commission;
- (j) Director of BFAR;
- (k) Executive Director of PCAMRD;
- (l) General Manager of PFDA;
- (m) One (1) representative from each of the following:

- a.1. The League of Provinces;
- a.2. The League of Cities;
- a.3. The League of Municipalities;
- a.4. The Liga ng mga Barangay;
- (n) Representative of the municipal fisherfolk;
- (o) Representative of the commercial fishers;
- (p) Representative of the non-government organizations involved in fishing concerns; and
- (q) A representative from the academe coming from the specialized fisheries institution.

CHAPTER IX FINAL PROVISIONS

SEC. 130. **Appropriation.** - The sum necessary to effectively carry out the provisions of this Act during the first year of implementation shall be sourced from the budget of the DA/BFAR and other agencies performing fisheries-related functions: Provided, however, That such amount as may be necessary to carry out the provision of sections 79, 109, 110, 111, 112, 113 are hereby appropriated out of the unappropriated funds of the National Treasury. The Congress of the Philippines shall provide for the appropriations of the Department, the NFRDI and Fisheries Scholarship Program for the succeeding years to be included in the annual GAA.

SEC. 131. **Repealing Clause.** - Presidential Decree No.704, as amended by Presidential Decree Nos.1015 and 1058, Presidential Decree No.977, as amended, Executive Order No.967, Series of 1984, Executive Order No.116, Series of 1987, Executive Order No.473, Series of 1991 and other existing laws except Republic Act No. 7611, decrees, executive orders, and rules and regulations or parts thereof, which are inconsistent with this Code, are hereby repealed or modified accordingly.

SEC. 132. **Separability Clause.** - If any portion or provision of this Code is declared unconstitutional or invalid, the other portions or provisions hereof, which are not affected thereby, shall continue in full force and effect.

SEC. 133. **Effectivity.** - This Code shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspaper of general publication.

Approved,
JOSE DE VENECIA, JR.
Speaker of the House

NEPTALI A. GONZALES
President of the Senate of
Representatives

This Act, which is a consolidation of Senate Bill No. 1708 and House Bill No. 7366 was finally passed by the Senate and the House of Representatives on February 19, 1998.

ROBERTO P. NAZARENO
Secretary General
House of Representatives

HEZEL P. GACUTAN
Secretary of the Senate

Approved:
Feb. 25, 1998

FIDEL V. RAMOS
President of the Philippines

Congress of the Philippines
Eleventh Congress
Third Regular Session

REPUBLIC ACT NO. 9072
April 8, 2001

AN ACT TO MANAGE AND PROTECT CAVES AND CAVE RESOURCES AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. **Title** - This Act shall be known as the "National Caves and Cave Resources Management and Protection Act."

Section 2. **Declaration of Policy** - It is hereby declared the policy of the State to conserve, protect and manage caves and cave resources as part of the country's natural wealth. Towards this end, the State shall strengthen cooperation and exchange of information between governmental authorities and people who utilize caves and cave resources for scientific, educational, recreational, tourism and other purposes.

Section 3. **Definition of Terms** - For purposes of this Act, the following terms shall be defined as follows:

- (a) *Cave* means any naturally occurring void, cavity, recess or system of interconnected passages beneath the surface of the earth or within a cliff or ledge and which is large enough to permit an individual to enter, whether or not the entrance, located either in private or public land, is naturally formed or man made. It shall include any natural pit, sinkhole or other feature which is an extension of the entrance. The term also includes cave resources therein, but not any vug, mine tunnel, aqueduct or other manmade excavation.
- (b) *Cave resources* includes any material or substance occurring naturally in caves, such as animal life, plant life, including paleontological and archaeological deposits, cultural artifacts or products of human activities, sediments, minerals, speleogems and speleothems.
- (c) *Secretary* means the Secretary of the Department of Environment and Natural Resources (DENR)
- (d) *Speleogem* means relief features on the walls, ceilings and floor of any cave or lava tube which are part of the surrounding bedrock, including but not limited to anastomoses, scallops, meander niches, petromorphs and rock

- pendants in solution caves and similar features unique to volcanic caves.
- (e) *Speleothem* means any natural mineral formation or deposit occurring in a cave or lava tube, including but not limited to any stalactite, stalagmite, helictite, cave flower, flowstone, concretion, drapery, rimstone or formation of clay or mud.
- (f) *Significant Cave* refers to a cave which contains materials or possesses features that have archaeological, cultural, ecological, historical or scientific value as determined by the DENR in coordination with the scientific community and the academe.

Section 4. **Implementing Agency** - The DENR shall be the lead agency tasked to implement the provisions of this Act in coordination with the Department of Tourism (DOT), the National Museum, the National Historical Institute and concerned local government units (LGUs) for specific caves, except that in the Province of Palawan, the Palawan Council for Sustainable Development shall be the lead implementing agency pursuant to Republic Act No. 7611 or the Strategic Environmental Plan for Palawan Act.

Section 5. **Powers and Functions of the Department of Environment and Natural Resources (DENR)** - In the implementation of this Act, the DENR shall exercise the following powers and functions:

- (a) Formulate, develop and implement a national program for the management, protection and conservation of caves and cave resources;
- (b) Disseminate information and conduct educational campaign on the need to conserve, protect and manage our caves and cave resources;
- (c) Issue permits for the collection and removal of guano and other cave resources which shall be determined in coordination with the DOT, National Museum, concerned LGUs, the scientific community and the academe, with regard to specific caves taking into consideration bio-diversity as well as the aesthetic and archaeological value of the cave: Provided, that the permittee shall be required to post a bond to ensure compliance with the provisions of any permit: Provided further that any permit issued under this Section shall be revoked by the Secretary when the permittee violates any provision of this Act or fails to comply with any other condition upon which the permit was issued: Provided furthermore, That the Secretary cannot issue permits for the removal of stalactites and stalagmites, and when it is established that the removal of the resources will adversely affect the value of a significant cave: Provided Finally, That caves located within a protected area shall be subjected to the provisions of Republic Act No. 7586 or the National Integrated Protected Area System Act of 1992;
- (d) Call on any local government unit, bureau, agency, state university or college and other instrumentalities of the government for assistance as the

- need arises in the discharge of its functions;
- (e) Enter into a memorandum of agreement with any local government unit (LGU) for the preservation, development and management of cave or caves located in their respective territorial jurisdiction;
 - (f) Tap the cooperation of people's and nongovernmental organizations as active partners in the conservations and protection of our caves and cave resources; and
 - (g) Exercise other powers and perform other functions as may be necessary to implement the provisions of this Act.

