SIMPLIFIED AND HARMONIZED FORESTRY REGULATORY PROCEDURES OF THE PHILIPPINES

TERMINAL REPORT

Forestry Development Center
College of Forestry and Natural Resources
University of the Philippines Los Baños
(Through the University of the Philippines Los Baños Foundation, Inc.)

April 2004

EcoGovernance

USAID

DAI
Development Alternatives, Inc.

This project is implemented by Development Alternatives, Inc. with the support of its subcontractors:

Orient Integrated Development Consultants, Inc. ■
Resources, Environment and Economics Center for Studies, Inc. ■
Winrock International ■
Abt Associates, Inc. ■
Management Systems International ■
Michigan State University ■

Produced by the Department of Environment and Natural Resources-United States Agency for International Development's (DENR-USAID) Philippine Environmental Governance (EcoGov) Project through the assistance of the USAID under USAID PCE-1-00-99-00002-00. The views expressed and opinions contained in this publication are those of the authors and are not intended as statements of policy of USAID or the authors' parent organization.

TABLE OF CONTENTS

LIST OF TABLES

LIST OF FIGURES

LIST OF ANNEXES

ACRONYMS

A&D	-	Alienable and Disposable
APLO	-	Area Programmed for Logging Operations
ATO	-	Air Transportation Office
AWP	-	Annual Work Plan
CAA	-	Civil Aeronautics Administration
CBFM	-	Community-Based Forest Management
CBFMA	-	Community-Based Forest Management Agreement
CENRO	-	Community Environment and Natural Resources Office
CNC	-	Certificate of Non-compliance
CRMF	-	Community Resource Management Framework
CRW	-	Communication Right-of-Way
CRW	-	Communication Right-of-Way
CS	-	Certificate of Stewardship
CSO	-	Civil Society Organization
DAI	-	Development Alternatives, Incorporated
DAO	-	Department Administrative Order
DENR	-	Department of Environment and Natural Resources
DILG	-	Department of the Interior and Local Government
ECCs	-	Environmental Compliance Certificates
EcoGov	-	Environmental Governance
EGA	-	Effective Grazing Area
EIA	-	Environmental Impact Assessment
EMB	-	Environmental Management Bureau
FAO	-	Forestry Administrative Order
FDC	-	Forestry Development Center
FLGMA	-	Forest Land Grazing Management Agreement
FMB	-	Forest Management Bureau
FRCD	-	Forest Resources Conservation Division
FRP	-	Forest Regulatory Procedures
IAOP	-	Integrated Annual Operations Plan
IEC	-	Information, Education and Communication
IEE	-	Initial Environmental Examination
IFMA	-	Integrated Forest Management Agreement
IP	-	Indigenous People
IPRA	-	Indigenous People's Rights Act
JMC	-	Joint Memorandum Circular
LGC	-	Local Government Code
LGU	-	Local Government Unit
LSP	-	Local Service Provider
MAT	-	Multisectoral Assessment Term
MFO	-	Major Final Outputs
MFPC	-	Multi-sectoral Forest Protection Committee
MO	-	Memorandum Order
NAMRIA	-	National Mapping and Resource Information Authority
NCIP	-	National Commission for Indigenous People
NGO	-	Non-government Organization
NIPAS	-	National Integrated Protected Areas System
OGA	-	Other government agencies
OSEC	-	Office of the Secretary
PAWB	-	Protected Areas and Wildlife Bureau
PENRO	-	Provincial Environment and Natural Resources Office
PFDA	-	Private Forest Development Agreement
PFDA	-	Private Forest Development Agreement

PLTP	-	Private Land Timber Permit
PO	-	People's Organization
RCC	-	Rattan Cutting Contract
RED	-	Regional Executive Director
RENRO	-	Regional Environment and Natural Resources Office
RNF	-	Residual Natural Forest
RRW	-	Road right-of-way
RTDF	-	Regional Technical Director for Forestry
RTRC	-	Regional Technical Review Committee
SEMS	-	Senior Environmental Management Specialist
SFMS	-	Senior Forest Management Specialist
SIFMA	-	Socialized Industrial Forest Management Agreement
SPLTP	-	Special Private Land Timber Permit
SPLUMA	-	Special Land Use Management Agreement
SWOT	-	Strength, Weaknesses, Opportunities and Threat
TLA	-	Timber License Agreement
TLRW	-	Transmission Line Right-of-Way
TMS	-	Timber Management Section
UPLB-FI	-	University of the Philippines Los Baños Foundation, Incorporated
USAID	-	United States Agency for International Development
WPPP	-	Wood Processing Plant Permit
WRP	-	Wood Recovery Permit

EXECUTIVE SUMMARY

The Forestry Development Center (FDC) based at the College of Forestry and Natural Resources, through the University of the Philippines Los Baños Foundation, Incorporated (UPLB-FI) was invited to bid and was contracted as a Local Service Provider (LSP) for the Philippine EcoGovernance Project. The USAID-funded EcoGovernance Project is a technical assistance grant to the Government of the Philippines (GOP) in partnership with the Department of Environment and Natural Resources (DENR), local government units (LGUs) and civil society organizations. The FDC-UPLBFI was contracted as LSP by the Development Alternatives, Inc. (DAI), the technical assistance contractor, to prepare the Manual on Forestry Regulatory Procedures of the Philippines. The undertaking covered the period from June 2003 to 15 April 15 2004.

The scope of work included the analysis of the forestry regulatory procedures (FRP) on forest land use management agreements, forest resources utilization permits, co-management schemes on forest lands, and forest law enforcement and due diligence. Recommendations are made on the issues, concerns and problems raised by respondents and participants in the field data gathering and regional consultations with various sectors. Many of the recommendations forwarded by the teams have been incorporated in the proposed administrative orders currently being drafted by the DENR and the Forest Management Bureau (FMB). Draft manuals were also developed for Community-Based Forest Management (CBFM) and Forest Law Enforcement and Due Diligence.

Significant recommendations for the management agreements analyzed include: a simplified procedure for the identification and approval of open access sites for various uses; a standard and accessible list of application requirements; the processing and approval of management agreements; and the responsibilities of the DENR, the holders, and other stakeholders. Tenurial instruments studied include the Integrated Forest Management Agreement (IFMA), the Socialized Industrial Forest Management Agreement (SIFMA), the Special Land Use Management Agreement (SPLUMA), the Forest Land Grazing Management Agreement (FLGMA), the Private Land Forest Development Agreement (PFDA) and the Community-Based Forest Management Agreement (CBFMA).

Forest resources utilization permits analyzed include the following: the Wood Processing Plant Permit (WPPP), the Wood Recovery Permit (WRP), the Private Land Timber Permit/the Special Private Land Timber Permit (PLTP/SPLTP), the Integrated Annual Operations Plan (IAOP), and the Rattan Cutting Contract (RCC).

The analysis of the said forestry regulatory procedures was based on the ecogovernance principles of transparency, accountability and participatory decision-making. The approaches taken in the simplification and harmonization of FRPs were: the integration of related policies (deregulation); functional levels of the DENR (decentralization, reduction of levels, definition of roles, checks and balances); the simplification of processes, requirements, responsibilities; and the harmonization of procedures (removal of duplicating, conflicting, overlapping provisions).

In summary, the recommendations from the analysis of the FRPs are stated as follows:

1. **Transparency** - In order for the forest regulatory procedures to be transparent, there is a need for the active participation of multisectors (LGUs, local communities, private industry sector, NGOs, etc.) in the various deliberations prior to decision-making, especially where land allocation activities are concerned. In particular, composite teams are needed for the following: the evaluation of open access areas available for various uses and tenurial instruments; the evaluation of applications for FMAs and ECCs, the evaluation of plans and agreements pertaining to suspensions/cancellations and renewals. Consultations with as many concerned sectors as possible are also needed where policy changes such as amendments, revisions or repeals are to be made.

The DENR has to reduce the insecurity brought about by unclear policy statements or procedures and an unstable policy environment. Simplified, harmonized and standardized policies and procedures have to be made accessible to the public to ensure transparent transactions between the DENR and its clientele.

2. **Accountability** - Accountability in decision-making and the implementation of forestry and related policies and programs can be achieved in a number of ways. One is through the decentralization of decision-making in terms of approval and the issuance of tenurial instruments, permits, ECCs, etc. Another is through the deregulation of related policies, particularly the integration of common requirements for development plans, ECCs and related permits. The decentralization of the issuance of instruments; the establishment and enforcement of checks and balance mechanisms, clear mechanisms for law enforcement, and the enhancement or building up of the capabilities of action officers are other ways of inculcating accountability among the DENR's rank and file.

3. **Participatory decision-making** - Social equity and justice in public forest land allocation can be achieved by defining the roles and mechanisms for the participation of all interested stakeholders. Forest policies have to define the role of the local communities—both the migrants and the indigenous people—as well as the local government units and related local industries. Consultations, dialogues and inclusion in deliberations are ways of ensuring that concerned stakeholders are involved in decision-making particularly in the policymaking process.

SIMPLIFIED AND HARMONIZED FORESTRY REGULATORY PROCEDURES OF THE PHILIPPINES

Forestry Development Center
College of Forestry and Natural Resources
University of the Philippines Los Baños
(Through the University of the Philippines Los Baños Foundation, Inc.)

1.0 INTRODUCTION

1.1 RATIONALE

In line with the goals of building and strengthening the LGUs' capabilities to improve local EcoGovernance and ensure a sustainable natural resource base for the benefit of communities, in particular, and the nation, in general, the Philippine Environmental Governance (EcoGov) Project, through consultations with various sectors, recognized the need to prepare a Manual of Forestry Regulatory Procedures.

The FDC, based at the College of Forestry and Natural Resources, University of the Philippines Los Baños, was created under Presidential Decree No. 1559. Part of its mandate includes conducting basic policy research in forestry and related environmental fields, and developing or helping develop effective machinery for policy formulation and implementation in these areas. Besides the end-goal of producing the manual, the FDC, through the University of the Philippines Los Baños Foundation, Inc., welcomes the opportunity to become a Local Service Provider to the EcoGov Project to undertake the review of forestry regulatory policies, consult with the concerned sectors and come up with policy reforms as part of the dynamic policy formulation and implementation process.

A list of issues and recommendations on the five areas of forestry regulations (natural forests, forest land use, protected areas, law enforcement and community-based forest management) were presented by the representatives of the Forest Management Bureau and Protected Areas and Wildlife Bureau (PAWB) in workshops held in August and September 2002. The results of the August workshop and the follow-on roundtable discussion form the basis for the analysis and simplification/harmonization of the Forestry Regulatory Procedures in which the UPLBFI-FDC assumed the role of Local Service Provider.

In reviewing and analyzing the forestry regulatory procedures to determine overlaps, conflicts, gaps and ways to simplify and harmonize them, the Center consulted various sectors/stakeholders in several regions. The consultation process helped ensure that the concerned sectors were able to contribute in improving the regulatory environment within the DENR where transparency, accountability and public participation in the management of forests would exist.

1.2 OBJECTIVES

The project has the following objectives:

1. To review the existing forestry regulatory procedures and come up with a draft manual;
2. To consult the concerned sectors and incorporate their comments and recommendations in the drafting and finalization of the manual;
3. To prepare a due diligence mechanism that will serve as the basis for transparency, accountability and public participation in the overall forest regulatory system of the country; and
4. To review existing procedures and requirements of forest law enforcement in the country and to prepare a simplified and easy-to-follow manual to be used by the DENR and other forest law enforcement agencies.

2.0 PROJECT OPERATIONAL FRAMEWORK

Figure 1 presents the project operational framework for the simplification and harmonization of Forestry Regulatory Procedures (FRP). The project has two major project components. Project Component I involves the review and analysis of FRP on the following: 1) Forest land Management Agreements (Community-Based Forest Management, Integrated Forest Management, Socialized Forest Management, Special Forest Land Use Management, Forest Land Grazing Management, Private Forest Development); 2) Forest Resources Utilization Permits (Wood Processing Plant Permit, Wood Recovery Permit, Rattan Cutting Contracts); and 3) Forest Law Enforcement and Due Diligence. On the other hand, Project Component II involves the review of case studies on co-management enterprises and undertakings on forest lands/upland resources. These two components are guided by the project objectives and guiding principles.

The outputs of these two component studies are the major issues and concerns related to FRP. These served as the basis for the proposed simplification and harmonization of the Forestry Regulatory Policies where the technical, institutional, organizational and other aspects were considered. It is expected that the adoption of the proposed changes in the FRP by the end-users and implementers of Government Forestry Programs, with the appropriate support systems (e.g., IEC program), will contribute to achieve the 4Cs End Goal of the EcoGovernance Project—that of combating corruption, reducing conflict, promoting the conservation of the resources and the capacitation of different stakeholders. The project outputs (e.g., manual, administrative orders, analyses, etc.) however are by no means static. It is expected that these will continually be revised based on feedbacks from a Monitoring and Evaluation (M & E) System that will be put in place and issued by the DENR. Appropriate M & E forms/instruments shall be developed based on the simplified procedures. An external M & E system is also recommended.

In the review and simplification/harmonization of the forestry regulatory procedures, the following basic principles were adopted:

Holistic – all major aspects (technical, social, economic, institutional, political) relevant to the analysis of the forestry policies are considered in addressing the issues (i.e., overlaps, conflicts, inconsistencies, gaps, etc.) and in simplifying the forestry laws, rules and regulations. This involves a synthesis of diverse viewpoints so that the results represent an integration of all these viewpoints.

1. Interdisciplinary – The team is composed of highly qualified and experienced people with different fields of expertise (forestry, environment, agriculture, forest products engineering and utilization, law, economics, sociology, applied anthropology, community development, communication, etc.). They interact closely to represent varied interests while maintaining a holistic view.

2. Participatory/consultative – Various stakeholders were consulted throughout the various stages of the process of analyzing and simplifying the forestry laws, rules and regulations. Consultations were interactive where the stakeholders were asked to freely express their ideas and suggestions on how to simplify the forestry policies.

3. Science-based – The gathering and validation of information, the analysis of issues, the comparison by sector and across sectors, the simplification and formulation of forestry laws, rules and regulations were based on established approaches. The initial outputs of each stage of the process were presented to the DAI-EcoGov Policy Team and the DENR-FMB for discussion and to obtain suggestions on their refinement.

4. Doable and responsive – The outputs (analysis and manuals) were made responsive to the needs of the users (both implementers and clients) through the simplification of requirements and procedures, as well as through the reduction of processing time.

2.1 POLICY ANALYSIS OF PROJECT COMPONENT I

The review and analysis of the existing FRP contains a definable set of activities or processes that would transform the inputs into outputs (Figure 2). The set of activities includes the review and analysis of previously identified areas of concern affecting the clients and implementers. For the clients, the areas of concern include their qualifications, requirements and their responsibilities under the existing FRP. For the implementers, the areas of concern include the administrative/legal procedures being followed and the responsibilities of concerned agencies. The activities also include a review and an analysis of benefit-sharing procedures for resource management schemes, issues/problems and concerns, lessons and recommendations for both the clients and the implementers, the results of which are incorporated in the proposed amendments of the FRP.

The review covers the substantive and procedural aspects of the current forest law enforcement system of the country, to identify areas of improvement leading to the expeditious disposition of cases. Further, this component includes a due diligence mechanism that provides for a common standard of conduct among implementers and clients, with the ultimate objective of preempting unnecessary litigation involving forest regulations related to the discretionary actions of DENR officials.

2.2 PROJECT COMPONENT II: CASE STUDIES ON THE CO-MANAGEMENT OF FOREST RESOURCES

This project component includes an analysis of both primary and secondary information. The analysis of secondary information involves the review of documents and literature on forest resources co-management case studies. It includes the identification of factors influencing the success and failure of the different co-management schemes involving the communities, LGUs, NGOs and OGAs, as well as an analysis of the issues and concerns, lessons learned and recommendations made. On the other hand, the analysis of primary information served to validate the results of the analysis of the secondary information gathered.

The integration of the results of Project Components I and II provides inputs for the simplification and harmonization of the FRP as contained in the Analysis Reports, Manuals, and proposed Administrative Orders.

3.0 METHODOLOGY

Activity 1. The compilation, inventory and review of existing forestry regulations, as well as of issues and recommendations. An inventory was made of existing rules and regulations on Forest land Management Agreements (CBFM, IFMA, SIFMA, SPLUMA, FLGMA, PFDA), Forest Resources Utilization Permits (WPPP, WRP, RCC, PLTP, SPLTP, IAOP, CO, CRLD, OMFPL, CR, Authority to Export), and Forest Law Enforcement. The matrix used by the FMB Team in presenting the regulatory procedures was expanded to further categorize the forestry regulations by commodity, land use and instruments to facilitate the succeeding analysis of overlaps, inconsistencies, conflicts and gaps. The compiled inventory of forestry regulatory procedures was reviewed and the report submitted to the DAI-EcoGov Team on 9 July 2003.

Activity 2. Field data gathering of issues, problems, and recommendations to the existing FRP. Pertinent information and data on the existing requirements and on the procedures of securing, processing and obtaining the approval of permits and agreements, as well as other monitoring procedures of compliance, were gathered from selected regions (2, 3, 4a and b, 7, 8, 10, 11, and CARAGA) and from the central offices from August to September 2003. The FDC teams were fielded to these various regions to gather data through interviews, focus group discussions, informal conversations and the review of literature and references. Respondents included DENR officers, LGUs, permittees, licensees, agreement holders, people's organizations and other stakeholders. Table 1 shows the number of persons consulted during the field data gathering.

Activity 3. An analysis and the simplification of forestry regulatory procedures. The analysis of the regulatory procedures focused on the conflicting and overlapping stipulations and requirements and how to simplify the following processes: (1) the securing of issuances from the DENR and (2) the issuance of permits, licenses, and other instruments by the DENR. The analysis also looked into the conflicts or inconsistencies with other laws such as the National Integrated Protected Areas System (NIPAS) Act, the Indigenous People's Rights Act (IPRA), the Local Government Code (LGC), and others. Data from the field serve as inputs in the analysis and simplification of the FRP. The Report for this activity was likewise submitted on 9 October 2003 to the DAI-EcoGov Team, after which copies were forwarded to the DENR-FMB where the results were discussed with the counterpart staff members.

The existing laws, issuances, rules and regulations were analyzed using simple flow charts and groupings of activities, requirements, processing and approval procedures, responsibilities, incentives, sanctions and penalties, as well as monitoring and evaluation systems. Where possible, similar regulatory procedures of tenurial instruments were compared in terms of the said items. Differences and similarities were noted as well as conflicting, overlapping and problematic provisions. Functional levels of the implementing agency were analyzed and where possible, recommendations made for their reduction, redefinition or strengthening. Appropriate technical, social, institutional, management and other considerations were also incorporated in the process. Issues, concerns and recommendations from the various stakeholders consulted were likewise addressed in the process of simplification and harmonization.