Section 6. *Information Concerning the Nature and Location of Significant Caves* - Information concerning the nature and specific location of a potentially significant cave shall not be made available to the public within one (1) year after its discovery by the DENR, during which time the DENR in coordination with the DOT, the National Museum, the National Historical Institute, concerned LGUs the scientific community and the academe shall assess its archaeological, cultural, ecological, historical and scientific value, unless a written request is made and the Secretary determines that disclosure of such information will further the purpose of this Act and will not create a substantial risk of harm, theft or destruction on such cave.

The written request shall contain, among others, the following:

- (a) A description of the geographic site for which the information is sought;
- (b) An explanation of the purpose for which the information is sought;
- (c) An assurance or undertaking satisfactory to the Secretary that adequate measures are to be taken to protect the confidentiality of such information and to ensure the protection of the cave from destruction by vandalism and unauthorized use.

Section 7. *Prohibited Acts* - The following shall be considered Prohibited Acts.

- (a) Knowingly destroying, disturbing, defacing, marring, altering, removing, or harming the speleogem or speleothem of any cave or altering the free movement of any animal or plant life into or out of any cave;
- (b) Gathering, collecting, possessing, consuming, selling, bartering or exchanging or offering for sale without authority any, cave resource; and
- (c) Counselling, procuring, soliciting or employing any other person to violate any provisions of this Section.

Section 8. *Penalties* - Any person found guilty of any of the offenses enumerated under Section 7 hereof shall be punished by imprisonment from two (2) years to six (6) years or a fine ranging from Twenty thousand pesos (P20,000)

to five hundred thousand pesos (P500,000.00) or both at the discretion of the Court: Provided That the person furnishing the capital to accomplish the acts punishable herein shall be punished by imprisonment from six (6) yrs and one (1) day to eight (8) years or by a fine ranging from Five hundred thousand pesos (P500,000.00) to One million pesos (P1,000,000.00) or both at the Discretion of the Court. Provided further that if the area requires rehabilitation or restoration as determined by the Court, the offender shall also be required to restore the same, whenever practicable or compensate for the damage: Provided finally that if the offender is a government employee, he or she shall likewise be removed from office.

Section 9. *Administrative Confiscation and Conveyance* - The Secretary shall order the confiscation, in favor of the Government of the cave resources gathered, collected, removed, possessed or sold including the conveyance and equipment used in violation of Section 7 hereof.

Section 10. *Fees* - Any money collected by the DENR as permit fees for collection and removal of cave resources, as a result of the forfeiture of a bond or other security by a permittee who does not comply with the requirements of such permit issued under this Act or by way of fines for violations of this Act shall be remitted to the National Treasury.

Section 11. *Implementing Rules and Regulations* - The DENR shall, within six (6) months from the effectivity of this Act, issue rules and regulations necessary to implement the provisions hereof.

Section 12. *Appropriations* - The amount necessary to carry out the provisions of this Act shall be included in the General Appropriations Act of the year following its enactment into law and thereafter.

Section 13. *Separability Clause* - If any provisions of this Act is subsequently declared unconstitutional, the remaining provisions shall remain in full force and effect.

Section 14. *Repealing Clause* - Presidential Decree No. 1726 - A is hereby modified. Treasure hunting in caves shall be governed by the provisions of this Act.

Except Presidential Decree No. 412 and Republic Act No. 4846, all other laws, decrees, orders and regulations or parts thereof which are inconsistent with any of the provisions of this Act are hereby repealed or amended accordingly.

Section 15. **Effectivity** - This Act shall take effect fifteen (15) days following its publication in two (2) national newspapers of general circulation.
Approved: April 8, 2001

Approved:

AQUILINO Q. PIMENTEL JR.
President of the Senate

FELICIANO BELMONTE JR.
Speaker of the House of Representatives

This Act which is a consolidation of House Bill No. 7275 and Senate Bill No. 1956 was finally passed by the House of Representatives and the Senate on February 8, 2001 and February 5, 2001, respectively.

LUTGARDO B. BARBO
Secretary of the Senate

ROBERTO P. NAZARENO
Secretary General
House of Representatives

Approved:

GLORIA MACAPAGAL-ARROYO
President of the Philippines

REPUBLIC ACT NO. 9147

AN ACT PROVIDING FOR THE CONSERVATION AND PROTECTION OF WILDLIFE RESOURCES AND THEIR HABITATS, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

CHAPTER I GENERAL PROVISIONS

Sec. 1. **Title.** This act shall be known as the "Wildlife Resources Conservation and Protection Act."

Sec. 2. **Declaration of Policy.** It shall be the policy of the State to conserve the country's wildlife resources and their habitats for sustainability. In the pursuit of this policy, this Act shall have the following objectives:

- (a) To conserve and protect wildlife species and their habitats to promote ecological balance and enhance biological diversity;
- (b) To regulate the collection and trade of wildlife;
- (c) To pursue, with due regard to the national interest, the Philippine commitment to international conventions, protection of wildlife and their habitats; and
- (d) To initiate or support scientific studies on the conservation of biological diversity.

Sec. 3. **Scope of Application.** The provisions of this Act shall be enforceable for all wildlife species found in all areas of the country, including protected areas under Republic Act No. 7586, otherwise known as the National Integrated Protected Areas System (NIPAS) Act, and critical habitats. This Act shall also apply to exotic species which are subject to trade, are cultured, maintained and/or bred in captivity or propagated in the country.

Sec. 4. **Jurisdiction of the Department of Environment and Natural Resources and the Department of Agriculture.** The Department of Environment and Natural Resources (DENR) shall have jurisdiction over all terrestrial plant and animal species, all turtles and tortoises and wetland species, including but not limited to crocodiles, waterbirds and all amphibians and dugong. The Department of Agriculture (DA) shall have jurisdiction over all declared aquatic critical habitats, all aquatic resources including but not limited to all fishes, aquatic plants, invertebrates and all marine mammals, except dugong. The secretaries of the DENR and the DA shall review, and by joint administrative order, revise and regularly update the list of species under their respective jurisdiction. In the Province of Palawan, jurisdiction

herein conferred is vested to the Palawan Council for Sustainable Development pursuant to Republic Act No. 7611.

CHAPTER II DEFINITION OF TERMS

Sec. 5. **Definition of Terms.** As used in the Act, the term:

- (a) *Bioprospecting* means the research, collection and utilization of biological and genetic resources for purposes of applying the knowledge derived there from solely for commercial purposes;
- (b) *By-product or derivatives* means any part taken or substance extracted from wildlife, in raw or in processed form. This includes stuffed animals and herbarium specimens;
- (c) *Captive-breeding/culture or propagation* means the process of producing individuals under controlled conditions or with human interventions;
- (d) *Collection or collecting* means the act of gathering or harvesting wildlife, its by-products or derivatives;
- (e) *Conservation* means preservation and sustainable utilization of wildlife, and/or maintenance, restoration and enhancement of the habitat;
- (f) *Critically endangered species* refers to a species or subspecies that is facing extremely high risk of extinction in the wild in the immediate future;
- (g) *Economically important species* means species or subspecies which have actual or potential value in trade or utilization for commercial purpose;
- (h) *Endangered species* refers to species or subspecies that is not critically endangered but whose survival in the wild is unlikely if the causal factors continue operating;
- (i) *Endemic species* Means species or subspecies which is naturally occurring and found only within specific areas in the country;
- (j) *Exotic species* means species or subspecies which do not naturally occur in the country;
- (k) *Export permit* refers to a permit authorizing an individual to bring out wildlife from the Philippines to any other country;
- (l) *Gratuitous permit* means permit issued to any individual or entity engaged in noncommercial scientific, or educational undertaking to collect wildlife;
- (m) *Habitat* means place or environment where species or subspecies naturally occur or has naturally established its population;
- (n) *Import permit* refers to a permit authorizing an individual to bring in wildlife from another country;
- (o) *Indigenous wildlife* means species or subspecies of wildlife naturally occurring or has naturally established population in the country;
- (p) *Introduction* means bringing species into the wild that is outside its natural

habitat;

- (q) *Re-export permit* refers to a permit authorizing an individual to bring out of the country a previous imported wildlife;
- (r) *Secretary* means either or both the Secretary of the Department of Environment and Natural Resources and the Secretary of the Department of Agriculture;
- (s) *Threatened species* a general term to denote species or subspecies considered as critically endangered, endangered, vulnerable or other accepted categories of wildlife whose population is at risk of extinction;
- (t) *Trade* means the act of engaging in the exchange, exportation or importation, purchase or sale of wildlife, their derivatives or by-products, locally or internationally;
- (u) *Traditional use* means utilization of wildlife by indigenous people in accordance with written or unwritten rules, usage, customs and practices traditionally observed, accepted and recognized by them;
- (v) *Transport permit* means a permit issued authorizing an individual to bring wildlife from one place to another within the territorial jurisdiction of the Philippines;
- (w) *Vulnerable species* refers to species or subspecies that is not critically endangered nor endangered but is under threat from adverse factors throughout their range and is likely to move to the endangered category in the near future;
- (x) *Wildlife* means wild forms and varieties of flora and fauna, in all developmental stages, including those which are in captivity or are being bred or propagated;
- (y) *Wildlife collector's permit* means a permit to take or collect from the wild certain species and quantities of wildlife for commercial purposes; and
- (z) *Wildlife farm/culture permit* means a permit to develop, operate and maintain a wildlife breeding farm for conservation, trade and/or scientific purposes.

CHAPTER III CONSERVATION AND PROTECTION OF WILDLIFE RESOURCES

ARTICLE ONE General Provision

Sec. 6. **Wildlife Information.** All activities, as subsequently manifested under this Chapter, shall be authorized by the Secretary upon proper evaluation of best available information or scientific data showing that the activity is, or for a purpose, not detrimental to the survival of the species or subspecies involved and/or their habitat. For this purpose, the Secretary shall regularly

update wildlife information through research.

Sec. 7. *Collection of Wildlife.* Collection of wildlife may be allowed in accordance with Section 6 of this Act: Provided, That in the collection of wildlife, appropriate and acceptable wildlife collection techniques with least or no detrimental effects to the existing wildlife populations and their habitats shall, likewise, be required: Provided, further, That collection of wildlife by indigenous people may be allowed for traditional use and not primarily for trade: Provided, furthermore, That collection and utilization for said purpose shall not cover threatened species: Provided, finally, That Section 23 of this Act shall govern the collection of threatened species.

Sec. 8. *Possession of Wildlife.* - No person or entity shall be allowed possession of wildlife unless such person or entity can prove financial and technical capability and facility to maintain said wildlife: Provided, That the source was not obtained in violation of this Act.

Sec. 9. *Collection and/or Possession of By-Products and Derivatives.* By-products and derivatives may be collected and/or possessed: Provided, That the source was not obtained in violation of this Act.

Sec. 10. *Local Transport of Wildlife, By-Products and Derivatives.* - Local transport of wildlife, by-products and derivatives collected or possessed through any other means shall be authorized unless the same is prejudicial to the wildlife and public health.

Sec. 11. *Exportation and/or Importation of Wildlife.* Wildlife species may be exported to or imported from another country as may be authorized by the Secretary or the designated representative, subject to strict compliance with the provisions of this Act and rules and regulations promulgated pursuant thereto: Provided, That the recipient of the wildlife is technically and financially capable to maintain it.

Sec. 12. *Introduction, Reintroduction or Restocking of Endemic or Indigenous Wildlife.* - The introduction, reintroduction or restocking of endemic and indigenous wildlife shall be allowed only for population enhancement of recovery purposes subject to prior clearance from the Secretary of the authorized representative pursuant to Section 6 of this Act. Any proposed introduction shall be subject to a scientific study which shall focus on the bioecology. The proponent shall also conduct public consultations with concerned individuals or entities.

Sec. 13. *Introduction of Exotic Wildlife.* - No exotic species shall be introduced into the country, unless a clearance from the Secretary or the authorized representative is first obtained. In no case shall exotic species be introduced into protected areas covered by Republic Act No. 7586 and to critical habitats under Section 25 hereof.