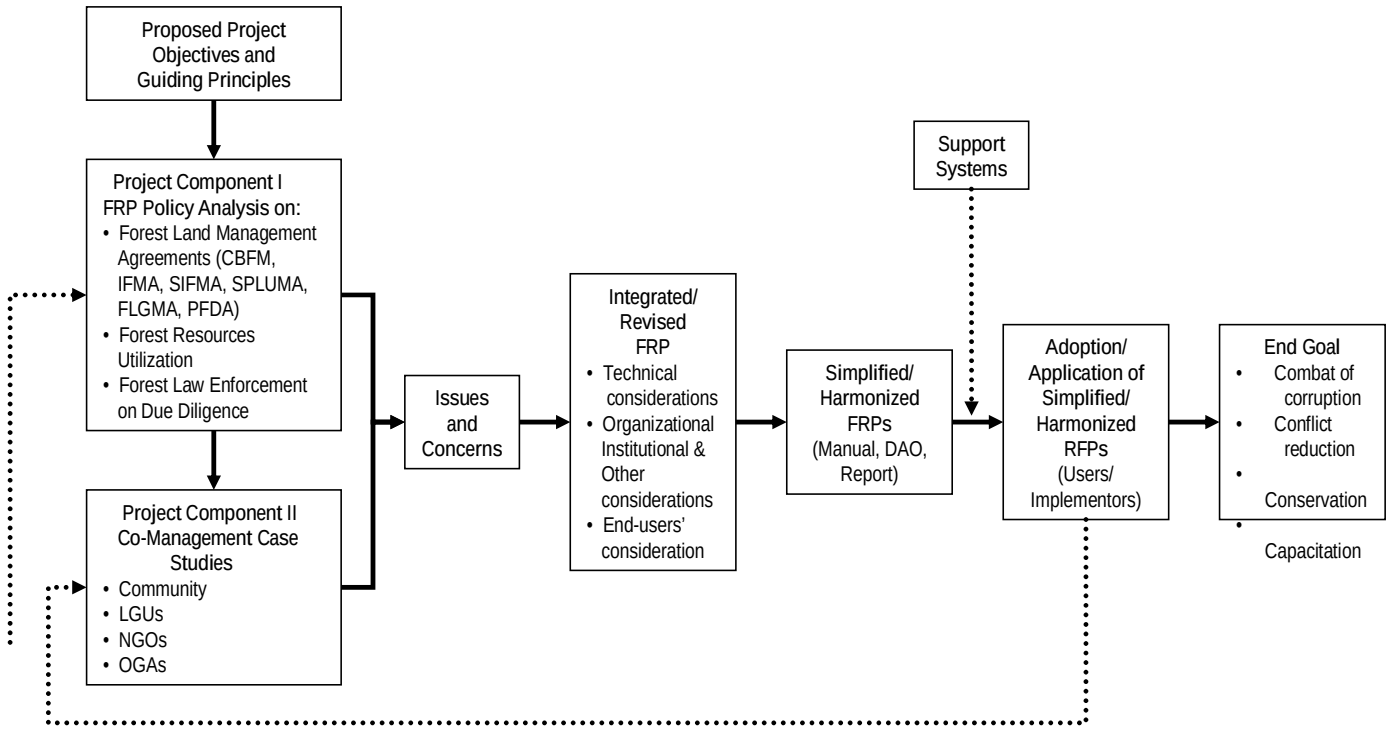

Figure 1. Project operational framework for the analysis, simplification and harmonization of the FRP

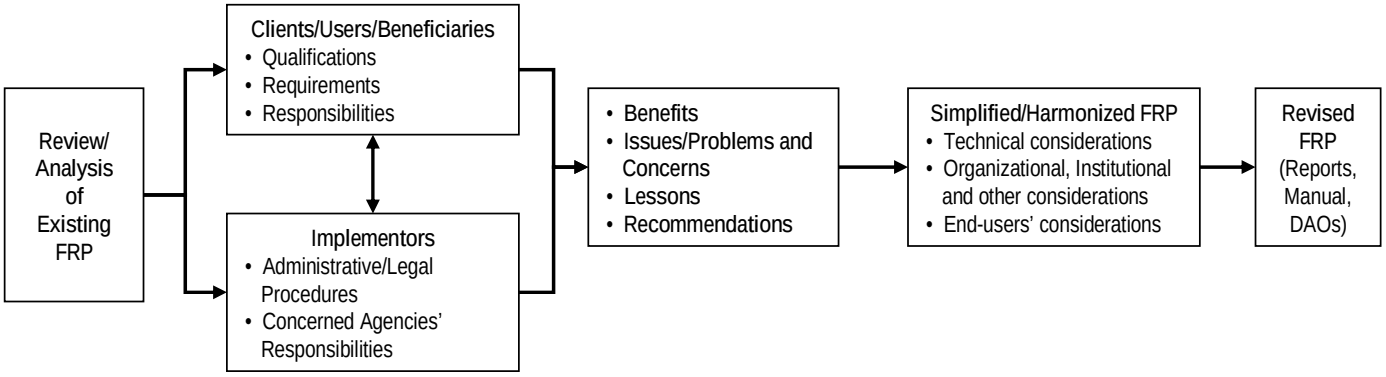

Figure 2. Policy Analysis of Project Component 1 – FRP on: Forest land Management Agreements, Forest Resources Utilization Permits, and Forest Law Enforcement

Table 1. Number of persons consulted during the field data gathering

	Regions	DENR	LGU / OGAs	Permittee/ Leaseholder/PO	TOTAL
CBFM	2,4a,7,11	37	17	63	117
IFMA	2,4a&b,7,10,11,CARAGA	9	1	5	15
SIFMA	2,7,10,11, CARAGA	15	-	6	21
PFDA/ Private Land Owners	2,4a&b,7,10,11,CARAGA	11	-	5	16
SPLUMA	2,4a&b,7,10,11,CARAGA	13	-	4	17
FLGMA	2,4a&b,7,10,11,CARAGA	10	-	5	15
Forest Utilization Permits	2,8,10, CARAGA	42	1	38	81
Co-Management	2	1	5	8	14
Forest Law Enforcement	2,8,10, CARAGA	51	2	21	74
TOTAL			26	155	370

Proposed amendments (prepared by the DENR) to existing laws and policy issuances were also analyzed to determine whether issues and problems with existing regulatory procedures were being addressed or incorporated. Related policies such as the IPRA Law, the Local Government Code, Joint DENR-DILG Memorandum Circulars, and recent DAOs on EIA implementation were among those reviewed and discussed with various sectors. These were also considered in coming up with simplified and harmonized procedures.

Transparency, accountability and the participatory principles of Ecogovernance guided the analysis, simplification and harmonization of various regulatory procedures.

Activity 4. Conduct of multisectoral consultations at the national and regional levels. The consultations were made through roundtable discussions, workshops or individual interviews with the concerned sectors including the DENR-FMB, LGUs, NGOs, POs, industry and the public. An in-house workshop was held at the FDC on 17 to 18 September 2003 with project advisers and selected experts from the academe to solicit their comments on the simplified and harmonized procedures.

Regular consultations and workshops were conducted with the DENR-FMB counterparts to discuss and validate issues arising from the field surveys, as well as to come up with proposals to address the said issues. The DENR-FMB counterparts contributed significantly to the simplification and harmonization of the forestry regulatory procedures.

Major regional consultations were held in Bayombong, Nueva Vizcaya (Region 2) on 24 October 24; Cebu City (Region 7) on 4 November 2003; Butuan City (CARAGA - Region 13) on 27 January 2004, and Davao City (Region 11) on 29 January 2004. All the simplified/harmonized forestry regulatory procedures were presented and discussed during the first two regional consultations in Regions 2 and 7. However, DAI-EcoGov and DENR-FMB prioritized five tenurial instruments (IFMA, SIFMA, WPPP, WRP, RCC) that were presented and discussed thoroughly in the other two regional consultations (Regions 11 and 13). Representatives from the DENR (RENRO, PENRO,

CENRO, EMB), LGUs, NCIP, IPs, POs, NGOs, tenurial instrument holders/permittees/applicants, and other sectors participated actively in the regional consultations (Table 2).

Table 2. Number of participants by sector in the regional consultations

SECTOR	Region 2	Region 7	Region 11	Region 13	TOTAL
DENR	5	13	21	16	55
EMB		2			2
LGU	2	2	2		6
PO	1		1		2
Agreement Holders	1	3	11	4	19
Permittees	1	4	2	7	14
NGO	1				1
DAI-EcoGov		3			3
Private			1		1
TOTAL	11	27	38	27	103

A Summit for CBFM People's Organizations was held in Cebu City on 2 December 2003 during which the FDC-CBFM Team presented the draft Administrative Order on CBFM (prepared in collaboration with FMB-CBFM Office).

The results of the national and regional consultations were incorporated in the draft reports submitted on 21 November (Report on IFMA, WPPP, RCC, and Manual on Forest Law Enforcement) and 17 December 2003 (Reports on SIFMA, SPLUMA, FLGMA, PFDA, WRP, PLTP/SPLTP) to DAI-EcoGov, with copies furnished to the DENR-FMB counterparts. Another round of discussions was held with the DENR-FMB counterparts to discuss the results of the Mindanao Regional Consultations and the resulting draft report on the five priority instruments (IFMA, SIFMA, WPPP, WRP, RCC). The Draft Manual on Forest Law Enforcement was submitted on 29 February 2004, while the Draft Manual on CBFM was submitted to DAI-EcoGov on 2 March 2004.

Activity 5. Review and analysis of case studies on existing co-management enterprises and undertakings on forest lands/upland resources. This activity involved the following processes: 1) a review of literature to identify documented cases of co-management, 2) a review of documents on documented cases to identify lessons/issues and recommendations, 3) the validation of identified issues and concerns at the field level, and 4) the preparation (?) of case studies. Through the case studies the following tasks were undertaken:

1. The identification of the different stakeholders and an evaluation of the mechanism of entering into socially negotiated institutional arrangements.
2. A determination and evaluation of the nature and extent of the stakeholders' involvement in the co-management of forest resources.
3. An identification and documentation of factors affecting the successes and failures of the different co-management schemes.
4. The determination and recommendation of ways to achieve the sustainability of co-management schemes.
5. The issuance of comprehensive recommendations for addressing policy and field level implementation gaps.

Draft reports on the Co-Management Arrangements were submitted to DAI-EcoGov on 9 October 2003 and 2 March 2004.

Activity 6. Deliberations on the FDC Outputs at the DENR Central Office. An overview of the highlights of the FDC Outputs was presented to the DENR Policy Technical Working Group and to representatives of FMB and DAI-EcoGov on 26 March 2004. During the said meeting, it was agreed upon that even if the UPLB-FI-FDC's TOR ends by March 2004, FDC would continue to provide assistance to DENR-FMB in the discussions of draft policy issuances on the various instruments studied in this Project. Small group discussions were to be held in the coming weeks and months on proposed issuances on individual instruments.

Activity 7. Submission of the Project Terminal Report on the Simplified Forestry Regulatory Procedures incorporating the results of the preceding activities. The Terminal Report includes the highlights of the Outputs on the Simplified FRP on various instruments, as well as the Draft Manuals on CBFM and Forest Law Enforcement and Due Diligence.

4.0 HIGHLIGHTS OF RESULTS

4.1 FOREST LAND USE MANAGEMENT AGREEMENTS

The project studied six tenurial instruments under the Forest land Use Management and these included the following:

1. The Integrated Forest Management Agreement (IFMA)
2. The Socialized Industrial Forest Management Agreement (SIFMA)
3. The Private Forest Development Agreement (PFDA)
4. The Special Land Use Management Agreement (SPLUMA)
5. The Forest Land Grazing Management Agreement (FLGMA)
6. The Community-Based Forest Management Agreement (CBFMA)

In assessing the existing procedures to come up with the proposed simplified and harmonized procedures for the six tenurial instruments, 10 areas of concern were analyzed, namely:

1. The identification and approval of available sites
2. The qualification requirements of applicants
3. The application requirements
4. The processing and approval of the instrument
5. The responsibilities of instrument holders
6. The responsibilities of the DENR
7. Benefits and incentives for instrument holders
8. Benefits for the government from the tenurial instruments
9. Sanctions and penalties meted to instrument holders
10. The monitoring and evaluation systems
11. Other provisions.

In analyzing the procedures for the above items, the various issues, concerns and recommendations raised by the different sectors during the field data gathering, regional consultations and several meetings with the Forest Management Bureau (FMB) counterparts and project advisers were considered. A number of these issues, concerns and recommendations were incorporated with the process of simplification and harmonization of the requirements and procedures. The harmonization of the forest regulatory procedures of the five tenurial instruments was also done across sectors. Common issues/problems identified in harmonizing these procedures are discussed in the following subsections. Issues and recommendations unique to each tenurial instrument are discussed immediately following these subsections.

A. Issues/Problems in the Identification and Approval of Open Access Areas Available for Various Uses

1. DENR's insufficient capability for ground validation, site suitability evaluation, and resource inventory in potential FMA sites; the short-cutting of procedures

A number of DENR field officials reported that they are unable to fully carry out ground validation, site suitability evaluation and resource inventory due to insufficient budget and resources mainly due to resource constraints (i.e., inadequate funds, equipment, facilities, etc.). DENR officials admit that it is easy to identify potential sites available for various forest management agreements based on existing maps, information and databases. However, ground validation and the evaluation of the sites' availability and suitability require substantial time and resources that are allegedly not readily available at the regional level or, if available, are not enough.

Instead of DENR's conducting a separate activity to identify, validate on the ground, consult dependent communities, and approve areas open for access before any application can be accepted, it resorts to short cuts. The existing practice in the fields sees the DENR identifying potential sites (table mapping), whereas the responsibilities of validating on-ground as well as securing the consent of IPs or communities, and an LGU endorsement are passed on to the applicants.

The applicants usually pay not only for the survey cost but also for the resource inventory and mapping of the area applied for. Some applicants even have to pay for community consultations and incur transaction costs to get the LGUs to endorse an area. By allowing such, the DENR's objectivity is severely eroded by the need to factor in the costs already incurred by the applicant. The Department may thus tend to decide in favor of the said applicant.

2. *Conflicting land uses, claims and tenurial instruments issued due to insufficient, conflicting, outdated, and inaccessible maps, information and database*

A common problem discovered by the DENR and its clients in many regions involves overlapping tenurial instruments, conflicting land uses and claims over a certain area, after a certain instrument has already been awarded. This problem is closely related to the previous issue whereby the DENR was unable to undertake the identification and approval of areas open for access. The said procedures entailed the need to update the Registry on available areas for various instruments.

The situation is mainly blamed on the lack of reliable maps and a dependable information database in many field offices. Couple this with the inadequate coordination among the different DENR action officers in the various regional, provincial and community offices, divisions, sections, and even programs, and the overlap of tenurial instruments and conflicts in land uses over an area result. Although DENR is mandated to establish and maintain an updated registry, maps of forest land uses and a census of people living in public forest lands, these are often outdated and unreliable, or may sometimes not be readily accessible, if they exist at all.

Another common problem revolves around the conflict arising from ancestral domain claims over areas for which tenurial instruments have already been issued. A number of IFMA, SIFMA and TLA holders (intending to convert to IFMA) reported that their instruments were issued long before some IPs, or people claiming to be IPs, filed their claims on portions of the IFMA/SIFMA or TLA areas concerned.

3. *Lack of Forest Land Use Plans in the DENR regional offices*

In most cases, the DENR people do not really know how much land (and where these are located) has already been allotted for different instruments and is available for open access. This situation is blamed on the lack of forest land use plans in many regions, as DENR-DILG JMC 98-01 has not yet been properly implemented. DENR-DILG JMC 2003-01 was recently issued to reiterate the implementation of the said policy issuance.

Both the DENR and concerned LGUs reported that the difficulty in implementing DENR-DILG JMC 98-01 was primarily due to the fact that it was not made a priority of the heads of both agencies. It was only in 2003 when the heads of both agencies met and came up with JMC 2003-01, reiterating the provisions of the previous JMC and prioritizing the creation of FLUP teams and technical working groups.

LGUs also raised the issue of their lack of technical and financial capability to undertake forest land use planning.

Yet another issue raised was the different agencies' (i.e., DA, DAR, DTI, DOT, etc.) having their own plans for portions of forest lands. This problem signifies a need for the concerned agencies to

coordinate so that their respective plans can be integrated with the overall forest land use plan of each region.

4. Need to harmonize forest management agreement policies with LGU and NCIP regulations

Existing procedures on the identification and approval of areas available for various forest management agreements have to be harmonized with those of the LGUs as contained in DENR-DILG JMC Nos. 98-01 and 2003-01 and those of NCIP as enacted in the IPRA Law. Doing so will address issues on conflicting land uses and claims, as well as ensure transparency, accountability and participatory decision-making among stakeholders.