In cases where introduction is allowed, it shall be subject to environmental impact study which shall focus on the bioecology, socioeconomic and related aspects of the area where the species will be introduced. The proponent shall also be required to secure the prior informed consent from the local stakeholders.

Sec. 14. *Bioprospecting.* - Bioprospecting shall be allowed upon execution of an undertaking by any proponent, stipulating therein its compliance with and commitment(s) to reasonable terms and conditions that may be imposed by the Secretary which are necessary to protect biological diversity.

The Secretary or the authorized representative, in consultation with the concerned agencies, before granting the necessary permit, shall require that prior informed consent be obtained by the applicant from the concerned indigenous cultural communities, local communities, management board under Republic Act No. 7586 or private individual or entity. The applicant shall disclose fully the intent and scope of the bioprospecting activity in a language and process understandable to the community. The prior informed consent from the indigenous peoples shall be obtained in accordance with existing laws. The action on the bioprospecting proposal by concerned bodies shall be made within a reasonable period.

Upon submission of the complete requirements, the Secretary shall act on the research proposal within a reasonable period. If the applicant is a foreign entity or individual, a local institution should be actively involved in the research, collection and, whenever applicable and appropriate in the technological development of the products derived from the biological and genetic resources.

Sec. 15. *Scientific Researches on Wildlife.* Collection and utilization of biological resources for scientific research and not for commercial purposes shall be allowed upon execution of an undertaking/agreement with and issuance of a gratuitous permit by the Secretary or the authorized representative: Provided, That prior clearance from concerned bodies shall be secured before the issuance of the gratuitous permit: Provided, further, That the last paragraph of Section 14 shall likewise apply.

Sec. 16. **Biosafety** - All activities dealing on genetic engineering and pathogenic organisms in the Philippines, as well as activities requiring the importation, introduction, field release and breeding of organisms that are potentially harmful to man and the environment shall be reviewed in accordance with the biosafety guidelines ensuring public welfare and the protection and conservation of wildlife and their habitats.

Sec. 17. **Commercial Breeding or Propagation of Wildlife Resources.** - Breeding or propagation of wildlife for commercial purposes shall be allowed by the Secretary or the authorized representative pursuant to Section 6 through the issuance of wildlife farm culture permit: Provided, That only progenies of wildlife raised, as well as unproductive parent stock shall be utilized for trade: Provided, further, That commercial breeding operations for wildlife, whenever appropriate, shall be subject to an environmental impact study.

Sec. 18. **Economically Important Species.** The Secretary, within one (1) year after the effectivity of this Act, shall establish a list of economically-important species. A population assessment of such species shall be conducted within a reasonable period and shall be regularly reviewed and updated by the Secretary.

The Collection of certain species shall only be allowed when the results of the assessment show that, despite certain extent of collection, the population of such species can still remain viable and capable of recovering its numbers. For this purpose, the Secretary shall establish a schedule and volume of allowable harvests.

Whenever an economically important species become threatened, any form of collection shall be prohibited except for scientific, educational or breeding/propagation purposes, pursuant to the provisions of this Act.

Sec. 19. **Designation of Management and Scientific Authorities for International Trade in Endangered Species of Wild Fauna and Flora.** For the implementation of International agreement on international trade in endangered species of wild fauna and flora, the management authorities for terrestrial and aquatic resources shall be the Protected Areas and Wildlife Bureau (PAWB) of the DENR and the Bureau of Fisheries and Aquatic Resources (BFAR) of the DA, respectively and that in the Province of Palawan the implementation hereof is vested to the Palawan Council for Sustainable Development pursuant to Republic Act No. 7611.

To provide advice to the management authorities, there shall be designated

scientific authorities for terrestrial and aquatic/marine species. For the terrestrial species, the scientific authorities shall be the Ecosystems Research and Development Bureau (ERDB) of the DENR, the U.P. Institute of Biological Sciences and the National Museum and other agencies as may be designated by the Secretary. For the marine and aquatic species, the scientific authorities shall be the BFAR, the U.P. Marine Science Institute, U.P. Visayas, Siliman University and the National Museum and other agencies as may be designated by the Secretary: Provided, That in the case of terrestrial species, the ERDB shall chair the scientific authorities, and in the case of marine and aquatic species, the U.P. Marine Science Institute shall chair the scientific authorities.

Sec. 20. **Authority of the Secretary to Issue Permits.** - The Secretary or the duly authorized representative, in order to effectively implement this Act, shall issue permits/certifications/clearances with corresponding period of validity, whenever appropriate, which shall include but not limited to the following:

- | | |
|-------------------------------------|--------------------|
| (1) Wildlife farm or culture permit | 3 to 5 years; |
| (2) Wildlife collector's permit | 1 to 3 years; |
| (3) Gratuitous permit | 1 year; |
| (4) Local transport permit | 1 to 3 months; and |
| (5) Export/Import/Reexport permit | 1 to 6 months. |

These permits may be renewed subject to the guidelines issued by the appropriate agency and upon consultation with concerned groups.

Sec. 21. **Fees and Charges.** - Reasonable fees and charges as may be determined upon consultation with the concerned groups, and in the amount fixed by the Secretary shall be imposed for the issuances of permits enumerated in the preceding section.

For the export of wildlife species, an export permit fee of not greater than three percentum (3%) of the export value, excluding transport costs, shall be charged: Provided, however, That in the determination of aforesaid fee, the production costs shall be given due consideration. Cutflowers, leaves and the like, produced from farms shall be exempted from the said export fee: Provided, further, That fees and charges shall be reviewed by the Secretary every two (2) years or as the need arises and revise the same accordingly, subject to consultation with concerned sectors.

ARTICLE TWO Protection of Threatened Species

Sec. 22. **Determination of Threatened Species.** - The Secretary shall deter-

mine whether any wildlife species or subspecies is threatened, and classify the same as critically endangered, endangered, vulnerable or other accepted categories based on the best scientific data and with due regard to internationally accepted criteria, including but not limited to the following:

- (a) Present or threatened destruction, modification or curtailment of its habitat or range;
- (b) Over-utilization for commercial, recreational, scientific or educational purposes;
- (c) Inadequacy of existing regulatory mechanisms; and
- (d) Other natural or man-made factors affecting the existence of wildlife.