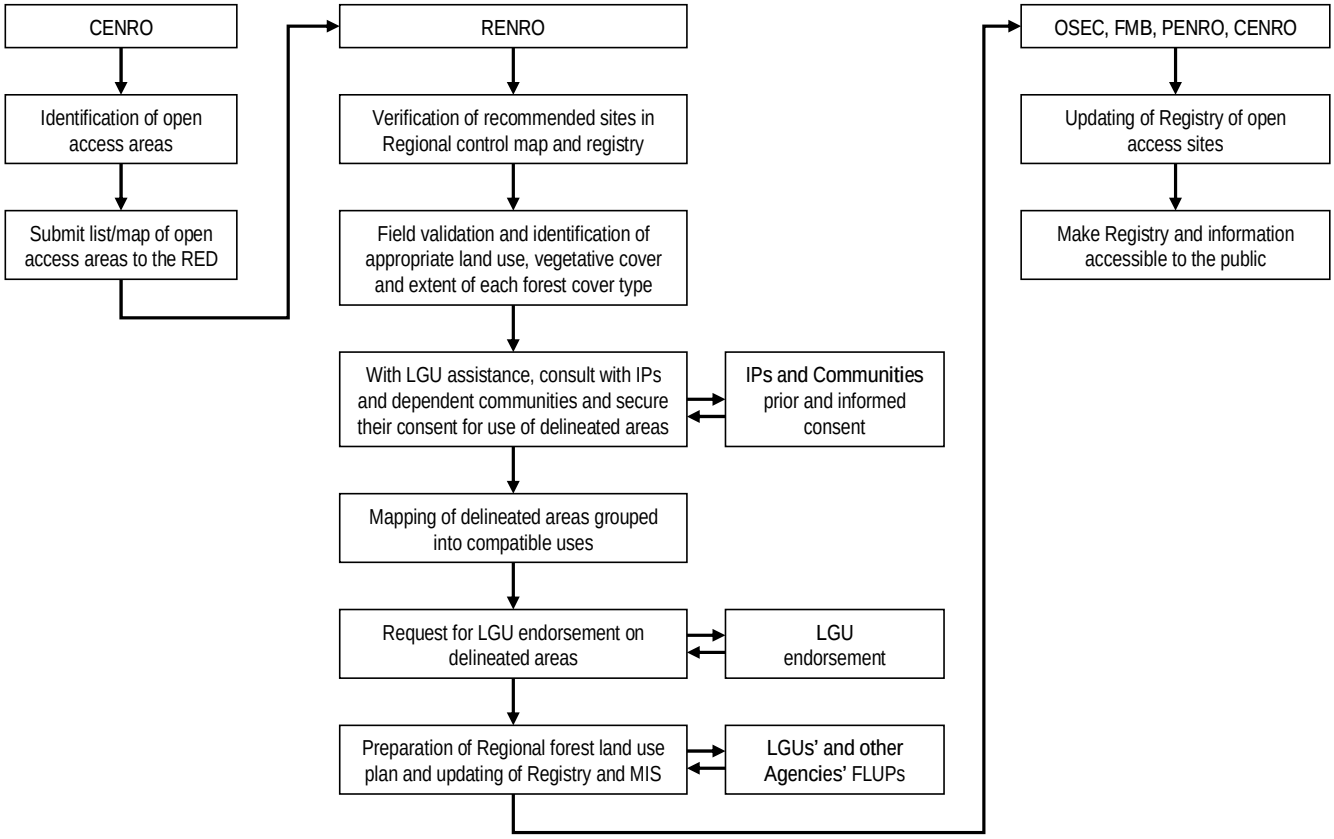

Figure 3. Simplified procedure for the identification and approval of open access sites available for various uses

Recommendations:

Provide an adequate budget in the key result areas (KRAs) (now called major final outputs (MFOs)) of regional offices for the identification of open access areas, ground validation, site suitability evaluation, and resource inventory to ensure that these activities are prioritized. It is important for the DENR to determine what sites are suited to different land uses, and the extent and area available in order that such information could be used as the basis for formulating appropriate, equitable and acceptable land allocation decisions.

Applications for various tenurial instruments should be accepted only after the open access areas have been identified and mapped, and only after appropriate land use plans are made. Where conflicting land uses and claims arise, regional technical working groups should be activated to address these issues.

The requirements for LGU endorsement and NCIP consent in the identification and approval of potential areas available for various forest management agreements have to be incorporated with the whole process. Figure 3 reflects the simplified and harmonized procedure for the identification and approval of open access areas available for various uses. The RENRO gathers the information submitted by the various CENROs and creates a composite team to undertake ground validation, site suitability, and resource inventory in the areas identified as open access by the CENROs. The RENRO, with LGU assistance, undertakes consultations with communities and stakeholders, and secures their consent/endorsement for the use of these areas. Then forest land use planning is done in collaboration with the concerned LGUs and other agencies. The updating of the maps, registry and databases is then performed at all levels

B. Issues/Problems Relating to Application Requirements

1. Different application fees for various forest management agreements

The applicants and holders raised the issue of varying application fees for the different management agreements. The application fee for IFMA is P0.50 per hectare (thereby ranging from P250 to P20,000 per application for 500 and 40,000 ha, respectively) while that for FLGMA is P10.00 per hectare (thereby ranging from P500 to P20,000 for 50 and 2,000 ha, respectively). The application fee for SIFMA, on the other hand, ranges from P500 to P10,000 per application (for a maximum of 500 ha per application); whereas for SFUMA, the fee is P300 per application. Interviews indicated that there was no common basis for setting the application fees for these tenurial instruments.

2. Additional documents required by the different levels of the hierarchy due to differing interpretations of policy statements, in turn leading to delays in processing and approval

Although the DAOs of various forest management agreements clearly state what documents are required of the applicants, the processing of applications is often delayed by the need to submit additional documents as required by officials at succeeding levels of the DENR hierarchy. This tendency is due to the differing interpretations by officials at different levels of DENR of what documents are needed as proofs of the technical and financial capability of the applicant.

Another reason advanced by field action officers is that they often do not have copies of the most recent policy issuances and rely on older ones, instead, so that the next higher level of office has to point out the lacking documents. Related to these, some forest management holders have also claimed instances of paying off DENR officials in lieu of some requirements just to facilitate the processing of their applications. It is therefore left to the next higher office to determine the completeness of documents submitted. Pay-offs by applicants may also have to be repeated at the next higher levels.

3. Difficulty in securing LGU endorsement thereby causing delays in the processing of applications

Processing is also delayed when the applicant is unable to immediately submit the required documents, which often occurs when the LGU and the NCIP refuse or delay their endorsement of the area applied for. Most applicants experience difficulty securing the LGU's endorsement especially when they support a political affiliation different from that of the incumbent local officials.

On the other hand, with the implementation of DENR-DILG Joint Memorandum Circular No. 2003-01, the concerned LGU needs to inform the DENR of the action it has taken within 15 days from the date of receipt of the document; otherwise, that the LGU fully endorses said application or instrument will be presumed. Interviews with a number of applicants and tenurial holders indicate that this provision has not yet been implemented.

Recommendations:

There needs to be a standard basis for setting application fees for all forest management agreements. Considerations for standard fee setting are the number of levels that the application goes through, and the cost of materials and activities required for the processing and approval of the application.

Likewise, complete and standard checklists of documentary requirements per instrument applied for should be made accessible to the public through posters in strategic locations, brochures, or announcements in the DENR website. Additional statements of what documents constitute proofs of financial and technical capability of applicants need to be included in the DAO.

There is a need to facilitate the issuance of LGU and NCIP endorsements of applications for forest management agreements through closer collaboration and communication between the DENR and LGUs/NCIP. This can be facilitated through regular dialogues between local representatives of these agencies.

C. Issues/Problems Relating to the Processing and Approval of Various Forest Management Agreements

1. There being too many levels of authority involved in the processing of applications for various types of forest management agreements at the DENR, thereby causing delays and raising transaction costs on the part of applicants.

The experience of previous applicants shows that it usually takes more than the prescribed number of days (e.g., 120 days for IFMA, 102 days for FLGMA) for an application to be processed and approved. Sometimes it takes more than a year before forest management agreements are fully processed. Several respondents claimed they spent large amounts in transactions with various levels of the DENR hierarchy for their documents to move from one level to another before these were finally approved.

The present system of processing and approval is based on the DENR Manual of Approvals which stipulates that application documents have to pass through channels of the DENR hierarchy before approval. The system ideally provides for checks and balances. However, it also results in red tape, undue delays and opportunities for graft and corruption.

Moreover, an analysis of the existing processing and approval system for FMA applications reveals that the role of each higher level of the DENR hierarchy is repetitive of those at the lower levels. For instance, the action officer at the PENRO reviews and comments on the application reviewed, validated and endorsed by the CENRO. Similarly, the action officer at the RENRO also reviews and comments on the application endorsed by the PENRO before the RED approves or endorses it to the Secretary for approval. Before reaching the OSEC, the FMA application has to be reviewed by the FMB (and ERDB for FLGMA applications) and the USEC for Operations, who then endorses it for approval by the Secretary (Figure 4).

2. Too centralized approval/issuance of various forest management agreements

At present, the approval of all IFMA, SPLUMA and FLGMA is vested on the DENR Secretary. On the other hand, PFDA and SIFMA applications (for areas greater than 10 hectares but less than or

equal to 500 hectares) are approved by the RED, while applications for SIFMA over areas 10 ha and below are approved by the PENRO.

One major problem inherent to the centralized approval of forest management agreements (FMA) has to do with the prolonged delays in the approval due to the number of levels at which each application is reviewed and endorsed by CENRO, PENRO, RENRO, FMB/ERDB, and USEC before it reaches the Office of the DENR Secretary. The delays also increase transaction costs for the applicants due to the follow-ups they have to make at each level of the hierarchy before the instrument is approved or issued.

The centralized approval of FMAs renders the Secretary solely responsible and accountable for the decision. Decentralizing the issuance of FMAs to the regional levels renders the REDs more responsible and accountable for decisions made, which is only right as they, more than the Secretary, have a more thorough knowledge of field conditions. Also, given the long-term (25 years) nature of the FMAs, the Secretary cannot be held liable beyond his/her tenure with the DENR, unlike the REDs who are more permanently employed and can be made accountable beyond their term in a region.

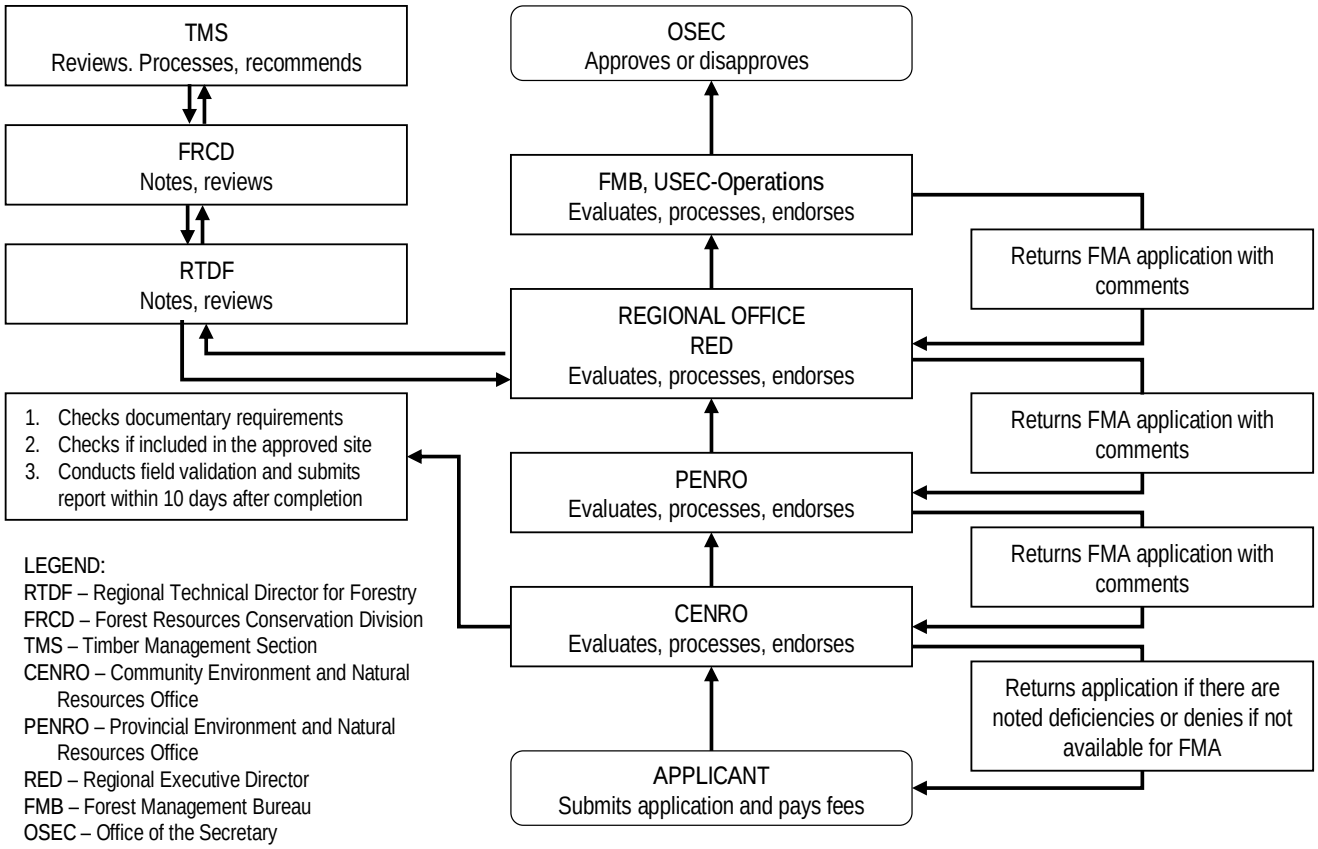

Figure 4. Existing procedure for the processing and approval of FMA applications (Source: DENR Regional Offices)

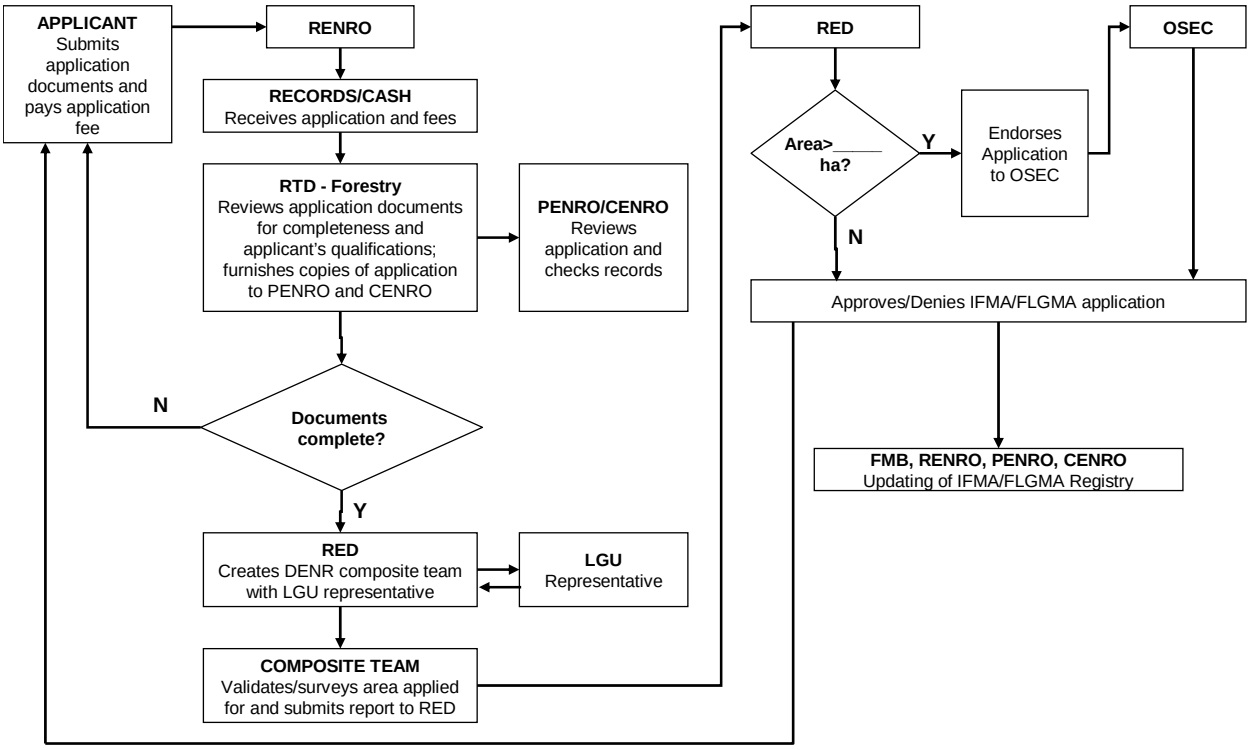

Figure 5. Proposed procedure for the processing and approval of IFMA and FLGMA

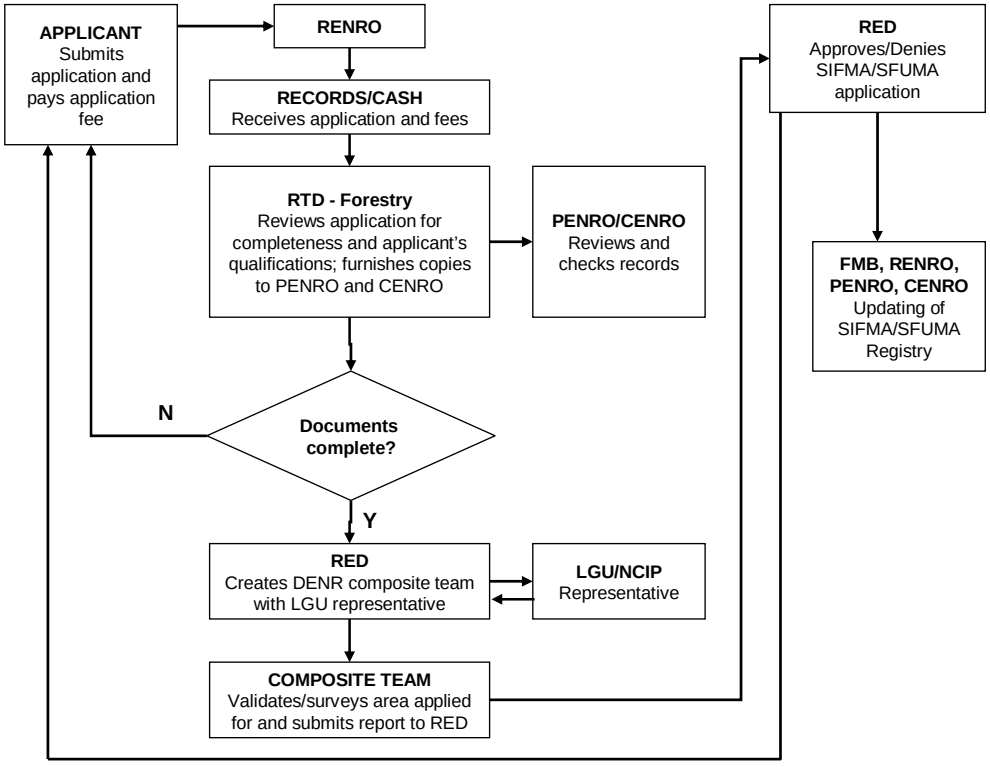

Figure 6. Proposed procedure for the processing and approval of SIFMA (for areas > 10 hectares) and SPLUMA

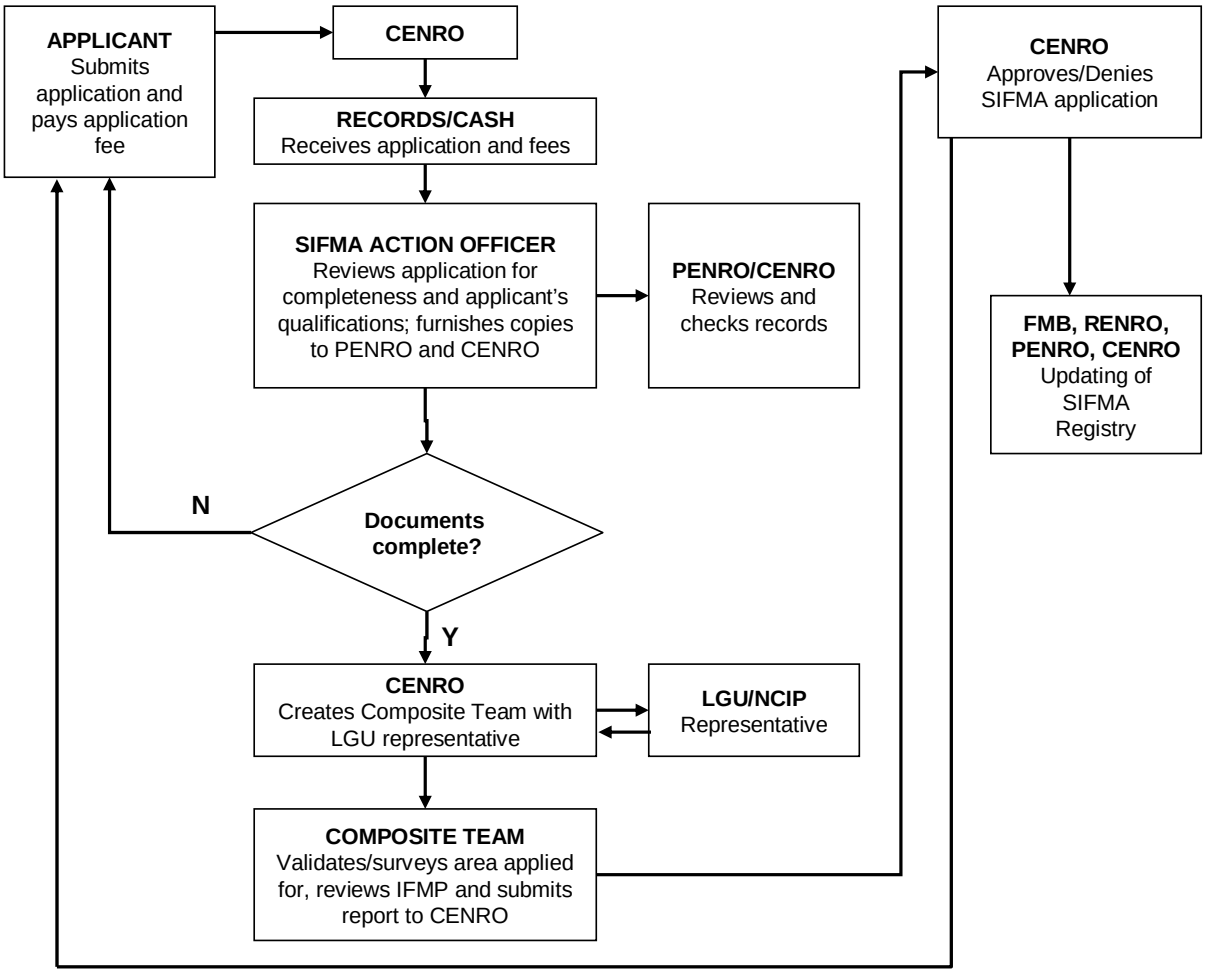

Figure 7. Proposed procedure for the processing and approval of SIFMA (for areas ≤ 10 hectares)

Recommendations:

The number of hierarchical levels of DENR offices that the FMA application has to go through for review, endorsement and approval by defining the roles of each office and doing away with repetitive functions should be lessened. Figures 5 to 7 show simplified procedures for the processing and approval of various forest management agreements. Where IFMA, FLGMA, SPLUMA and SIFMA (>10-ha areas) are concerned, applications are submitted to the RENRO so the first-come-first-served policy for applicants is observed(monitored?). The RED then creates a composite team whose members are from the CENRO/PENRO and LGUs concerned. The composite team validates the area applied for, reviews the management plan, and endorses the application to the RED for approval or endorsement to the Secretary, The same process is followed at the CENRO where applications are submitted and approved for SIFMA on areas 10 hectares and below. Multisectoral committees at the level of the approving authority hold deliberations after which approved or disapproved applications are forwarded to the offices concerned for the updating of the registry and databases.

In addition, the approval and awarding of various forest management agreements should be decentralized by defining maximum area limits for approval at the CENRO, RENRO and OSEC

levels, and by establishing accountability mechanisms. The CENROs, REDs and the Secretary have to be made accountable for the various forest management agreements awarded. Making the entire process of approving/issuing these agreements more transparent and participatory through the active involvement of various sectors (through multisectoral deliberations committees) will hopefully address the accountability issues pertaining to approving/issuing officials.

D. Issues/Problems Relating to the Responsibilities of the DENR

1. The instability of policies due to frequent changes in the DENR administration and politically influenced amendments to existing policies.

One of the issues raised by various forest management agreement holders was the instability of policies that often wreaked havoc on their plans and activities, particularly in the harvest of their forest products. To illustrate, as different Secretaries issued four DAOs on IFMA (DAO 91-42, 93-60, 97-04, and 99-53), inevitably, the amendments/repeals were released after two, four, and two years, respectively since 1991. Although existing IFMAs should not be affected too much by changes in the new DAOs, the holders actually experienced the opposite. That is, with each new DAO, IFMA holders were usually asked to submit new requirements in line with the new provisions. Likewise, policy amendments were made for FLGMA after ranchers complained to President Arroyo about the high government share, leading her to make pronouncements to lower this from P350/ha to P40/ha. Consequently, market-based studies done previously to determine the fair government share were swept aside by the authorities in favor of politically influenced decisions.

The instability of government policies through frequent changes has had major impacts on the activities and investment of many forest management agreement holders. Among the policy changes that have affected investors are the logging ban in certain regions, a moratorium on the issuance of related permits, allowable cut limitations, and other restrictions. Most of these changes were usually brought about by complaints from influential sectors. Moreover, the DENR has on occasion been forced to react and instigate policy changes without proper consultations with concerned sectors, particularly the agreement holders and permittees. To this day, most changes are arbitrarily made so that the policymaking process becomes very unstable. It is neither investor-friendly nor consistent with other policies.

2. The inadequate monitoring by DENR of the FMA holders' implementation of ECC conditionalities and their compliance with other laws, rules and regulations

The implementation of ECC conditionalities has been given little emphasis ever since the Environmental Impact Assessment (EIA) Law was implemented. Many forest management agreement holders do not have any problem with this as the DENR does only a little monitoring to begin with. Personnel of the EMB regional offices admitted that they have very few personnel and limited resources to closely monitor the activities of thousands of IEE and ECC holders. EMB regional and field personnel can barely cope with the processing of large numbers of applications for IEE/ECC/CNC from various sectors, not just forestry, leaving them with less time for monitoring activities.

Nonetheless, the need to closely monitor environmental protection initiatives is crucial for sustainable forestry to be achieved. Otherwise, a speedier destruction of the forests in the near future may take place, particularly if government continues to allow logging in natural forests and the conversion of inadequately stocked forests into plantations. Unless mitigating/enhancing measures are strictly implemented and their application monitored in various forest areas, the Philippines' natural forests may soon be a thing of the past.

Also, there is weak monitoring of the holders' compliance with conditionalities of forest management agreements and other rules and regulations. DENR field officers blame their inability to regularly and properly monitor the FMA holders' compliance on DENR's inadequate resources, i.e., limited personnel and low travel allowances, etc.

Recommendations:

The institutionalization of forestry policies through the passage of the Sustainable Forest Management Bill in Congress or the Executive Order to lessen the room for politically influenced policy changes should be pushed. Mechanisms for consultations with concerned sectors and the proper study of existing policies should be established before new policies or specific changes are made. Statements regarding a minimum period of implementation should be included in major DAOs before they are replaced.

The inadequacy of resources can be addressed by having the DENR bureaus and attached agencies share responsibilities and resources. The unequal distribution of personnel in various sectors in some regions has been pointed out. For instance, there have been instances were more personnel were assigned to the forestry sector than to the environmental sector.

Harmonizing the resources and manpower of the different sectors within the DENR and distributing existing manpower where there is greater need appears possible. These measures could be reviewed and implemented through the DENR's Human Resources Development Office. The environmental guarantee fund set aside by various forest management agreement holders as required by their ECC can be shared by the DENR Bureaus and attached agencies for the purpose of monitoring the various holders' compliance.

4.1.1 The Integrated Forest Management Agreement (IFMA)

The IFMA is a product-sharing contract entered into by and between the DENR and a qualified applicant that grants the latter the right to develop, utilize and manage a specified area, consistent with the principle of sustainable development and in accordance with an approved Comprehensive Development and Management Plan (CDMP). Under the Agreement which is valid for twenty-five years and is renewable for another twenty-five years, both parties share in the produce. While the minimum coverage area of an IFMA is 500 hectares, an additional area not to exceed to 40,000 ha is allowed provided that the holder complies satisfactorily with the terms of the agreement.

Aside from the common issues/problems and recommendations discussed in the preceding subsections, following are the specific issues/problems concerning IFMA that must be addressed, as well as related recommendations:

1. Difficulty in delineating degraded residual natural forests using the basal area criterion. This difficulty sometimes leads to the misclassification of areas that have adequately stocked forests as degraded residual natural forests

IFMA policies allow the conversion of degraded residual natural forests or inadequately stocked logged over forests into forest plantations. Naturally grown trees in such areas are cut down prior to plantation establishment. There have been cases, however, where some DENR personnel connived with IFMA applicants by misclassifying portions of adequately stocked forests as degraded residual natural forest areas for inclusion in their IFMA area for conversion. They are able to do this because of the difficulties inherent to using the basal area criterion for determining degraded residual natural forests as provided for in DAO 99-53.

Field officers still use the old method of classifying ISLO areas through the number of dipterocarp and premium tree species as defined in DAO 91-42. For them, it is easy to count only the dipterocarp and premium species standing in one hectare (even if there are other commercial trees in the area) and classify the area as a degraded residual natural forest based on the old definition of ISLO areas. The method using the basal area criterion requires meticulous measurements and computations that are more time-consuming than the old method.

The practice of misclassifying such areas leads to a speedier depletion of the country's natural production forests even as erring public officials and unscrupulous IFMA holders incur short-term gains.

Recommendation: There is a proposal to redefine degraded residual natural forests based on the ISLO definition that has since been been modified. Per the new definition, the term "degraded residual natural forests" refers "*to forest lands with an* existing stand of timber containing an average per hectare of less than 20 trees of dipterocarp, premium and/or commercial species with a diameter breast height (dbh) of more than 20 centimeters."Moreover, the DENR has to establish and enforce a strict system of checks and balances to police its ranks and rid it of unscrupulous personnel. The experience of involving multisectoral forest protection task forces in some regions may be used as models in establishing a system of checks and balances for the identification, validation, mapping, resource inventory and approval of the open access areas potential for IFMA purposes.

2. Lack of an indicative plan as part of the application requirements

While feasibility studies or business plans form part of the documentary requirements of some forestry programs, the IFMA policy does not impose the same requirement. Rather, an indicative plan of how the applicant will develop and manage the IFMA is made the basis for deliberations on whether to award the IFMA or not.

Recommendation: Make an indicative plan an additional requirement for IFMA applicants in order to determine their technical capability in developing the area, as well as the feasibility of the plan.

3. The insufficient capability of the DENR to crosscheck the documents submitted by the applicants

Section 10.1 of DAO 99-53 requires corporate or cooperative applicants to submit the following: a certificate of registration, a list of incorporators, stockholders and officers, and a copy of the entity's by-laws. The first requirement has to do with the maximum area limit awarded to IFMA holders. Cases have been reported of different corporations with similar sets of incorporators/stockholders that have been awarded IFMAs with aggregate areas exceeding that allowed by law: 40,000 hectares. Clearly, the DENR is liable for having issued such instruments to those holders mainly because of negligence in counterchecking the application documents submitted. The required By-Laws should show that forestry development is one the objectives of the firm. However, the applicant through a certified amendment of the By-Laws can easily get around this requirement

Recommendation: A system of proper crosschecking of corporate registration requirements should be developed and implemented. There is urgent need to strengthen the DENR's capability to crosscheck application documents through the re-training of its action officers once the system is in place.

4. Lengthy processing time and redundant requirements for CDMP and ECC; delayed approval of IOPs due to the delayed issuance of the ECC

IFMA holders frequently complained of the long delays in the processing and approval of the CDMP, a problem that stems from the too many levels in the DENR hierarchy through which the CDMP must pass before it reaches the OSEC for approval.

Another problem deals with the difficulty in obtaining the ECC, particularly because of the long period it takes for the IEE or EIS to be reviewed and because of the high cost of employing IEE/EIS preparers. The ECC is prerequisite to the approval of the IOP. Note that the problems or difficulties in obtaining the ECC were recently addressed through DAO 2003-30 (Implementing Rules and Regulations for the EIS system), but the amendments still have to trickle down to the field offices for positive changes to be felt.

The problem of redundant requirements set by both the CDMP and ECC is also commonly experienced by many agreement holders and permittees. The DENR is presently discussing the possibility of incorporating the IEE requirements with the long-term comprehensive development and management plans since the two plans share considerable information and several requirements. The incorporation of requirements is is expected to remove redundant requirements, particularly consultations with dependent communities and the LGU's endorsement of the project.

Recommendation: Integrate ECC requirements with CDMP to simplify the procedures for evaluation and approval of CDMP/IOP and to eliminate redundant requirements common to both CDMP and ECC and reduce overall processing time. There may also be a need to decentralize the approval of CDMP for IFMAs that are to be issued at the RED level.

5. The lack of clarity of deliberation procedures for CDMP to certain groups

Existing deliberation procedures vary across regions. While some are participated in by representatives from other sectors, there are deliberations confined within the DENR. There are also cases of arbitrary decision-making.

Recommendation: Establish guidelines for the deliberation and approval of the CDMP based on its technical, financial, management, and environmental soundness. Establish timeframes to avoid delays. Deliberation procedures have to be disseminated to all concerned for purposes of ensuring transparency, accountability and participatory decision making in the process. To address cases of arbitrary decision-making multisectoral participation of concerned sectors such as the EMB, LGUs, POs, other agencies, NGOs, etc. may be called for.

6. Lengthy processing time and redundant requirements for securing other permits

A common complaint has to do with there being too many requirements for harvesting and utilization permits. Further, processing time is too long. There is a clamor to integrate all these requirements and permits, shorten processing time, reduce costs on the part of the holders, and reduce or remove opportunities for graft and corruption among DENR action officers and field personnel.

Recommendation: Incorporate the plans for harvesting, processing, utilization, and transport in CDMP and IOP to facilitate the issuance of related permits.

7. The difficulty IFMA holders experience in procuring aerial photos/satellite imageries every five years (for those with natural forests and areas of more than 5,000 ha)

Many IFMA holders have problems with the procurement and submission of aerial photos/satellite imageries and interpretation maps within one year and their updated versions every five years thereafter. These are required of IFMA holders with areas more than 5,000 ha and existing natural forests.

Some DENR personnel also admitted the difficulty in enforcing this requirement as many holders have a difficult time obtaining the aerial photos/satellite imageries within a year, more so every five years. It was suggested that IFMA holders with contiguous areas could share in the cost of obtaining the aerial photos/satellite imageries if these are really necessary. The possibility of scrapping this requirement was also raised.

Recommendation: Study alternative options for determining/monitoring vegetative cover or land uses in IFMA areas. One such option is to scrap the requirement that holders provide the aerial photos/satellite imageries and let the DENR undertake such activity as a technical assistance service through the NAMRIA. Another option is to use part of the application fees for monitoring the

vegetative cover and land uses in IFMA areas. The possibility of using the environmental guarantee or monitoring fund for this purpose can be explored.

8. How several IFMA holders prioritize cutting in residual forests as a source of cash instead of developing the area prior to harvesting for cash; the need for stiffer sanctions against holders abandoning the area after harvesting

The IFMA policy (Section 14.1) allows the harvesting and utilization of naturally grown trees in production residual natural forests (RNF) within the IFMA area on condition that this is authorized in the approved CDMP. Many IFMA holders reportedly abuse this privilege by including in their CDMP the harvesting of production residual forests at the earliest possible time. A number of IFMA holders reportedly abandon their areas after harvesting the production forests without establishing plantations.

It was noted that holders who abandon the IFMA area after harvesting the RNF are sanctioned through the cancellation of their IFMA. However, stiffer penalties are needed to prevent speculators from entering into IFMAs with harvesting RNF as their only goal.

Recommendation: Additional statements have to be included in the policy with regard to when the holder can harvest in production residual natural forests. If cutting in natural forests is to be allowed, it should be done after the open areas have been developed with an acceptable survival rate. This would insure that the holder really intends to develop plantations in the IFMA area and has not merely entered the agreement as a speculator with the goal of harvesting the production forest for short-term gains. Stiffer penalties for erring holders are needed, among which may be requiring them to pay the government for the volume harvested in the RNF within the IFMA area.

9. The lack of clarity of the IFMA cancellation process

The existing policy on IFMA cancellations is mostly based on old policies applicable to lease agreements, licenses or permits even if by definition, the IFMA is clearly a production sharing contract between the DENR and the agreement holder, and as such, should be treated differently from leases, licenses or permits where the DENR is the lessor and the other party is the lessee. The IFMA policy specifies various grounds for the cancellation of the IFMA but it does not specify how the cancellation of the contract is to be done.

Recommendation: Procedural mechanisms on IFMA cancellations have to be developed and established based on legalprocedures (i.e., due process and arbitration) for the cancellation of contracts. DENR action officers will also have to be trained on the suspension and cancellation procedures. The procedural mechanisms should have the following features:

a) The observance of due process wherein both sides—government and the IFMA holder—are given adequate opportunity to present evidence in support of their respective claims;
b) An independent body to verify and/or investigate the claims and counterclaims of the contending parties;
c) Transparency in the conduct of the various activities from the start to the end of the investigation;
d) The imposition of proper accountability on the guilty parties, either in their personal or official capacities; and
e) Use of an arbitration system as provided for by the Philippine Arbitration Law.

It is also suggested that the procedural system follow these basic steps:

a) Filing of a sworn complaint by any concerned party or of an official report by the DENR field offices, LGUs, OGAs, and CSOs;
b) Creation of an independent body to verify and/or investigate the complaint and/or official report;

c) Actual verification and/or investigation of the subject matter of the complaint and/or official report;
d) Submission of the corresponding report by the independent body;
e) Creation of a panel of arbitrators to hear and decide on the complaint and/or official report;
f) Conduct of arbitration following the procedures laid out in the Philippine Arbitration Law;
g) Imposition of the appropriate sanctions and/or penalties on the guilty parties; and
h) Except for questions of law and on case where there is a Motion for Reconsideration, the Arbitration Award shall be final and executory.

10. The lack of clarity in existing IFMA policies with regard to the requirements for the renewal of an IFMA

Section 13 of DAO 99-53 states that *"an IFMA shall have a duration of twenty-five (25) years and may be renewed for another twenty-five (25) years, provided that all conditions of the IFMA, pertinent laws, rules and regulations have been complied with by the holder thereof."* The preceding is the only statement on the renewal of IFMAs in existing policies.