The Secretary shall review, revise and publish the list of categorized threatened wildlife within one (1) year after effectivity of this Act. Thereafter, the list shall be updated regularly or as the need arises: Provided, That a species listed as threatened shall not be removed there from within three (3) years following its initial listing.

Upon filing of a petition based on substantial scientific information of any person seeking for the addition or deletion of a species from the list, the Secretary shall evaluate in accordance with the relevant factors stated in the first paragraph of this section, the status of the species concerned and act on said petition within a reasonable period.

The Secretary shall also prepare and publish a list of wildlife which resembles so closely in appearance with listed threatened wildlife, which species shall likewise be categorized as threatened.

Sec. 23. *Collection of Threatened Wildlife, By-products and Derivatives*

The collection of threatened wildlife, as determined and listed pursuant to this Act, including its by-products and derivatives, shall be allowed only for scientific, or breeding or propagation purposes in accordance with Section 6 of this Act: Provided, That only the accredited individuals, business, research, educational or scientific entities shall be allowed to collect for conservation breeding or propagation purposes.

Sec. 24. *Conservation Breeding or Propagation of Threatened Species*

Conservation breeding or propagation of threatened species shall be encouraged in order to enhance its population in its natural habitat. It shall be done simultaneously with the rehabilitation and/or protection of the habitat where the captive-bred or propagated species shall be released, reintroduced or restocked.

Commercial breeding or propagation of threatened species may be allowed provided that the following minimum requirements are met by the applicant, to wit:

- (a) Proven effective breeding and captive management techniques of the species; and
- (b) Commitment to undertake commercial breeding in accordance with Section 17 of this Act, simultaneous with conservation breeding.

The Secretary shall prepare a list of threatened species for commercial breeding and shall regularly revise or update such list or as the need arises.

Sec. 25. *Establishment of Critical Habitats.* - Within two (2) years following the effectivity of this Act, The Secretary shall designate critical habitats outside protected areas under Republic Act No. 7586, where threatened species are found. Such designation shall be made on the basis of the best scientific data taking into consideration species endemism and/or richness, presence of man-made pressures/threats to the survival of wildlife living in the area, among others.

All designated, critical habitats shall be protected, in coordination with the local government units and other concerned groups, from any form of exploitation or destruction which may be detrimental to the survival of the threatened species dependent therein. For such purpose, the Secretary may acquire, by purchase, donation or expropriation, lands, or interests therein, including the acquisition of usufruct, establishment of easements or other undertakings appropriate in protecting the critical habitat.

ARTICLE THREE

Registration of Threatened and Exotic Species

Sec. 26. *Registration of Threatened and Exotic Wildlife in the Possession of Private Persons.* - No person or entity shall be allowed possession of wildlife unless such person or entity can prove financial and technical capability and facility to maintain said wildlife. Twelve (12) months after the effectivity of this Act, the Secretary shall set a period, within which persons/entities shall register all threatened species collected and exotic species imported prior to the effectivity of this Act. However, when the threatened species is needed for breeding/propagation or research purposes, the State may acquire the wildlife through a mutually acceptable arrangement.

After the period set has elapsed, threatened wildlife possessed without certificate of registration shall be confiscated in favor of the government, subject

to the penalties herein provided.

All Philippine wildlife which are not listed as threatened prior to the effectivity of this Act but which may later become so, shall likewise be registered during the period set after the publication of the updated list of threatened species.

CHAPTER IV ILLEGAL ACTS

Sec. 27. *Illegal Acts.* - Unless otherwise allowed in accordance with this Act, it shall be unlawful for any person to willfully and knowingly exploit wildlife resources and their habitats, or undertake the following acts:

(a) Killing and destroying wildlife species, except in the following instances;

- (i) When it is done as part of the religious rituals of established tribal groups or indigenous cultural communities;
 - (ii) When the wildlife is afflicted with an incurable communicable disease;
 - (iii) When it is deemed necessary to put an end to the misery suffered by the wildlife;
 - (iv) When it is done to prevent an imminent danger to the life or limb of a human being; and
 - (v) When the wildlife is killed or destroyed after it has been used in authorized research or experiments.
- (b) Inflicting injury which cripples and/or impairs the reproductive system of wildlife species;
- (c) Effecting any of the following acts in critical habitat(s)
- (i) Dumping of waste products detrimental to wildlife;
 - (ii) Squatting or otherwise occupying any portion of the critical habitat;
 - (iii) Mineral exploration and/or extraction;
 - (iv) Burning;
 - (v) Logging; and
 - (vi) Quarrying
- (d) Introduction, reintroduction or restocking of wildlife resources;
- (e) Trading of wildlife;
- (f) Collecting, hunting or possessing wildlife, their by-products and derivatives;
- (g) Gathering or destroying of active nests, nest trees, host plants and the like;
- (h) Maltreating and/or inflicting other injuries not covered by the preceding paragraph; and
- (i) Transporting of wildlife.

CHAPTER V FINES AND PENALTIES

Sec. 28. *Penalties for Violations of this Act.* For any person who undertakes illegal acts under paragraph (a) of the immediately preceding section to any species as may be categorized pursuant to this Act, the following penalties and/or fines shall be imposed:

- (a) Imprisonment of a minimum of six (6) years and one (1) day to twelve (12) years and/or a fine of One hundred thousand pesos (P100,000.00) to One million pesos (P1,000,000.00), if inflicted or undertaken against species listed as critical;
- (b) Imprisonment of four (4) and one (1) day to six (6) years and/or a fine of Fifty thousand pesos (P50,000.00) to Five hundred thousand pesos (P500,000.00) if inflicted or undertaken against endangered species;
- (c) Imprisonment of two (2) years and one (1) day to four (4) years and/or a fine of Thirty thousand pesos (P30,000.00) to Three hundred thousand pesos (P300,000.00), if inflicted or undertaken against vulnerable species;
- (d) Imprisonment of one (1) year and one (1) day to two (2) years and/or a fine of Twenty thousand pesos (P20,000.00) to Two hundred thousand pesos (P200,000.00) if inflicted or undertaken against other threatened species; and
- (e) Imprisonment of six (6) months and one (1) day to one (1) year and/or a fine of Ten thousand pesos (P10,000.00) to One hundred thousand pesos (P100,000.00), if inflicted or undertaken against other wildlife species.