Many IFMA holders have ventilated their concerns regarding the renewal of existing IFMAs in light of recent policies. They wonder if they will be required to secure the LGU's endorsement and the NCIP's consent. Related issues raised included the IFMA holders' difficulty in securing both LGU endorsement and NCIP consent due either to political differences and interference or to long-time conflicts with LGUs. The holders also questioned the need for the NCIP's consent, especially for those IPs claiming portions of the IFMA even if they came to the area years after the holder had been in it.

The question has to be addressed as to which agency (the DENR, LGU or NCIP) should prevail over the decision to renew the IFMA, in cases where said agencies have conflicting stands over the renewal.

Recommendation: There is a need for policy statements regarding additional requirements for The renewal of the IFMA, apart from compliance with existing conditions, laws, rules and regulations at the time the IFMA was issued. There has to be a clear basis for determining which agency should prevail in cases where there are conflicting decisions over the renewal. The DAO should have adequate provisions for protecting the investments of IFMA holders with good performance records.

11. The lack of clarity of procedures for negotiated profit-sharing between the government and IFMA holders.

DENR action officers admitted that there are no clear mechanisms on paper for the negotiation of profit sharing between government and IFMA holders. An informal survey in various regions revealed different methods of computing profit shares. Profit shares wee mostly a percentage of net sales, but neither a fixed nor a standard percentage rate was set. Although an FMB study showed that the five percent of gross sales option required the least data and gained for government a reasonable profit, the methodology has not yet been widely disseminated.

Another issue raised was on what to do with those IFMAs issued prior to the existing DAO where the government's share merely came from forest charges on residual forest products and from rentals on the use of the forest land. At this point it is not clear whether older IFMAs should continue to pay rentals as stipulated in their agreement, or shift to the existing policy of negotiated profit-sharing with government.

Recommendation: Disseminate the procedures for determining government share based on FMB's recommended option. Train DENR action officers on the how-tos. The DENR should make clear policies regarding the shift from rentals to negotiated profit sharing by older IFMA holders.

4.1.2 The Socialized Industrial Forest Management Agreement (SIFMA)

The SIFMA is an agreement entered into by and between a qualified applicant and the DENR whereby the latter grants the former the right to develop, utilize and manage a small tract of forest land consistent with the principle of sustainable development. Like the IFMA, the SIFMA is valid for twenty-five years and may be renewed for another twenty-five years. Security of tenure will enable the holders to fully benefit from the use of the land, primarily through the crops they themselves planted and from the ameliorations from a restored and well-protected forest area (DAO 96-24).

The area coverage of a SIFMA ranges from one to ten hectares for individuals or single-family units, and from over ten hectares but not more than five hundred (500) hectares for associations/ cooperatives and corporations. Although the DENR wants more individuals and families to participate and be benefited by the program, this effort is hindered by many factors/problems. It was also determined that these problems are common to other forest management agreements as discussed in the earlier subsections. Among the issues/problems identified, the following are the critical ones that must be addressed:

- Overlapping areas/conflicting claims on identified areas with LGUs, etc.;
- Difficulty in securing LGU endorsement, thereby causing delays in the processing of applications;
- High application fee relative to other tenurial instruments like the IFMA;
- A sketch map's being the requirement rather than an indicative Forest Management Plan for the area and
- There being too many levels of authority involved in the processing of the SIFMA application at the DENR, in effect causing delays and raising transaction costs on the part of the applicants.

4.1.3 The Special Land Use Management Agreement (SPLUMA)

The term "Special Land Use" covers all forms of legal uses of public forest lands. Pursuant to the provisions of Section 79 (b) and 1817 of the Revised Administrative Code, the granting of permits/leases is allowed over forest lands or vacant public lands not declared agricultural lands for special uses. Hence, a permit or a lease can be awarded to a qualified applicant, in effect giving him/her the right to develop or use a certain portion of forest land or vacant public land for a specific purpose.

The Special Land Use Management Agreement (SPLUMA) is a privilege granted by the state to a person to occupy and possess, in consideration of a specified return fee, any public forest lands for a specific use/purpose. The agreement is valid for twenty-five years and can be renewed for another 25 years. On the other hand, a Special Land Use Permit (SLUP) is given to an applicant when no improvement is introduced to the area. The validity of the SLUP is one year, renewable for another year. The SLUP can be converted into a lease agreement provided that a substantial improvement or development is introduced to the area and no violations of the terms and conditions of the permit are committed by the permittee.

The policy basis of the existing forest regulations for SPLUMA is a very old regulation: the Forestry Administrative Order (FAO) No. 8-3, Series of 1941. Various FAOs on Special Land Use were formulated thereafter, but they mostly dealt with the schedule of fees, rentals and area. Through time, some kinds of Special Land Uses such as Pasture Lease and Tree Farm Lease came to be covered by separate FAOs. However, no FAO or DAO has been formulated to amend important regulatory provisions such as application requirements, processing and the approval of the SPLUMA.

The following are the specific issues/problems and recommendations concerning SPLUMA:

1. The existing provision on allowable maximum area under each special use permit/lease's being mostly based on the very old regulations contained in FAO No. 8-3, Series of 1941

The existing provision on the allowable maximum area under each special use permit/lease is mostly based on the very old regulations contained in FAO No. 8-3, Series of 1941 (Table 3). Since 1941 up to the present, more kinds of special land uses have been added to the list. Given the emergence of new kinds of special land uses and the need to revise FAO No. 8-3, Series of 1941, the DENR has come up with a proposed DAO for Special Land Use. In the formulation of this new DAO, the DENR has studied the validity of the maximum allowable area for the different special use permits/leases. For this purpose, the DENR has considered various factors in determining the maximum limits, among them the maximized use of the area and the demand for the area.

The monitoring and evaluation activities of the DENR in the different special land use areas revealed that most of these areas were not fully utilized/developed. On the other hand, there has been an increase in the number of interested parties who want to venture into special land use areas, especially in foreshore areas. For more people to benefit and maximize the use of the special land use areas, there is a need to determine the appropriate area limit of various types of SPLUMA in consideration with the policy of the State, which is to provide equitable access to forelands and forest resources. This proposed provision of the DAO is pursuant to the provisions of Section 2, Article XII of the 1987Philippine Constitution, EO No. 192 of 1987, EO No. 278 of 1987, and PD 705 as amended.

Recommendation: Adopt the allowable maximum area on the different special land use permits/ leases as proposed in the pending DAO for Special Land Use as seen in Table 4.

2. The application/non-application of competitive bidding as provided for in the proposed DAO for SPLUMA to all kinds of special land uses

According to the existing policy, SPLUP/MAs should be granted/awarded to the earliest qualified applicant. However, per the proposed DAO for Special Land Use, areas suitable for SPLUMA shall be awarded through competitive bidding except for the following: areas applied for road right-of-way, transmission right-of-way and other rights of way; communication station sites and other similar uses; and dam or water reservoir sites. After complying with all the requirements and after having declared the bid winner, an applicant shall be awarded with a SPLUMA only.

During the field interviews and regional consultations conducted by the FDC, it was suggested that areas available for SFUP/MA could be granted to qualified applicants either through competitive bidding or first-come-first-served basis, depending on the demand for these areas. In cases where there were many interested applicants, the most equitable disposition of the area would be through competitive bidding, as in the case of foreshore areas. The disposition of special use areas through competitive bidding, after all, is one way of helping the government generate higher revenues from these areas.

On the other hand, applications to other special land use areas where there are few takers may be served on a first-come-first-served basis. FMBs have noted how some areas suitable for special land uses have no takers.

Recommendation: Apply competitive bidding to foreshore areas suitable to SPLUP/MA such as bathing establishments, drydock site/shipbuilding/shipbreaking sites, nipa plantations (>3 ha), hotel sites, and other lawful purposes. Priority for nipa plantation areas less than three hectares will be given to existing occupants and growers in these areas. This move will safeguard the interests of the low-income nipa plantation growers. The competitive bidding process is detailed in Section 9 of the proposed DAO for SPLUMA.

3. The regulation requiring a married female applicant to get the written consent of the husband

The regulation stipulating that a married woman applicant should get the written consent of her husband no longer holds since the 1987 Philippine Constitution provides that a married woman is allowed to acquire properties even without the husband's consent.

Recommendation: The written consent of the husband should no longer form part of the requirements of a married woman's application.

Table 3. Kinds of existing SPLUMA and their allowable maximum areas

Kind	Maximum Area (in ha)
Bathing establishment	24
Private camp	24
Hotel site	6
Nipa plantation	10
Road right-of-way	200
Communication station site	6
Right-of-way	200
Saltworks	24
Sanatorium	24
Sawmill site	24
Lumber yard	24
Timber depot	24
Logging camp site	24
Lime and charcoal kiln	24
Mining waste disposal site	200
Prospecting	5,000 ha per province (for Corporations) 500 ha per province (for individuals)
School site	5
Other special uses	24
Other lawful purposes	6

Table 4. Kinds of proposed SPLUMA and their allowable maximum areas

Kind	Maximum Area (in ha)
Bathing establishment	24
Bodega/Warehouse site	5
Camp site	5
Communication station site	3
Drydock site/shipbuilding/Shipbreaking site	24
Ecological destination	Subject to the recommendation of RED concerned
Fish drying site	5
Herbal/Medicinal plantation	10
Hotel site (inclusive or related resort facilities)	10
Industrial processing site	24
Landing site (Air strip)	As recommended by the Air Transportation Office (ATO)/Civil Aeronautics Administration (CAA)
Log pond/Log depot site	5
Lumberyard	5
Mineral storage and/or crushing site	5
Mining waste disposal site	Subject to the joint recommendation of RED and RD-MGB concerned

Kind	Maximum Area (in ha)
Motor pool site	5
Nipa plantation	10
Other lawful purposes (as determined by the Secretary or his/her duly authorized representative)	Subject to the recommendation of RED concerned
Plant nursery site	3
Power station site	5
Mineral Prospecting Permit	Subject to the joint recommendation of RED and RD-MGB concerned
Right-of-way including: Road right-of-way (RRW), Transmission Line Right-of-Way (TLRW), Communication Right-of-Way (CRW)	Subject to the recommendation of the RED and agency concerned
School site	5
Water reservoir/ Impounding dam	Subject to the recommendation of the RED and agency concerned
Other lawful purposes (as determined and recommended by the FMB Director and approved by the Secretary)	Subject to the recommendation of the RED concerned

4. Non-interest of permittees to convert their permits into leases

Out of the hundreds of SFUPs throughout the country, only 22 were converted to SFUMA. According to some of the permittees/leases and DENR personnel interviewed, most SFUP holders are not interested in applying for SFUMA even if the latter offers a longer and secured tenure. Per the existing policy an SFUP holder may renew his/her permit every year or convert this to a lease agreement provided that a substantial improvement or development has been introduced to the area concerned and no terms and conditions in the contract have been violated. The following are the reasons why permit holders are not interested in applying for lease agreements:

a) **Business ventures are perceived to be for short durations only.** Examples of these are bodega/warehouse sites, campsites, fish drying sites, among others. Therefore, an application for SFUP is advisable.

b) **Improvements are put up in the area within one to three years**. Under the existing appraisal/reappraisal system, special use areas are re-appraised every five years from the date of approval of the SPLUP/MA. Also, the annual rental from the second up to the fourth year is the same as that of the first year. Permittees who invest on improvements during the first four years are not likely to be interested in applying for lease agreements as these are accompanied by high rentals because the area will have to be reappraised once a conversion to a lease agreement is made. The new rental rate under a lease agreement will be based on the reappraisal of the land and its improvements, with the rental not being lower than three percent of the appraisal or reappraisal value of the land and one percent of the improvements. So most have decided to delay the conversion of their permits to leases by five years.

c) **Processing of lease agreements takes a long time since applications have to pass through many hierarchical levels**. The final approval for a SPLUMA is issued at the Secretary level, while that of a permit is at the RENRO level. According to previous applicants, it took more than a year for their lease agreements to be awarded to them. By then they had spent huge amounts on transactions with the various levels of the hierarchy for their documents to move from one level to another.

Recommendation: Come up with appropriate procedures on the conversion of the SPLUP to the SPLUMA.

5. The proliferation of illegal structures and business operations in the foreshore areas

In the recent two-day Assessment of Foreshore and Shoreland Management in Central Visayas held at Panglao, Bohol, one of the issues raised was the proliferation of squatters, illegal structures and operations/businesses in the foreshore areas for many years now. The present problem of the DENR is how to demolish these structures or how to encourage the illegal operators to secure permits to legalize their operations. Though some have business permits from the LGUs, they still need to apply for special land use permits/leases because they are operating within forest lands. The LGUs concerned may be ignorant of forest regulations on the use of foreshore areas, or may not actually care about these regulations for as long as the business entities have secured permits from them. On the other hand, the enforcement of policies and contracts/permits by the DENR through the regular monitoring of these areas is very weak.

Section 36 of FAO No. 8-3, Series of 1941, states that "Any person occupying or using any one of the above-mentioned public forests without a permit or lease from the Bureau of Forestry in violation of the provisions of the Order shall be subject to prosecution under Section 2751 of the Revised Administrative Order as amended, and to pay double the ordinary rental charges of the land occupied during the period of illegal occupation, in accordance with Section 1838 of the same Code as amended by Republic Act No. 1252, of June 10, 1955." Since this provision of FAO No. 8-3, Series of 1941has not yet been amended, therefore, it continues to take effect.

Recommendation: Following are the recommendations on how to deal with the proliferation of squatters, illegal structures and operations/businesses in the foreshore areas.

a) The LGUs should be properly informed on the existing forest regulations so they could help the DENR in enforcing its policies regarding the execution of contracts/permits.
b) The LGUs should encourage people interested to operate in special land use areas to apply for SLUP/MA.
c) Come up with a protocol of implementation on how to demolish illegal structures in foreshore areas considering the penal provision stated in Section 36 of FAO No. 8-3, Series of 1941.

6. The absence of a standard/uniform policy on the appraisal and valuation of foreshore lands

The awarding of leases/permits for foreshore areas is done by the two sectors of the DENR: the Forestry and the Lands sectors. Presently, there is no existing policy or legal basis for the appraisal and valuation of foreshore areas. If foreshore areas are adjacent to A & D (what does this stand for?) lands, the awarding of the lease/permit and the appraisal/reappraisal is undertaken by the Bureau of Lands. Meanwhile, the Forestry Sector of the DENR is responsible for the same where areas adjacent to forest lands are concerned. Interviews with some DENR staff revealed that while this arrangement started out as an unwritten agreement between the Directors of the two sectors in the early 60's, it holds to the present. For this reason, there is no unified appraisal/valuation system implemented on the foreshore areas.

PD 705 and other DAOs have defined appraisal as "the act or process of determining the value of a property or economic resource in a particular location, at a specific time, for a specific purpose." The government share or annual rental on the area is to be based on the result of the appraisal or reappraisal conducted prior to the renewal of any tenurial instrument. It shall not be less than three percent of the appraisal or reappraisal value of the land and one percent of improvements. A reappraisal is to be made five years after the first appraisal, and every five years thereafter.

In the proposed DAO for Special Land Use, the fair market value of the area, the best economic use or potential use of the area based on the current needs of the local communities and other relevant factors were considered in determining the value of the land. The new system of appraisal and reappraisal of special land use areas in the proposed DAO is very comprehensive and should therefore be implemented.

Recommendations: A policy on the unified appraisal and valuation of foreshore lands should be formulated. The appraisal and reappraisal system as presented in the proposed DAO for SPLUM should be adopted.

4.1.4 The Forest land Grazing Management Agreement (FLGMA)

Presidential Decree 705, as amended by PD 1559, defines grazing lands as "portions of the public domain which have been set aside in view of the suitability of their topography and vegetation for the raising of livestock." The Department of Environment and Natural Resources (DENR) has jurisdiction over the administration, management, development and disposition of forest lands for grazing purposes. This is accomplished through the issuance of grazing agreements to qualified applicants.

A Forest Land Grazing Management Agreement (FLGMA) is a production-sharing agreement between a qualified person, association and/or corporation and the government to develop, manage and utilize grazing lands. Valid for twenty-five years, it is renewable for another twenty-five years. The area that may be covered by FLGMA shall not be less than 50 hectares but must not exceed 500 hectares for an individual holder. It should not be more than 2,000 hectares for an association, cooperative or corporation (DAO 99-36).

The following are the specific issues/problems and recommendations concerning FLGMA:

1. Too high inspection/survey fee and bond deposit.

Of great concern to interviewed holders were the exorbitant fees, specifically the inspection/survey fee of ₱300.00/ha or a fraction thereof and the ₱500.00/ha bond deposit. New applicants and existing FLGA holders applying for a renewal or the FLGA's conversion to FLGMA and want to amend their areas are required to pay the inspection/survey fee. The said fee covers the cost of a perimeter survey, a boundary delineation, a bio-physical assessment, a topography classification as well as the gathering of socio-economic information and data concerning production, management and other related information.

Money deposited by the applicants to the CENR offices is deposited in a government bank and withdrawn to defray the cost of the survey. Interviewed holders, however, revealed that on top of the ₱300.00/ha fee, they also spend for the food, transportation and other expenses incurred in the conduct of the said activity

Recommendation: Instead of depositing to the CENRO the amount of P300.00/ha. or a fraction thereof, it is proposed that the applicant shoulders/pays for the actual cost (per diem and transportation of the assessment team; equipment rental and the purchase of supplies/materials) incurred in the course of the area inspection and survey. If adopted, this proposal will considerably reduce the transaction cost on the part of the applicants. It will also reduce processing time due to the elimination of red tape in the procurement and disbursement of survey funds by field personnel. A workable mechanism for implementing this payment scheme should be acceptable to both the DENR and FLGMA applicants.

It is also proposed that the bond deposit be reduced to ₱75.00/ha, of which a minimum of 25 percent should be in cash, while the remainder may be in the form of a surety bond. This proposed rate reflects an 85-percent reduction from the original rate, in effect reducing transaction costs.

2. A reduction in government's share from the supposed ₱350.00/ha to ₱40.00/ha from 2002 onwards

Since year 2000 when DAO 99-36 took effect, most ranchers nationwide postponed paying their annual user's fee/government share until such time that their grazing areas had been assessed, as provided for in Section 8 of DAO 99-36. However, the DENR has not yet conducted the assessment of all grazing areas due to a lack of financial and manpower resources.

The government, through no less than President Arroyo, gave in to the clamor of the ranchers for reduced fees. From P200.00/ha in 2000; P275.00/ha in 2001 and the supposed rate of P350/ha in 2002, the fees were reduced to just P40.00/ha effective 2002 onwards, in effect reducing government share's by almost 90 percent.