For illegal acts under paragraph (b) of the immediately preceding section, the following penalties and/or fines shall be imposed:

- (a) Imprisonment of minimum of four (4) years and one (1) day to six (6) years and/or a fine of Fifty thousand pesos (P50,000.00) to Five hundred thousand pesos (P500,000.00), if inflicted or undertaken against species listed as critical;
- (b) Imprisonment of two (2) years and one (1) day to four (4) years and/or a fine of Thirty thousand pesos (P30,000.00) to Two hundred thousand pesos (P200,000.00), if inflicted or undertaken against endangered species;
- (c) Imprisonment of one (1) year and one (1) day to two (2) years and/or a fine of Twenty thousand pesos (P20,000.00) to Two hundred thousand pesos (P200,000.00), if inflicted or undertaken against vulnerable species;
- (d) Imprisonment of six (6) months and one (1) day to one (1) year and/or fine of Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00), if inflicted or undertaken against other threatened species; and
- (e) Imprisonment of one (1) month to six (6) months and/or a fine of Five thousand pesos (P5,000.00) to Twenty thousand pesos (P20,000.00), if

inflicted or undertaken against other wildlife species.

For illegal acts under paragraphs (c) and (d) of the immediately preceding section, an imprisonment of one (1) month to eight (8) years and/or a fine of Five thousand pesos (P5,000.00) to Five million pesos (P5,000,000.00) shall be imposed.

For illegal acts under paragraph (e), the following penalties and/or fines shall be imposed:

- (a) Imprisonment of two (2) years and one (1) day to four (4) years and/or a fine of Five thousand pesos (P5,000.00) to Three hundred thousand pesos (P300,000.00), if inflicted or undertaken against species listed as critical;
- (b) Imprisonment of one (1) year and one (1) day to two (2) years and/or a fine of Two thousand pesos (P2,000.00) to Two hundred thousand pesos (P200,000.00), if inflicted or undertaken against endangered species;
- (c) Imprisonment of six (6) months and one (1) day to one (1) year and/or a fine of One thousand pesos (P1,000.00) to One hundred thousand pesos (P100,000.00), if inflicted or undertaken against vulnerable species;
- (d) Imprisonment of one (1) month and one (1) day to six (6) months and/or a fine of Five hundred pesos (P500.00) to Fifty thousand pesos (P50,000.00), if inflicted or undertaken against species listed as threatened species; and
- (e) Imprisonment of ten (10) days to one (1) month and/or a fine of Two hundred pesos (P200.00) to Twenty thousand pesos (P20,000.00), if inflicted or undertaken against other wildlife species.

For illegal acts under paragraphs (f) and (g) of the immediately preceding section, the following penalties and/or fines shall be imposed:

- (a) Imprisonment of two (2) years and one (1) day to four (4) years and a fine of Thirty thousand pesos (P30,000.00) to Three hundred thousand pesos (P300,000.00), if inflicted or undertaken against species listed as critical;
- (b) Imprisonment of one (1) year and one (1) day to two (2) years and a fine of Twenty thousand pesos (P20,000.00) to Two hundred thousand pesos (P200,000.00), if inflicted or undertaken against endangered species;
- (c) Imprisonment of six (6) months and one (1) day to one (1) year and a fine of Ten thousand pesos (P10,000.00) to One hundred thousand pesos (P100,000.00), if inflicted or undertaken against vulnerable species;
- (d) Imprisonment of one (1) month and one (1) day to six (6) months and a fine of Five thousand pesos (P5,000.00) to Fifty thousand pesos (P50,000.00), if inflicted or undertaken against species as other threatened species; and

- (e) Imprisonment of ten (10) days to one (1) month and a fine of One thousand pesos (P1,000.00) to Five thousand pesos (P5,000.00), if inflicted or undertaken against other wildlife species: Provided, That in case of paragraph (f), where the acts were perpetuated through the means of inappropriate techniques and devices, the maximum penalty herein provided shall be imposed.

For illegal acts under paragraphs (h) and (i) of the immediately preceding section, the following penalties and/or fines shall be imposed:

- (a) Imprisonment of six (6) months and one (1) day to one (1) year and a fine of Fifty thousand pesos (P50,000.00) to One hundred thousand pesos (P100,000.00) if inflicted or undertaken against species listed as critical species;
- (b) Imprisonment of three (3) months and one (1) day to six (6) months and a fine of Twenty thousand pesos (P20,000.00) to Fifty thousand pesos (P50,000.00), if inflicted or undertaken against endangered species;
- (c) Imprisonment of one (1) month and one (1) day to three (3) months and a fine of Five thousand pesos (P5,000.00) to Twenty thousand pesos (P20,000.00), if inflicted or undertaken against vulnerable species;
- (d) Imprisonment of ten (10) days to one (1) month and a fine of One thousand pesos (P1,000.00) to Five thousand pesos (P5,000.00), if inflicted or undertaken against species listed as other threatened species;
- (e) Imprisonment of five (5) days to ten (10) days and a fine of Two hundred pesos (P200.00) to One thousand pesos (P1,000.00), if inflicted or undertaken against other wildlife species.

All wildlife, its derivatives or by-products, and all paraphernalia, tools and conveyances used in connection with violations of this Act, shall be ipso facto forfeited in favor of the government: Provided, That where the ownership of the aforesaid conveyances belong to third persons who has no participation in or knowledge of the illegal acts, the same may be released to said owner. The apprehending agency shall immediately cause the transfer of all wildlife that have been seized or recovered to the nearest Wildlife Rescue Center of the Department in the area.

If the offender is an alien, he shall be deported after service and payment of fines, without any further proceedings.

The fines herein prescribed shall be increased by at least ten percent (10%) every three (3) years to compensate for inflation and to maintain the deterrent function of such fines.

CHAPTER VI MISCELLANEOUS PROVISIONS

Sec. 29. *Wildlife Management Fund.* There is hereby established a Wildlife Management Fund to be administered by the Department as a special account in the National Treasury which shall finance rehabilitation or restoration of habitats affected by acts committed in violation of this Act and support scientific research, enforcement and monitoring activities, as well as enhancement of capabilities of relevant agencies.

The Fund shall derive from fines imposed and damages awarded, fees, charges, donations, endowments, administrative fees or grants in the form of contributions. Contributions to the Fund shall be exempted from donor taxes and all other tax charges or fees imposed by the government.