Recommendation: The reduction in the payment of fees necessitates the amendment of certain provisions in DAO 99-36 as amended by DAO 2000-23 to address the substantial loss of revenue for government. It is proposed that the incentive scheme involving the reduction of government's share by up to 80 percent (Section 27, DAO 99-36 as amended by Section 4 of DAO 2000-23) be removed. Implementing this provision will further reduce the user's fee to a mere P8.00/ha, way below the old rate of P15.00/ha for areas with type I climate and P20.00/ha for areas with types II, III and IV climates.

It is further proposed that the Multi-Sectoral Assessment Team (MAT) in charge of inspection, survey and assessment do away with the classification of grazing lands to A, B or C. Classifying grazing lands into sub-classes based on agro-climatic conditions and productivity factors was required in the past when the bases for the computation of government's share/user's fee were total revenue and total cost/ha. Now that the rate of the user's fee is fixed for all grazing lands at P40.00/ha, there is no longer a need to classify the lands. Moreove, this classification process is not only very tedious but also time-consuming for the assessing team. Furthermore, the P40.00/ha fee should be based on the total aggregate leased area, instead of on the effective grazing area (EGA). With these amendments in place, ranchers do not have any reason default on their annual dues, even if their areas have not been assessed.

3. Too many unnecessary and redundant requirements

An individual applying for an FLGMA must comply with sixteen to nineteen requirements; corporations have to fulfill 22 to 23 requirements. Some of these requirements are also requirements in the issuance of an ECC, while some are components of the 25-Year Forest Land Grazing Management Plan (FLGMP).

Recommendation: It is proposed that certification requireents specifically for corporations/ associations be reduced to a minimum. Only those documents which are really necessary to show that the organization is legitimate and qualified to enter into an agreement with the DENR, such as company By-Laws/Constitutions and Articles of Incorporation, must be required.

Requirements that are redundant (having been also required prior for the issuance of an ECC) and a component of the 25-Year FLGMP are proposed removed, e.g., a certification from the Barangay Captain and the Ranger Management Officer as to the absence of illegal occupants, etc.

Application requirements should also be reduced to a minimum so as to shorten processing time, reduce transaction cost and as an incentive to applicants.

4. There being too many levels of the DENR hierarchy in which FLGMA applications are processed and reviewed

Initial interviews with FMB officials showed that the approximate time it took for FLGMA applications to be processed and approved was 102 days or almost 3.5 months. This figure perhaps is the ideal or the target period for the whole process inasmuch as in the conduct of field validation (Reg. 2 and 4), it was revealed that it took much longer for an FLGMA application to be processed.

From available secondary data in Region 2 and from interviews with DENR staff and FLGMA holders, the team documented the actual processing procedure and time of an application. One applicant has yet to receive his FLGMA more than three years after he applied for renewal in January 2001.

Recommendation: It is proposed that only applications with complete requirements be accepted and processed by the concerned field office. A procedural document detailing the process with the corresponding timeframe should be prepared and posted in DENR field offices so that both the applicant and the concerned DENR staff will be guided accordingly. It is further proposed that all FLGMA applications, regardless of size, be submitted and processed at the concerned regional office.

It is recommended that applications be centralized at the regional level to reduce instances of conflicts in land use and the issuance of different instruments for the same sites. Also, centralizing the submission and processing/approval/endorsement of applications at the RENRO is logical since the submissions and approvals/endorsements of most IEE and CNC are made at the Regional EMB office, while the EIS/ECC is forwarded and approved at the OSEC. On the other hand, the approval of areas above 500 ha is lodged in the OSEC due to the high impacts of activities (by mostly higher income applications) in said areas.

4.1.5 The Private Forest Development Agreement (PFDA)

The PFDA policy was promulgated through DAO 92-16, an addendum of the order that created IFMA through DAO 91-42, which was later repealed by DAO 99-53 without modifying the PFDA provisions. As defined by Department Administrative Orders (DAO) 92-16, the PFDA is an agreement entered into by and between the DENR and a private landowner or his duly authorized representative for the establishment and development of a forest plantation within his private property. It encourages the participation of private landowners in the reforestation program of the government on A&D lands. The validity of a PFDA is twenty-five years; it is renewable for another twenty-five years thereafter.

Many private forest investors welcomed the PFDA in 1992 because it was the only policy that allowed them to harvest naturally grown timber crops that included premium species such as dipterocarps. However, the effectivity of the PFDA seemed to have ended in 1999 due to the passage of DENR Memorandum Order No. 12, which indefinitely suspended the issuance of cutting permits for naturally growing timber species in PFDA areas. This policy technically suspended the PFDA such that there were no PFDA applications after year 2000. The policy, after all, clearly stated that the landowners can only develop the land but not harvest the naturally grown timber products, particularly the premium timber species. Thus far, there has been no DENR policy updating or revising the PFDA policy.

As it is focused on a developmental activity conducted on private lands, most of the issues/ problems the Agreement is subject to are not common to other forest management agreements, which focus on activities conducted on public lands. The specific issues/problems concerning PFDA that need to be addressed, and relevant recommendations are discussed below.

1. Too many application requirements

There are five basic requirements and twelve other requirements to be submitted after the basic requirements are complied and verified/evaluated by CENRO, which receives PFDA applications.

The numerous and myriad requirements, several of which are difficult to satisfy, will definitely discourage interested private landowners to engage in forest plantation development. Since the forest developmental activity is conducted on private lands, the government must find ways and means for private landowners to invest in it.

Recommendation: Following the issuance of the deregulation policy, only a Registry of Private Forest Lands should be maintained.

2. The inclusion of the conduct of a 100-percent forest inventory among the application requirements

Conducting a 100-percent forest inventory is a very costly undertaking and it is one of the many requirements for a PFDA application. It will certainly not attract new applicants to invest in a forest plantation development.

The sampling intensity of a forest inventory should depend on the size and variability of an area, instead as this will lessen the financial burden an applicant would otherwise have to bear if the costly 100-percent forest inventory is insisted upon.

Recommendation: The sampling intensity should be determined by the owners based on the size and variability of the area.

3. Requiring PFDA applicants to secure an ECC

With a deregulation policy in place, the ECC should be required prior to cutting operations only.

Recommendation: The IEE/ECC should be required only when securing a cutting permit.

4. The PFDA's image: not an investor-friendly instrument

Though this instrument applies to private lands, it is nonetheless considered as "not an investor-friendly instrument" for the following reasons:

a) Financially unattractive

This instrument is attractive only to those private landowners whose areas contain natural forests. Those without forest are discouraged from investing in private forest plantations because the undertaking requires considerable capital. Moreover, an unstable market condition, what with the prices of logs and wood products fluctuating, does not make plantation development an attractive investment.

b) The instability of policies

Frequent changes in policies due to the differing political interests of DENR executives and due to the influence of interest groups (i.e., forest industry players), among such changes being the suspension or moratorium on the harvest of naturally grown trees, followed by its lifting, do not bode well for investors. Any change in policy definitely affects operations. Further, delays are costly.

Recommendations: Private forest lands should be deregulated since these are privately owned. This being so, owners have the right to manage their lands as they see fit and may harvest and utilize the resources within these lands as they please. They should not be burdened with the PFDA or related permits. A conducive climate for private forest plantation development should also be created.

5. The suspension of the issuance of cutting permits for naturally grown timber species.

The issuance of DENR MO 99-2 technically suspended the PFD agreements. Although there are now substitutes for the PFDA such as deregulation and PLTP/SPLTP, it must not be forgotten that existing holders did invest their time and effort in securing the suspended agreement.

Recommendation: All existing PFD agreements should be terminated since the harvesting of naturally grown and plantation tree products have been deregulated. The termination of all existing PFDA should be a deregulation policy applicable to private forest lands.

6. The Issuance of PFDA-Related Policies outdating the PFDA

The PFDA covers the establishment and/or sustainable management of both naturally growing and plantation timber species. However, two existing policies that are closely related can be better substitutes for the PFDA, particularly the deregulation policy and the PLTP/SPLTP. The latest promulgations on these two related policies seem to be outdating the PFDA. PLTP/SPLTP allows the harvest and utilization of naturally grown and plantation tree species, which remain suspended in PFDA areas. On the other hand, both the PLTP/SPLTP and the deregulation policy allow the management and utilization of introduced or plantation timber crops in private lands.

Recommendation: A single policy on deregulation and the permitting system in private forest lands should be formulated and implemented.

4.1.6 The Utility of Recommendations for the Forest Management Agreements

Dialogues with DENR-FMB counterparts and participation in a number of meetings held by the Technical Working Group paved the way for the UPLBFI-FDC team to recommend a number of proposals in the ongoing review and revision of existing administrative orders on forest management agreements. Some of those already incorporated in proposed DAOs are the following:

- **Proposed procedures on the identification and approval of open access areas available for various tenurial instruments (Figure 3).** The recommended procedure has been adopted in the proposed DAOs for IFMA, SIFMA, SFUMA and FLGMA. However in the case of SFUMA, RED rather than CENRO will identify the areas available.

- **Inclusion of Indicative Forest Management Plan in the list of application requirements.** This requirement will be used to determine the technical capability of the applicant in developing the area, and the feasibility of the said plan. This recommendation has been incorporated with the proposed DAOs for SFUMA and SIFMA.

- **Fair, acceptable and harmonized fees for all types of forest management agreements**. In the proposed DAO for SIFMA (addendum), the application fee for SIFMA has been reduced and harmonized with that of IFMA.

- **Proposed procedures for the processing and approval of various forest management agreements (Figure 6).** This procedure has been adopted in the proposed DAOs for IFMA and SFUMA, i.e., special land uses that do not require bidding.

- **Proposed decentralization and reduction in the number of levels involved in the processing and approval of applications.** Procedures in the processing and approval of applications that have been adopted in the proposed DAOs for IFMA and SFUMA include the following: 1) The submission, processing and approval of all applications at the RENRO level; 2) the creation of a composite team to conduct field inspection/validation

and local consultations with the concerned LGU/NCIP and other stakeholders; and 3) the decentralization of the approval/issuance of agreements from the DENR Secretary level to the Regional Director.

- **Proposals for the inclusion of standard procedures for the cancellation and renewal of tenurial instruments.** These have been incorporated with the discussions on the proposed DAO for IFMA.

4.1.7 Community-Based Forest Management (CBFM)

A. Integrated Policy Analysis (Retrospective and Prospective)

Three major groups of information (based on identified gaps, issues and concerns) served as inputs in the formulation of policy recommendations. These are:

1. The need for the development of strategies that emphasize inclusiveness and better governance to facilitate the delivery of services and execute CBFM policies in an accountable fashion through collaborative institutional undertakings.

    - The need to promote the establishment of institutional linkages and to launch an intensive IEC campaign, starting early on in the preparatory activities, planning and implementation, on to the participatory monitoring and evaluation stages of the CBFM program implementation.

    - The need to establish long-term partnerships among the different stakeholders to promote transparency, accountability, the transfer of knowledge and solutions to problems that would in effect balance each and everyone's interests.

2. The streamlining of processes and the issuance of CBFM regulatory procedures and protective instruments to overcome problems, issues associated with increasing people's confidence, promoting the security of property rights and related needs.

    - Exemplified in the proposed coordinative and simplified steps and procedures for the identification and delineation of CBFM sites, the validation of CBFM participants, the processing and issuance of the CBFMA and applications for a Certificate of Stewardship (CS), the affirmation of the Community Resource Management Framework (CRMF) and the Five-Year Work Plan.

    - The proposed actions/strategies require greater coordination and strong institutional foundations necessary to the performance of specific key functions and for working on long-term partnerships based on mutually agreed terms and conditions with regard to the above CBFM regulatory procedures. Functions promoting accountability, transparency, and the sharing of resources among and between program implementers should be clearly delineated.

    - The benefits derived by POs range from the clarification of their responsibilities, a reduction in application requirements and processing time, the elimination of possible political interventions in the endorsement of applications, reduced processing costs.

    - In the simplified preparation of the CRMF and the Five-Year Work Plan, the POs: (1) need not prepare a separate resource utilization plan since this had been incorporated in the preparation of the affirmed CRMF; (2) would be able to use the CRMF as Initial Environmental Examination (IEE) for the issuance of the Environmental Compliance Certificate (ECC); (3) need not hire anyone to

prepare the IEE, thereby eliminating costs on their part; (4) would be exempted from paying the ECC under DAO 98-43; and (5) would have the flexibility to adjust the CRMF based on a SWOT analysis.

- The POs will also enjoy the benefits of reduced costs and time in the preparation of the Five-Year WP instead of an AWP.

3. Specific change in governance through the PO's wider and deeper participation which will, in turn, increase the following: their representation, their voice in the decision-making process, the transfer of knowledge and/or access to information. It will also safeguard their interests against possible political intervention.

    - These major institution-building efforts at the PO's level are to be incorporated through the proposed intensive IEC campaigns in all stages of the CBFM implementation and, more importantly, through the clarity of existing steps and procedures and relevant policies pertaining to the processing and application of CBFM regulatory instruments.

    - Accompanying this change in governance is the peoples' active involvement in decision-making and policy formulation through the following: (1) the participation of the POs in CBFM workshops and meetings at various levels; (2) the issuance of the Certificate of Stewardship (CS) at the PO level: for 30 sub-contracting activities for resource land use planning, conservation, development and management and the utilization of resources in respective CBFM areas; and (4) participation in the monitoring and evaluation of CBFM implementation.

    - Under these conditions, the people are provided the opportunity to build their human and social capital necessary to accessing their rights and knowing their responsibilities for the efficient management of resources.

B. Policy Recommendations/The Drafting of the DAO on CBFM

    - The analysis was communicated to the concerned policymakers at the DENR through written reports and interactive communications. These consisted of meetings, oral presentations of documented materials and participation in the drafting of the initial draft DAO No. 2003 with the Forest Management Bureau-Community Based Forest Management Division.

    - The initial draft of the administrative order underwent review by the DENR technical working group (TWG) prior to its endorsement to the Department Secretary. The administrative order is now in its final form and has been submitted for signature by Secretary Elizea D. Gozun.

    - Important provisions from the initial draft were translated and incorporated in the final draft for policy adoption and/or implementation.

A summary of the inputs generated from the initial draft of the administrative order served as outputs of the final draft of the administrative order. Certain portions of the proposed DAO on Strengthening the Implementation of the Community-Based Forest Management Strategy were revised by the Office of the Director, Forest Management Bureau. The revised DAO was forwarded to USEC Ignacio after which his concerns on the DAO were thoroughly deliberated upon by some members of the PTWG, FMB-CBFM Division and the FDC-CBFM team during a workshop on 1 April 2004. The omnibus guidelines on the CBFM were also worked on by the workshop participants.

4.2 FOREST RESOURCES UTILIZATION PERMITS

The five utilization permits reviewed, analyzed and simplified/harmonized consisted of the following: 1) the Rattan Cutting Contract/Permit (RCC); 2) the Private Land Timber Permit (PLTP); 3) the Wood Processing Plant Permit (WPPP); 4) the Integrated Annual Operations Plan (IAOP); and 5) the Wood Recovery Permit (WRP). These existing forest utilization laws, issuances, rules and regulations were reviewed and analyzed focusing on the application requirements, processing and approval procedures, responsibilities both of the instrument holder and the DENR, the provision of benefits and incentives, sanctions and penalties and monitoring and evaluation systems. The process of analyzing, simplifying and harmonizing these utilization permits were guided by transparency, accountability, deregulation, decentralization and participatory principles.

Various issues, concerns and recommendations were drawn out from the different permittees, sectors and DENR officials to solicit their comments on the simplification and harmonization of the different forest resources utilization permits. Key informant interviews and focus group discussions were conducted as part of field data gathering. The results of the preliminary analysis and simplification/harmonization processes were presented during regional consultations for validation purposes. All comments and recommendations gathered during the interviews, focus group discussions and regional consultations were considered in the analysis of the utilization permits.

4.2.1 The Wood Processing Plant Permit (WPPP)

The implementation of the WPPP was and continues to be a focus of attention of the FMB-DENR and the wood processing plants stakeholders. The issues involved in the WPPP implementation range from the technical issues affecting wood processing plants to the socio-politico-legal issues associated with permit issuances, tenure, monitoring and sources of raw materials. WPPP policies are considered by most permittees as extremely restrictive, confusing and without focus, bureaucratic and/or extremely regulatory.

a. Tenure Issues

The existing WPPP policies provide that the permit to establish and operate wood processing plants shall be co-terminus with the forestry tenurial instruments issued such as the CBFMA, the IFMA, the SIFMA and the TLA if the applicant is also the holder of such forestry tenurial instrument, provided that wood production from such forestry projects is the primary input to the processing plant. For applicants who are not holders of forestry tenurial instrument, the permit issued shall have a duration of three years, renewable every three years thereafter. WPP permittees do not question the duration of the first category of permit applicants. To them, the 25-year duration does not provide enough security to their investment.

On the other hand, applicants who are not holders of existing forestry tenurial instruments find the three-year period very short considering the high investment cost required. Consequently, this is a dominant constraint to investment and to the long-term development programs of the wood processing industry. The short duration of the permit greatly influences the efficiency of the industry member's operations and raises great concerns over the stability and growth of their business. They therefore consider their businesses as highly risky ventures, with the permit applicants being at the mercy of the DENR after three years of operation.

Additionally, the three-year period is considered very short relative to the investment being made. For a business to progress, it should have security of tenure commensurate to its investment. Considering that equipment and maintenance costs are very expensive, it is necessary for enough time to be provided for the investor to recoup his investment. Most of the interviewed wood processors suggested a longer period for the tenure, preferably, 10 years, to significantly reduce transaction costs associated with permit renewals and at the same time provide stability to their operations.

As a safeguard on the part of the government, it may suspend or cancel the operation of the permittee if the firm violates certain provisions of the agreement. This means that the agreement should be clear on what would constitute violations, and implies the need for regular monitoring. Regular monitoring should be be undertaken to assess the compliance of the permit holder on the provisions of the agreement. The permittees, for their part, are willing to be monitored regularly. But to promote transparency, accountability and stakeholder participation, it is suggested that the monitoring team be composed of multi-sectoral representatives. The report of the monitoring team should indicate whether a permit holder has violated provisions on the agreement stipulating the responsible processing of forest products. This would serve as the basis for suspension or the cancellation of operations depending on the gravity of the violation.

b. Further Simplification of Requirements

DAO 2003-41 has significantly reduced the application requirements for acquiring a permit to establish and operate wood processing plants. From 11 requirements under MAO 50-86, the new DAO has reduced the number to six. The removal of the location clearance, the pollution clearance, the business plan, and the feasibility study from among the application requirements is particularly appreciated. However, most of the permittees interviewed complained of the high transaction cost of securing an ECC and the Certificate of Non-Coverage (CNC). The pollution clearance and location clearance are, in fact, still part of the requirements for securing an ECC.

The ECC issuance process is a very tedious one involving a number of consultations. The applicant usually engages the services of a consultancy firm or an NGO to secure the ECC, and has to spend, in most cases, between P50,000.00 and P500,000.00 depending on the size and area of the plant. What is even more “painful” is that once the ECC is issued the DENR requires new rounds of consultations with the different stakeholders for the processing of the permit. This translate to added cost on the part of the permittees, which together with the other costs associated with the follow-ups in various offices up to the regional level would constitute roughly between P80,000.00 and P150,000.00. The permittees suggest that since the ECC has undergone extensive public consultations, this should no longer be repeated in the processing of WPP permits. Additionally, while the law requires an ECC for industries such as wood processing, there is a need to simplify the requirements and procedures for its issuance.

Securing a CNC is another issue. A number question the need to secure a CNC from the EMB in the first place, considering that this constitutes another layer of delay plus additional expenses on the part of the WPPP applicants. The delay and additional expenses could in fact be avoided by clearly specifying the types of plants that will no longer need an ECC so that they do not need to go to the EMB and would, instead, simply have to submit their application directly to the concerned CENRO. Moreover, the CENRO concerned should have clear guidelines in determining for which WPPP applications an ECC should not be required. The EMB should simply issue the list of industries or applications that need an ECC. Only from those applications not in the list will a CNC be required. Such innovations will promote transparency and reduce opportunities for corruption.

c. Policy Instability

Wood processors also complain of unstable policies which have great implications on their operations. Application requirements vary from one region to another. While MAO 50-86 and DAO 2003-41 have specific provisions on the documents required for WPPP applications, some regional offices nevertheless still impose additional requirements such as pictures of the processing plants, inspection reports, etc. While these may be necessary and easy to comply with, they nonetheless cause delays in the processing of the permit. Had such requirements been clearly stated in the policy to begin with, the applicants could have easily complied without having to go back to their offices.

The frequent suspension of utilization permits has also greatly affected the operations of wood processing plants. It creates an uncertain environment for the business sector because of the possibility that the wood processing plants could cease operations for lack of raw materials. As a result the business sector would not be able to expand operations and would hesitate to invest because accurate projections with regard to production could not be made.

d. Decentralizing WPPP Approval

Under MAO 50-86 the approval of new WPP permits is lodged in the Secretary of the DENR. Before a permit is issued under this scheme, thrity-six steps are required which implies a waiting time of between six months and two years.

DAO 2003-41, on the other hand, has delegated the authority to issue permit, install/establish and operate the WPP to the Regional Executive Directors (REDs). The issuance of a permit now requires only 24 steps so that the permittees highly appreciate this move of the DENR.

Under both policies, the processing of WPP permit applications has duplications. Both the CENRO and PENRO review the application, conduct validation and field verification, and the endorse application to the RED.

The processing of permit applications could be significantly facilitated if applications would no longer be evaluated at the PENRO level. This innovation will also significantly reduce the transaction cost associated with following up the application. The PENRO may simply be furnished a copy of the application for information purposes. If such were carried out, the CENRO will be strictly accountable for the endorsement of the application to the RED and for any misrepresentation in the validation/inspection report, the CENRO will be held liable.

A major role that the PENRO could play is to monitor the performance of WPPP holders. It should take the lead in organizing a multi-sectoral monitoring team on the performance of the permittees.

Recently, there was a move to revert the authority to issue the WPP permit to the Secretary of the DENR. While there may be strong reasons for doing this, it is highly recommended that the current policy of delegating authority to the RED should be maintained. Doing otherwise will highlight the policy uncertainties as perceived in the wood industry, not to mention the additional transaction costs involved in terms of following up the applications in Manila and the delay in the issuance of the permit. The least that could be done is to conduct consultations with permit holders and interested investors in the wood industry in the fields.

e. Lack of Participation and Transparency in WPPP Monitoring and Evaluation

Under the current regulation, the monitoring and evaluation of the WPPP is mainly undertaken by the CENRO through his Forest Officers. The involvement of other concerned sectors like the LGUs, NGOs, POs and others is not mandated in existing DENR policies. There are regions that have initiated multisectoral monitoring, but this decision depends on the initiative of the field offices. A national policy to promote multisectoral participation and transparency in the implementation of conditions indicated in the permit there needs to be implemented for the move to be institutionalized. In so doing, WPP permittees will be more cautious about their operations since they will be held accountable to the general public. At the same time, the business environment for the investors will be more conducive since this practice will promote predictability in operations. Investors will be motivated to perform consistently, observing good practices and existing policies because they will be assured that if they perform well, the multisectoral monitoring team will continue to recommend the continuance of the operation of their processing plants. They will also no longer have to worry that their permit will be suspended or cancelled, or their operations delayed, as the decision will not come from a single agency but will be the result of a multisectoral evaluation.

Recommendations

The following specific recommendations are forwarded to resuscitate the ailing wood processing industry:

1. Provide longer tenure, preferably 10 years, for applicants who are not holders of a forestry tenurial instrument. DAO 2003-41 provides a permit duration of three years only, renewable every three years. A 10-year tenure will reduce transaction costs associated with permit renewals, and provide the investor enough time to recover his investment and stabilize operations.
2. Study the possibility of further simplifying the requirements and processes involved in the issuance of the ECC. In addition, public consultations should no longer be required in the processing of the WPPP since these are also conducted in the process of securing an ECC. The Environmental Management Bureau (EMB) should likewise issue a list of wood processing plants that will no longer need an ECC so that a Certificate of Non-Coverage will no longer be required of plants already on the list.
3. Standardize the WPPP requirements and procedures at all regional levels.
4. Decentralize WPPP approval to the Regional Executive Director.
5. Institute mutlisectoral monitoring and evaluation of WPPP implementation to promote participation and transparency.

4.2.2 The Wood Recovery Permit (WRP)

The basic issue raised against the WRP is that it has become a vehicle for illegal wood cutting activities. Those interviewed alleged that this permitting system has been abused. Most of the WRP issuances are allegedly for the recovery of abandoned logs. According to them, those logs are perhaps deliberately felled and left in the area so that the perpetrator can request for a WRP after some time.

Since data on WRP issuances are not centralized, gathering basic information for the analysis of WRP issuances has proved difficult. However, key informant interviews conducted in the different offices of the DENR provide insights on the nature of abuse of WRP policies. RED Tumaliuan of DENR Region 13 reported in his paper entitled “Issues and Concerns in the Issuance and Monitoring of Permits in Natural Forest: The CARAGA Experience” that most of the WRPs in Region 13 were issued by the CENRO. Apparently, most of the requests for WRPs are for volumes five cubic meters and below, where the CENRO is authorized to issue the permit under DAO 2000-78. These observations indicate that there is a deliberate attempt to limit the volume requesting for WRP within the authority of the CENRO. This is understandable because according to interviews among the permittees, it is easier to obtain a permit from CENRO as it is accessible. Processing time is significantly shortened, and lesser costs are involved in terms of follow-ups.

The question however is “Why are there allegations of abuse in the issuance of WRPs?” As pointed out by a Memorandum of the DENR Secretary dated 7 May 2003, the issuance of the WRP has effectively served as a convenient cover or front for illegal logging activities that have considerably contributed to the further diminution of the country’s existing forest cover. An analysis of the wood recovery permit system indicates that indeed, this policy is prone to abuse because of the lack of transparency and participation of local stakeholders in the issuance of permits, and consequently, the lack of accountability on the part of the issuing authority and the permittee. These elements of transparency, participation and accountability are necessary ingredients for good governance.

a. Lack of Stakeholders Participation

Under the existing policy on the WRP, upon receipt of the applications for WRP, the CENR office concerned shall conduct a 100-percent inventory of wood materials for recovery. These wood materials will be chronologically numbered, photographed and indicated in a sketch map. The

scaling procedure is supposed to follow the regulations on scaling prescribed in DAO 87-80. Depending on the volume, the application may be approved by the CENRO, the PENRO, the RED or the DENR Secretary. As the application goes to the approving authority, comments and recommendations are made by each office through whcih the application passes.

An examination of the WRP policy indicates that the entire process of issuing the permit—from the investigation, inventory and scaling of the retrievable wood materials, down to the signing of the permit—is mainly done by the DENR. The procedure is apparently very technical but it lacks the participation of other stakeholders in key stages of the processing system. For instance, the determination of the existence of retrievable wood materials and the inventory of the same should be done jointly with other sectors such as the LGUs, NGOs, media groups, Peoples Organizations, and other interested groups. Their participation is crucial in determining whether, indeed, the materials indicated in the permit applied for are genuinely covered by the WRP policy in terms of volume and the kind of retrievable wood materials. By involving other sectors in the key stages of permit processing, it will minimize if not totally eliminate the practice of using WRP for logs that are actually illegally cut.

b. Lack of Transparency

The limited or lack of participation of other key stakeholders in the issuance of the WRP implies that the other sectors in the locality have no way of knowing the permit applicants, becoming familiar with the permits granted and of finding out whether the materials applied for the issuance of permits are genuinely retrievable wood materials. Clearly, there is no transparency in the manner by which WRPs are issued. In fact, allegations of abuse in the issuance of WRPs reflect the absence of transparency.

The lack of participation of other sectors in the determination of whether the materials applied for are genuinely recoverable materials has greatly reinforced non-transparency in the issuance of the permit. While the current policy allows the involvement of representatives of local government units and Multi-Sectoral Forest Protection Committee (MFPC) in the post recovery validation/inspection, this practice is rarely implemented, according to key informants. But this is to be expected. Since LGU and MFPC representatives are never involved in the processing of the permit to begin with, there is no way for them to demand for the monitoring and validation of the recovery operation as they are not aware of who were issued the permits. The end result is that post recovery validation and monitoring are never implemented.

c. Lack of Accountability

Because of the lack of participation in permit processing and due to the absence of a transparency mechanism, the issuing DENR officials and the permittee are not held accountable to the general public. As only the DENR officials are involved in the issuance and processing of permits, the permittees are accountable only to them. Permittees do not bother to consider the interest of the other sectors because these sectors are not involved in the processing of the permit, nor in its monitoring. Likewise, the provisions of the permit, such as those pertaining to allowable activities and limitations, are not known to the general public either.

The absence of a transparency mechanism has also resulted in the lack of checks and balances on the part of the DENR. The current WRP policy has vested full control on the DENR officials in terms of determining whether recoverable wood materials exist, the volume of the recoverable wood materials, the issuance and processing of permits, the monitoring of recovery operations and even the issuance of other necessary permits such as the permit to transport. For this reason, the concerned DENR offices are accountable only to their superiors. They are not concerned about the general public since the latter does not have any information on their decisions and actions.

Recommendations

To prevent the use of the WRP as a cover-up for illegal cutting activities, there is a need to integrate participation, transparency and accountability in the processing and issuance of permit, as well as in the monitoring and validation of recovery operations. The process may also be simplified to promote the responsible recovery of wood materials. The following are specific recommendations:

1. The inspection, inventory and scaling of retrievable wood materials must be done by the Multi-Sectoral Forest Protection Committee, the LGUs, and other interested groups.
2. Inspection results and inventory should be posted in conspicuous public places such as the municipal hall, the DENR offices, etc.
3. The permit application should be endorsed by the concerned barangay and municipal LGUs consistent with the DENR-DILG Joint Memorandum Circular 2003-01.
4. Mandatory monitoring and evaluation of the recovery operation should be conducted by the MFPC.
5. Stiff sanctions should be imposed on the issuing officers guilty of the irregular issuance of WRPs. They should be held administratively liable without prejudice to the filing of criminal charges for the perjury of public documents.
6. (Same as number 5.)
7. Conduct a study to determine the annual wood requirements of an average industry utilizing retrievable wood materials.
8. Discourage the retrieval of illegally felled and abandoned logs.
9. Study how much wood is made available by typhoon, natural calamities, etc.
10. Delete the provision on priority applicants for each type of retrievable wood material as provided for in DAO 2000-78. Instead, give priority to the finders of the wood materials except when the materials are found on private lands and forestlands covered with tenured instruments, in which case, the landowner or tenure holder shall have priority.
11. Post approved WRP providing information on the names of the permittees, the allowable volume to be recovered, the location of the retrievable wood materials and the date of expiration of the said permit.

Considering these recommendations, the following procedure is suggested for the issuance of the WRP:

Step 1.	Filing of application by finders/applicants of retrievable wood materials
Step 2.	Referral of the application to the concerned LGU for the latter's endorsement/comments.
Step 3.	Immediately after the LGU endorsement is received, an inventory of retrievable wood materials by the MFPC, together with the LGU representative and interested individual/groups.
Step 4.	CENRO to advertise the availability of retrievable wood materials to the public.
Step 5.	Processing and approval of the WRP
Step 6.	Posting of the approved WRP

In step 1, the proponent applies for a permit to the concerned CENRO using prescribed application forms indicating location, the quantity of retrievable wood materials, a sketch map, including pictures. A barangay clearance should also be attached.

The second step entails securing the endorsement of the municipal LGUs. The CENRO, upon receiving the application, shall refer the application to the municipal LGU for review, comment and endorsement. The municipal LGU should then submit its comment or endorsement within 15 days, consistent with the DENR-DILG Joint Memorandum Circular No. 2003-01. Otherwise the LGU will be assumed to have no objections to the application.

Once the LGU endorsement is received, the CENRO shall organize the MFPC field verification team, which will conduct field verification and an inventory of the retrievable wood materials (Step 3). The scaling procedures shall be in accordance with the regulations prescribed by DAO 87-80. No WRP should be processed without the MFPC field verification/inspection and inventory report signed by at least two-thirds of the members of the said committee.

The MFPC verification/inspection team shall submit its report, copy furnished the municipal LGU, to the CENRO within five days after completion of the inventory. The results of the verification/ inspection should be posted in conspicuous places to inform the public of the existence of retrievable wood materials. Any objections to the utilization of the same should be filed with the concerned CENRO within 5 days (Step 4).

In case there are no complaints received on the application, the CENRO will proceed with the processing and issuance of the WRP. However, because of improved transparency, accountability and public participation in the issuance of WRPs, it is recommended that the level of CENRO approval should be increased from 5 cu.m or less, to 15 cu.m or less. During regional consultations, both the permittees and the DENR pointed out that the 5-cu.m limit is too small for community livelihood. Meanwhile, the proposed levels of authority for the WRP approval are as follows:

Authorized Official	Net Volume of Retrievable Wood Materials	Permit Effectivity
CENRO	15 cu.m or less	Two months
PENRO	15 to 30 cu.m	Three months
RENRO	30 cu.m or more	Four months and beyond

Once the WRP is issued, it should be posted in the DENR offices and in the municipal hall.

It should be noted that the participants to the regional consultations also recommended that the approval should no longer be elevated to the DENR Secretary because doing so is too costly for the permittees.

4.2.3 The Private Land Timber Permit/The Special Private Land Timber Permit (PLTP/SPLTP)

The issues raised against PLTP/SPLTP were the following:

1) too many requirements for an application;
2) the lengthy duration of the processing and approval of permits
3) their serving as fronts/covers for illegal cutting activities.

The permittees interviewed asked why the DENR regulates the cutting of trees in their private lands when, in fact, these lands are titled thereby giving them the right to do anything inside their property. At the same time, there have been allegations that the PLTP and the SPLTP have been abused and used to cover-up for illegal cutting activities. Existing monitoring and verification reports indicate that some permittees cut more than their allowable volume, and they cut outside their private land. These illegal practices are facilitated by deliberately overestimating the volume of timber in the inventory report or by reporting the existence of naturally grown trees in private lands, when in fact there are no more trees growing in the said property. According to them, this can be easily done through the connivance of DENR staff and the private landowner, and, sometimes, of LGU officials as well. Negative public perception in this regard cannot be avoided because the process by which the PLTP and the SPLTP permits are issued lacks transparency, participation and accountability. Under existing policies, the verification of private lands, the inventory of trees within the said land, and the processing and approval of permits are monopolized by the DENR, with only limited participation from the LGU and registered foresters.

a. Limited Sectoral Participation

The processing of the PLTP/SPLTP permits starts with the applicant filing the application request or application form at the CENRO, followed by the verification of the titled property, an inventory of the standing trees, and finally, the processing and issuance of the permit. The field verification of the titled property and the inventory are very crucial because they establish the existence of the private property and verify whether, indeed, there are still naturally growing trees within the said property which warrant the issuance of PLTP/SPTLP permits. Under existing guidelines, the determination of this situation is mainly undertaken by the DENR. DAO 2000-21 allows the limited participation of professional forester(s) and the LGUs by requiring a 100-percent inventory to be undertaken by a registered forester in the area applied for, which the CENRO and LGU representative concerned validate. Sectoral representation however, is not sufficient to prevent connivance. More sectors should be involved in the process of validating the inventory reports conducted by a professional orester, which form part of the application. With only the CENRO and LGU representatives validating the inventory, the applicant could easily make illegal deals to obtain the permit. Worse, the verification of the boundaries of the private lands is only performed by the CENRO concerned.

Because of the limited participatory mechanism in the verification of the titled property and the inventory of standing trees, the verification reports are usually questioned and are sometimes thought suspicious. There have been reports of some areas' with PLTP/SPLTP applications' being devoid of standing trees. There are also allegations that some timber inventory reports are excessively bloated and that some of the trees cut actually stand outside the private lands, and, in most cases, are on adjacent forest lands.

b. Transparency Issues

With very limited sectoral participation in field verification, transparency of information is also sacrificed. The general public has no way of finding out whether the private property in question genuinely exists and whether the inventory of standing trees is accurate. At the same time, the existing DENR guidelines do not have mechanisms that provide information regarding who have been given the permit, what volume they are allowed to cut, and when the permit would expire. Information such as these are important because only with transparency in information and in decision-making would the public be motivated to be vigilant in monitoring the activities of the permit holder. If the permit holder, the DENR, the foresters, the LGU and the general public were aware and had access to information and decisions made would applicants become more cautious in providing data in their application form, as well as in preparing their validation reports. Such a situation would minimize, if not totally eliminate, connivance between the applicant, the professional foresters, the LGU and the DENR in the provision of false information and reports, including the granting of permits to unqualified applicants. Transparency would promote responsible applications, responsible reports and the responsible issuance of permits.

c. The Accountability Issue

Multi-sectoral participation and transparency of information and decision-making should lead to accountable permit holders and DENR officials. However, since the current guidelines only allow very limited sectoral participation since there are no mechanisms to promote transparency in the issuance of the permit, the permit applicants are not held responsible to the general public. At the same time, since the DENR officials and applicants are aware that there are no mechanisms whereby the public has access to their decisions and their actions, they become irresponsible in providing information in their applications, in preparing validation reports and in the issuance of permits. The overall result is that the applicants become accountable only to the issuing authority and its staff, and do not care about public accountability. This breeds corruption. DAO 2000-21 provides for MFPC participation in the monitoring of the permittees' operation, but this is rarely done since the permit has already been issued and the MFPC is not aware of the permit's being

issued. Thus, it cannot assert its role because MFPC can only be mobilized if the CENRO organizes the monitoring team.