Sec. 30. *Deputation of Wildlife Enforcement Officers.* - The Secretary shall deputize wildlife enforcement officers from non-government organizations, citizens groups, community organizations and other volunteers who have undergone necessary training for this purpose. The Philippine National Police (PNP), the Armed Forces of the Philippines (AFP), the National Bureau of Investigation (NBI) and other law enforcement agencies shall designate wildlife enforcement officers. As such, the wild enforcement officers shall have the full authority to seize illegally traded wildlife and to arrest violators of this Act subject to existing laws, rules and regulations on arrest and detention.

Sec. 31. *Establishment of National Wildlife Research Centers.* The Secretary shall establish national wildlife research centers for terrestrial and aquatic species to lead in the conduct of scientific researches on the proper strategies for the conservation and protection of wildlife, including captive breeding or propagation. In this regard, the Secretary shall encourage the participation of experts from academic/research institutions and wildlife industry.

Sec. 32. *Wildlife Rescue Center.* - The Secretary shall establish or designate wildlife rescue centers to take temporary custody and care of all confiscated, abandoned and/or donated wildlife to ensure their welfare and well-being. The Secretary shall formulate guidelines for the disposition of wildlife from the rescue centers.

Sec. 33. *Creation of Wildlife Traffic Monitoring Units.* - The Secretary shall create wildlife traffic monitoring units in strategic air and seaports all over the country to ensure the strict compliance and effective implementation of all existing wildlife laws, rules and regulations, including pertinent interna-

tional agreements.

Customs officers and/or other authorized government representatives assigned at air or seaports who may have intercepted wildlife commodities in the discharge of their official functions shall, prior to further disposition thereof, secure a clearance from the wildlife traffic monitoring unit assigned in the area.

Sec. 34. *Exemption from taxes.* - Any donation, contribution, bequest, subsidy or financial aid which may be made to the Department of Environment and Natural Resources or to the Department of Agriculture and to NGOs engaged in wildlife conservation duly registered with the Securities and Exchange Commission as certified by the local government unit, the Department of Environment and Natural Resources or the Department of Agriculture, for the conservation and protection of wildlife resources and their habitats shall constitute as an allowable deduction from the taxable income of the donor and shall be exempt from donor's tax.

Sec. 35. *Flagship Species.* Local government units shall initiate conservation measures for endemic species in their areas. For this purpose, they may adopt flagship species such as the Cebu black shama (*copsychus cebuensis*), tamaraw (*bubalus mindorensis*), Philippine tarsier (*tarsius syrichta*), Philippine teak (*tectona philippinensis*), which shall serve as emblems of conservation for the local government concerned.

Sec. 36. *Botanical Gardens, Zoological Parks and Other Similar Establishments.* The Secretary shall regulate the establishment, operation and maintenance of botanical gardens, zoological parks and other similar establishments for recreation, education and conservation.

Sec. 37. *Implementing Rules and Regulations.* - Within twelve (12) months following the effectivity of this Act, secretaries of the Department of Environment and Natural Resources and the Department of Agriculture, in coordination with the Committees on Environment and Ecology of the Senate and the House of Representatives, respectively, shall promulgate respective rules and regulations for the effective implementation of this Act. Whenever appropriate, coordination in the preparation and implementation of rules and regulations on joint and inseparable issues shall be done by both Departments. The commitments of the State to international agreements and protocols shall likewise be a consideration in the implementation of this Act.

Sec. 38. *Appropriations.* - The amount necessary to implement the provisions

of this Act shall be charged against the appropriations of the Department of Environment and Natural Resources in the current General Appropriations Act. Therefore, such sums as may be necessary to fully implement the provisions of this Act shall be included in the annual General Appropriations Act.

Sec. 39. **Separability Clause.** - Should any provision of this Act be subsequently declared as unconstitutional, the same shall not affect the validity or the legality of the other provisions.

Sec. 40. **Repealing Clause.** - Act Nos. 2590 and 3983, Commonwealth Act No. 63, as amended, Presidential Decree No. 1219, as amended, Republic Act No. 6147, and other laws, orders and regulations inconsistent herewith are hereby repealed or amended accordingly.

Sec. 41. **Effectivity.** - This Act shall take effect fifteen (15) days after publication in the Official Gazette or two (2) newspapers of general circulation.

Approved: July 30, 2001

Republic of the Philippines
Congress of the Philippines
Metro Manila
Twelfth Congress
Second Regular Session

Begun and held in Metro Manila, on Monday, the twenty-second day of July, two thousand two.

Republic Act No. 9175 November 7, 2002

AN ACT REGULATING THE OWNERSHIP, POSSESSION, SALE,
IMPORTATION AND USE OF CHAIN SAWS, PENALIZING VIOLA-
TIONS THEREOF AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

Section 1. **Title.** - This Act shall be known as the "Chain Saw Act of 2002".

Section 2. **Declaration Policy.** - It is the policy of the State consistent with the Constitution, to conserve, develop and protect the forest resources under sustainable management. Toward this end, the State shall pursue an aggressive forest protection program geared towards eliminating illegal logging and other forms of forest destruction which are being facilitated with the use of chain saws. The State shall therefore regulate the ownership, possession, sale, transfer, importation and/or use of chain saws to prevent them from being used in illegal logging or unauthorized clearing of forests.

Section 3. **Definition of Terms.** - As used in this Act, the term:

- (a) *Chain saw* shall refer to any portable power saw or similar cutting implement, rendered operative by an electric or internal combustion engine or similar means, that may be used for, but is not limited to, the felling of trees or the cutting of timber;
- (b) *Chain saw dealer* shall refer to a person, natural or juridical, engaged in the manufacture, importation, distribution, purchase and/or sale of chain saws;
- (c) *Department* shall refer to the Department of Environment and Natural Resources; and
- (d) *Secretary* shall refer to the Secretary of the Department of Environment and Natural Resources.

Section 4. *Persons Authorized to Manufacture, Sell and Import Chain Saws.* - Chain saws shall only be sold and/or imported by manufacturers, dealers and/or private owners who are duly authorized by the Department.

Section 5. *Persons Authorized to Possess and Use a Chain Saw.* - The Department is hereby authorized to issue permits to possess and/or use a chain saw for the felling land/or cutting of trees, timber and other forest or agro-forest products to any applicant who:

- (a) Has a subsisting timber license agreement, production sharing agreement, or similar agreements, or a private land timber permit;
- (b) Is an orchard and fruit tree farmer;
- (c) Is an industrial tree farmer;
- (d) Is a licensed wood processor and the chain saw shall be used for the cutting of timber that has been legally sold to said applicant; or
- (e) Shall use the chain saw for a legal purpose.

Agencies of the government that use chain saws in some aspects of their functions must likewise secure the necessary permit from the Department before operating the same.

Section 6. *Registration of Chain Saws.* - Within a period of three (3) months from the effectivity hereof, all persons who own or are otherwise in possession of chain saws must register the same with the Department, through any of its Community Environment and Natural Resources Office, which shall issue the corresponding registration certificate or permit if it finds such persons to be qualified hereunder.

Every permit to possess and/or use a chain saw for legitimate purpose shall be valid for two (2) years upon issuance: Provided, That permits to possess and use chainsaw issued to non-commercial orchard and fruit tree farmers shall be valid for a period of five (5) years upon issuance. For this purpose, the Department shall be allowed to collect reasonable registration fees for the effective implementation of this Act.

Section 7. *Penal Provisions.*

- (a) *Selling, Purchasing, Re-selling, Transferring, Distributing or Possessing a Chain Saw Without a Proper Permit.* - Any person who sells, purchases, transfer the ownership, distributes or otherwise disposes or possesses a chain saw without first securing the necessary permit from the Department shall be punished with imprisonment of four (4) years, two (2) months and one (1) day to six (6) years or a fine of not less than Fifteen thousand pesos (P15,000.00) but not more Thirty thousand pesos (30,000.00) or

both at the discretion of the court, and the chain saw/s confiscated in favor of the government.

- (2) *Unlawful Importation or Manufacturing of Chain Saw.* - Any person who imports or manufactures a chain saw without obtaining prior authorization from the Department shall be punished by imprisonment of not less than one (1) month nor more than six (6) months and a fine of not less than One thousand pesos (P1,000.00) for more than Four thousand pesos (P4,000.00).
- (3) *Tampering of Engine Serial Number.* - Any person who is found to have defaced or tampered with the original registered engine serial number of any chain saw unit shall be punished by imprisonment of not less than one (1) month nor more than six (6) months and a fine of not less than One thousand pesos (P1,000.00) nor more than Four thousand pesos (P4,000.00).
- (4) *Actual Unlawful Use of Chain Saw.* - Any person who is found to be in possession of a chain saw and uses the same to cut trees and timber in forest land or elsewhere except as authorized by the Department shall be penalized with imprisonment of six (6) years and one (1) day to eight (8) years or a fine of not less than Thirty thousand pesos (P30,000.00) but not more than Fifty thousand pesos (P50,000.00) or both at the discretion of the court without prejudice to being prosecuted for a separate offense that may have been simultaneously committed. The chain saw unlawfully used shall be likewise confiscated in favor of the government.

If the violation under this Section is committed by or through the command or order of another person, partnership or corporation, the penalties herein provided shall likewise be imposed on such other person, or the responsible officer(s) in such partnership or corporation.

If the offender is a public official or employee, in addition to the above penalties, he shall be removed from office and perpetually disqualified from holding any public office.

The chain saws confiscated under this Section shall be sold at public auction to qualified buyers and the proceeds thereof shall go to the Department.

Section 8. *Reward.* - Any person who voluntarily gives information leading to the recovery or confiscation of an unregistered chain saw and the conviction of persons charged thereof shall be entitled to a reward equivalent to twenty percent (20%) of the value of the chain saw unit(s). The Department is authorized to include in its budget the amount necessary to carry out the purpose of this Section.

Section 9. **Authority of the Secretary.** - To effectively implement the provisions of this Act, the Secretary shall issue the implementing rules and regulations within ninety (90) days upon approval of this Act. He shall likewise organize an office within the Department to ensure that requirements imposed by this Act may be complied with by qualified persons, within the shortest possible time, at the least possible expense.

In the Province of Palawan, the provisions of this Act shall be implemented by the Palawan Council for Sustainable Development pursuant to Republic Act No. 7611 or the Strategic Environmental Plan for Palawan.

Section 10. **Revocation of Registration and Permit.** - The Secretary may revoke any Certificate of Registration or permit previously issued to a person found violating the provisions of this Act, or the rules and regulations issued pursuant thereto.

Section 11. **Joint Congressional Oversight Committee.** - To monitor and oversee the implementation of this Act, including the approval of the rules and regulations issued pursuant hereto, there is hereby created a Joint Congressional Oversight Committee to be composed of the Chairpersons of the Senate Committee on Environment and Natural Resources and the House Committee on Natural Resources as Chairperson and Co-Chairperson, five (5) members of each of the Senate and the House of Representatives who shall be designated by the Senate President and the Speaker of the House of Representatives as members: Provided, That the two (2) of the five (5) senators and two (2) of the five (5) House members shall be nominated by the respective Minority Leaders of the Senate and the House of Representatives.

Section 12. **Transitory Provision.** - In the interim while the Department is formulating the implementing rules and regulations to effectively carry out the provisions of this Act, the Bureau of Customs is prohibited from approving any chain saw importation without clearance from said Department.

Section 13. **Separability Clause.** - If, for any reason, any part or provision of this act shall be declared as unconstitutional or invalid, such parts or provisions not affected thereby shall remain in full force and effect.

Section 14. **Repealing Clause.** - all laws, executive orders, presidential decrees, letters of instruction, rules and regulations, or parts thereof which are inconsistent with any of the provisions of this Act are hereby repealed and/or amended accordingly.

Section 15. **Effectivity.** - This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) national newspapers of general circulation, whichever comes earlier.

Approved,

JOSE DE VENECIA JR.
Speaker of the House of Representatives

FRANKLIN DRILON
President of the Senate

This Act, which is a consolidation of Senate Bill No. 1940 and House Bill No. 3994, was finally passed by the Senate and the House of Representative on August 14, 2002 and September 2, 2002, respectively.

ROBERTO P. NAZARENO
Secretary General
House of Representatives

OSCAR G. YABES
Secretary of Senate

Approved: November 7, 2002

GLORIA MACAPAGAL-ARROYO
President of the Philippines

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