Recommendations

While the clamor specifically among the permit holders is that the requirements for getting the permit should be lessened and the procedure simplified, the researchers believe that the main issue needing resolution is how to prevent the PLTP/SPLTP from being used as a cover-up for illegal cutting activities. The purpose of the policy is to promote the responsible utilization of naturally grown trees in private lands in recognition of the landowners' rights over the said property.

But the State also has the obligation to ensure that in allowing private individuals to utilize naturally grown trees in private lands, this right is not abused and used as a cover-up for illegal cutting activities. The permit issued, being extraction-oriented, must be highly regulated to discourage it from being abused.

To prevent the PLTP/SPLTP from being used as a cover-up for illegal cutting activities, the permit applicant and the issuing official of the DENR must be made aware that their actions and decisions are easily known to the general public, so that they should be accountable to the public.

The following recommendations are therefore proposed for integrated with the guidelines for the processing and issuance of PLTP/SPLTP permits:

1. The verification/inspection of the private land's boundaries and of the number of the naturally grown trees in the said property must be done by the Multi-Sectoral Forest Protection Committee, other interested individuals/groups and LGUs.
2. Posting of the verification/inspection results in conspicuous public places such as the municipal hall, the DENR offices, etc., should be made.
3. The permit application should be endorsed by the concerned barangay and municipal LGUs per DENR-DILG Joint Memorandum Circular 2003-01.
4. Mandatory monitoring and evaluation must be conducted by the MFPC
5. Stiff sanctions must be meted to the issuing officers for the irregular issuance of PLTP/ SPLTP. They should be held administratively liable without prejudice to the filing of criminal charges against them for the perjury of public documents
6. Approved PLTP/SPLTP must be posted in DENR offices.

In consideration of these recommendations, the following procedure for the issuance of the PLTP/SPLTP is suggested:

Step 1. Filing of application by interested private landowners with all required documents.
Step 2. Referral of the application to the concerned barangay/municipal LGU for the latter's endorsement/comments
Step 3. Immediately after the LGU endorsement is received, the verification of the titled property and inventory's being undertaken by the standing timber team, the CENRO, together with the MFPC team and LGU representatives
Step 4. Posting of the findings of the verification team
Step 5. Processing and issuance of the Wood Recovery Permit following the prescribed levels of approval of DAO 2000-21.
Step 6. Posting of the approved PLTP/SPLTP permits and monitoring of their operations by the MFPC

The first step is for the private landowner to apply for a permit with the concerned CENRO using the prescribed application forms, together with the inventory report prepared by a registered forester and other documents as stated in DAO 2000-21. A barangay clearance should also be attached to the application.

The second step is to secure the endorsement of the municipal LGUs. The CENRO, upon receiving the application for the PLTP/SPLTP, shall refer the application to the municipal LGU for review, comments and endorsement. The municipal LGU shall submit its comments or endorsement within 15 days, consistent with DENR-DILG Joint Memorandum Circular No. 2003-01; otherwise, it will be assumed that the LGU does not have any objections to the application.

Once the LGUs endorsement is received, the CENRO shall organize the MFPC field verification team that will conduct the verification/inspection of private land boundaries and standing trees in the said property. No PLTP/SPLTP shall be processed without the MFPC field verification/ inspection report signed by at least two-thirds of the members of the said committee.

The MFPC verification/inspection team shall submit its report to the CENRO within 5 days upon completion of the investigation, copy furnished the municipal LGU. The results shall be posted in conspicuous places to inform the general public of the PLTP/SPLTP application. Any objections to the PLTP/SPLTP application, should be filed with the concerned CENRO within five days. In case no complaints are received on the application, the CENRO will proceed with the processing and issuance of the PLTP/SPLTP, following the prescribed levels of approval.

Once the PLTP and SPLTP are issued, the approved PLTP/SPLTP should be posted at the DENR offices and municipal hall.

4.2.4 The Integrated Annual Operations Plan (IAOP)

The Integrated Annual Operations Plan (IAOP) is a short-term plan showing the programs and activities of the Timber License Agreement (TLA) or the Integrated Forest Management Agreement (IFMA) holder for an annual or five-year period. The main objective of the policy on the Approved Operations Plan is sustainable forest management through the regulation of the commercial extraction and utilization of timber and other forest products in areas covered by the TLA, TPSA, IFMA and similar instruments.

The major issues and concerns regarding the OP regulations are operational in nature. They pertain to the requirements, processing and approval of the OP, and to the monitoring of the activities of the holder.

a. Application requirements

DENR Memorandum Order No. 96-10 lists the following requirements before the OP can be approved:

1. A complete aerial photo coverage of the area under license has been submitted to the Secretary pursuant to DAO No. 92-17 on the Conduct and Submission of Aerial Photography by Holders of Timber License Agreements and the Different Programs and Projects of the DENR and its implementing guidelines).
2. As an incentive for TLA/IFMA holders who have matured plantation tree species which they intend to harvest, a separate IAOP covering the same shall be submitted, processed, and approved even without the required aerial photograph, PROVIDED, however, that no naturally grown tree shall be included in the preparation of the said plan.
3. Whenever applicable, the required Medium Term-Forest Management Plan or a Comprehensive Forest Management and Development Plan has been submitted.
4. The area programmed for logging operations (APLO) is inside a residual forest under the Block I category.
5. A timber inventory of at least 20-percent intensity covering the area(s) programmed for logging has been undertaken jointly by the licensee and the CENRO personnel; and the corresponding report, under oath, has been submitted.

6. The licensee has no pending forestry accounts.
7. The reforestation and timber stand improvement obligations of the licensee for the preceding year(s) have been satisfactorily complied with.
8. License holders have fully filed a checklist EIA and have received, after due review, an Environmental Compliance Certificate for their operations.
9. Additional Considerations: For ease of supervision, administration and monitoring, that the following additional features and/or practices be observed:
    - Operations maps drawn to a convenient scale shall be gridded using the UTM system.
    - Corners of the areas planned for operations (logging, reforestation, TSI) shall be located on the ground using accurate surveying instruments, preferably GPS instrument.
    - A one-meter strip along the perimeter of the planned cutting couples shall be established and all trees 15 cm dbh and larger within the said strip shall be marked with three (3) bands using visible enamel paint.

Respondents to the key informant interviews have no problem with the above requirements except for the submission of a complete aerial photograph of the area, not only once but every after five years starting 1992 or when the agreement was first issued (DAO 99-53). Holders with large contiguous areas (more than 10,000 ha) may be able to secure the said aerial photos, but doing this would be too expensive and difficult for holders with smaller areas and areas not contiguous to those of other holders.

Since the major objective of the required aerial photos is to determine the extent and area of the vegetative cover, the DENR could instead provide this through the NAMRIA as a technical service to the DENR clientele. The DENR can explore other ways of determining forest cover on a regular basis and scrap the requirement for aerial photos from instrument holders.

a. The processing and approval of the OP

The existing procedure is for the holder to submit the OP to the RED through the CENRO for review and evaluation before it is forwarded to the PENRO, again for review and evaluation. The RED also reviews and evaluates the OP before it is forwarded to the OSEC, where it is forwarded to the FMB for further review and evaluation. The OSEC then issues instructions to the concerned RED based on the FMB Director's recommendations.

Existing policies require the OP to be submitted at least three months before the cutting year or before the cutting operation starts. It is assumed that the processing and approval of the OP should not take more than three months, in time for the holder to start logging operations. However, according to key informants, it took them almost eight months to one year to obtain the final approval of their OP. So, to reduce processing time, a proposed simplified procedure is for the OP to be submitted to the RENRO. The RED forwards a copy of the operations map with a stand and stock table for checking and verification of data to the FMB. The RED convenes the Regional Technical Review Committee with representatives of the licensee, CENRO, PENRO, the Multi-sectoral Forest Protection Committee, concerned LGUs, NGOs, and other sectors. Based on the RTRC recommendations, the RED returns the OP to the Holder to incorporate the corrections/ modifications; or the RED forwards the OP to the OSEC. The OSEC forwards the OP to the FMB for evaluation, after which the FMB Director returns the OP to the OSEC with corresponding recommendations. The OSEC then issues instructions to the concerned RED, following which the RED amends, denies or approves and then releases the OP and furnishes copies to the concerned offices.

Table 5. Existing and proposed simplified procedures/steps for OP processing and approval

Responsible Office	Existing Procedures / Steps	Simplified Procedures / Steps
1. Applicant	• Prepares the plan and fulfills all the requirements for the IAOP application • Submits to the CENRO seven copies of the OP at least 3 months before the start of logging operation	• Prepares the plan and fulfills all the requirements for the OP application • Submits to the RED seven copies of the OP, at least 3 months before the start of logging operations, • Submits a copy of the OP along with the IEE checklist to the Regional EMB office • Whenever necessary, revises the Plan to incorporate the corrections/modifications recommended by the RED through the Regional Technical Review Committee (RTRC)
2. CENRO level	• Forwards to the FMB Director a copy of the TLA map showing the vegetative cover or the areas programmed for forestry operations together with a certified copy of timber stand and stock table for checking/verification through aerial photographs • Reviews the Plan, together with representatives of the licensee and other concerned parties (LGUs, NGOs, Multi-sectoral Forest Protection Committee) • Forwards the Plan to the PENRO after making the necessary corrections/modifications	• Whenever instructed by the RED, validates the data and information presented in the Plan, and then forwards the findings to the RED • Attends the RTRC deliberations on the Plan
3. PENRO level	• Causes the review and evaluation of the Plan together with representatives of the licensee and other concerned parties • When necessary, validates the data and information presented in the Plan • Forwards the Plan to the RED, together with his comments and recommendations	• Whenever instructed by the RED, validates the data and information presented in the Plan and forwards the findings to the RED • Attends the RTRC deliberations on the Plan
4. RENRO level	• Convenes the Regional Technical Review Committee, together with representatives of the licensee and other concerned parties, to review and evaluate the Plan • The RTRC, based on the review and evaluation, shall prepare the	• Forwards to the FMB Director a copy of the OP map showing the vegetative cover of the area programmed for forestry operations • Whenever necessary, instructs the PENRO and CENRO personnel concerned to validate the data and

Responsible Office	Existing Procedures / Steps	Simplified Procedures / Steps
	final plan after incorporating the corrections/modifications, if any, and forwards the same to the FMB; • The RED, taking into consideration the observation and/or instructions of the SENR, shall amend, deny, approve and release the IAOP, furnishing a copy thereof to the Director, FMB and the SENR for information and reference.	information presented in the Plan • Convenes the RTRC to review and evaluate the Plan, together with representatives of the licensee and other concerned parties (LGUs, NGOs, Multi-Sectoral Forest Protection Committee), CENRO, PENRO, RENRO and EMB representatives • Based on the RTRC review and evaluation of the Plan, the RED asks the Holder to incorporate the corrections/modifications, if any, then forwards the Plan to the OSEC • The RED, based on the observations and/or instructions of the SENR, shall amend, deny, approve and release the OP, furnishing a copy thereof to the FMB Director and the SENR for information and reference
5. EMB		• Reviews and evaluates the OP and the IEE checklist • Attends RTRC deliberations on the OP and IEE • Forwards recommendations for ECC approval to SENR
6. FMB	• Causes the verification of the status and forest condition of the area programmed for operations using the aerial photographs covering the subject area • Checks and evaluates the timber inventory, reconciles this with the IAOP endorsement of the Regional Office, and summarizes the same for the SENR	• Records and files the submitted map and timber inventory report of the CENRO • Checks and evaluates the timber inventory, reconciles this with the OP endorsement of the Regional Office, summarizes the same for SENR and forwards this to the OSEC
7. OSEC	• Upon receipt of the evaluation and action papers from the FMB Director, issues instructions to the FMB Director and the concerned RED	• Upon receipt of the evaluation and action papers from the FMB Director, SENR issues instructions to the FMB Director and the concerned RED; approves the ECC

b. Monitoring of the activities of the IAOP holder

The OP holders shall be allowed to conduct cutting, gathering and utilization activities within the area covered by the Plan. The OP holders are required to observe and adhere to the prescribed reporting forms and guidelines set by the DENR. The CENRO, through his Forest Officers, monitors the activities of the OP holders based on the reporting forms and guidelines set by the DENR. The involvement of other concerned sectors like LGUs, NGOs, POs and others is mandated in the existing DENR policies. It is proposed that a multisectoral monitoring team should be formulated as a national policy to promote multisectoral participation and transparency in the implementation of the activities in the IAOP.

4.2.5 The Rattan Cutting Contract (RCC)

Rattan resources are among the important products of the Philippine forests because of their significant contribution to the Philippine economy and to employment generation. Thus, in consideration of rattan's importance, policies were formulated by the government through the Department of Environment and Natural Resources (DENR), to regulate its utilization. The current rattan policy that is in effect is the DENR Administrative Order No. 4, S 1989 or the Revised Regulations on Rattan Resources. The formulation of this policy was based on the following objectives: (a) To ensure the sustainable productivity, expanding availability, and access to the rattan resource for the continuing support to dependent industries and the generation of employment opportunities and revenues; (b) To provide a system of rational harvesting, and gainful and efficient utilization of the resources; and (c) To rationalize the industries which are dependent upon rattan as their primary raw material.

The following discussion provides an analysis of the current policy on rattan resources. The analysis is based on the issues of equal access to resources, the simplification of requirements, equity, decentralization, and accountability.

a. Equal Access to Resources

Equal access to rattan resources is promoted in the current policy. In the disposition of rattan production areas where public bidding is required, specific areas are allocated for bidding between and among big entrepreneurs, and separate areas for bidding between and among the small entrepreneurs. Furthermore, the current policy provides special privileges to members of the indigenous communities by giving them the highest priority if the timber licensee is not among the bidders.

b. Simplification of Requirements

Some of the application requirements to secure a cutting permit, an establishment of a processing plant permit, and a plantation establishment and development permit were deleted. For all types of applicants, the requirement for a sworn statement authorizing representative(s) of the DENR to verify submitted information was deleted because even without the said sworn statement, the DENR would still verify the veracity of the submitted documents.

For owners/operators of rattan processing plants, the requirements list and the quantity of rattan product lines, past export revenues from processed rattan products were deleted. Past export revenues are already reflected in the audited financial statements of the company, while a list indicating the quantity of product lines is an unnecessary document.

For cooperatives of rattan gatherers, the requirement certificate of training issued by BCOD was deleted; while for individual and associations of BKKK-accredited rattan gatherers or NACIDA-registered rattan users, the requirement list and the quantity of product line were deleted.

For holders of timber license agreement (TLA), the requirement certification from a wood industry association recognized by the DENR to the effect that such holders are of good standing was deleted because the required certified copy of the TLA is enough proof that the applicant is performing well.

While application requirements indicated in the current policy for securing a permit to establish a rattan processing plant have been retained, requirements such as a certificate of registration and clearance from CENRO/PENRO to the effect that the plant is not pollutive have been deleted from among the requirements of an application seeking permission to expand a processing plant. This is primarily because such requirements had already been submitted when owners applied for a permit to establish a new plant.

The required certification from CENRO signifying the availability of the area for rattan plantation establishment and development, and the required proof of financial capability to engage in rattan plantation were deleted from among the requirements for securing a permit to establish and develop a rattan plantation because, as proposed, the DENR will make available areas suitable for lease.

The required proof of financial capability was also deleted from the list of common requirements for applicants who are holders of a rattan processing plant license, a rattan cutting permit, a TLA, and a tree plantation lease because they should already have submitted this proof when they secured the current permit they now hold.

c. Equity

The current policy promotes a more equitable distribution of the area available for lease. The maximum area for individuals is 5,000 ha, while that for other types of applicants is 30,000 ha.

d. Decentralization

Under the current policy, the processing time for securing a permit is too lengthy because there of the many levels documents must go through. According to field interviews, this practice encourages graft and corruption. To avoid such a problem, the number of levels through which documents pass must be reduced.

e. Accountability

The DENR should have the following accountabilities: (a) the identification and delineation of areas available for use; (b) effective monitoring and evaluation to ensure that permitees do not violate existing rules and regulations; (c) the provision of technical assistance to permitees such as proper techniques in rattan harvesting; and (d) the extension of assistance to permitees in their drive to establish links with government organizations that can help them improve their products and market their produce.

Recommendations

The following are the recommended measures to improve current policies on rattan resources:

- Rattan must be cut based on maturity rather than on the length of the pole.
- Second growth forest scheduled for relogging within 20 years or less must be planted with rattan to increase its raw supply and to make the second growth forest more productive
- Rattan special deposit must be managed by the DENR so that the Department can have easy access whenever the need to replant the area arose.
- Rattan special deposit must be based on actual volume harvested, not on the annual allowable cut.
- An area that contains more than 500 growing seedlings must be included among the potential areas for rattan plantation lease.

4.3 CO-MANAGEMENT SCHEMES IN THE PHILIPPINE FOREST LANDS

The study documented, reviewed and analyzed different co-management schemes existing in the Philippine forest lands. A deeper study of these cases is needed, however, to understand the factors leading to successful co-management arrangements and to find ways of strengthening existing policies and guidelines governing the joint management of forest and natural resources by different stakeholders.

Specifically, the study aimed to pursue the following objectives: (1) to identify the different stakeholders and evaluate the mechanism of entering into socially negotiated institutional arrangements; (2) to determine and evaluate the nature and the extent of stakeholder involvement in co-managing forest resources; (3) to identify and document the factors affecting the success and failure of the different co-management schemes; (4) to determine and recommend ways to achieve the sustainability of co-management schemes; and (5) to provide comprehensive recommendations to address policy and field level implementation gaps.

To attain the objectives of the study, primary and secondary data were collected. The study conducted a case analysis of the co-management scheme in force in the management of the watershed resources in Nueva Vizcaya. The data was gathered through a focus group discussion of the different stakeholders consisting of the DENR, the LGU, and PO. Through a case analysis, lessons were drawn from among the different units' co-management practices. The analysis of secondary data involved an analytical review of different researches, studies and other relevant literature on the co-management of forest and natural resources. The study identified the different stakeholders as consisting of the community represented in most cases by the people's organization, non-government organizations (NGOs), local government units (LGUs), the DENR and other government agencies (OGAs). From the analytical review, the study synthesized the mechanisms for entering into socially negotiated collaborative management; the nature and extent of stakeholder involvement in co-management; their respective responsibilities and benefits or incentives in co-management; and the factors influencing the success and failure of the different co-management schemes.

The mechanisms for entering into co-management arrangements greatly vary, depending on the type of resource, the conditions and needs of particular sites, and the mode of interventions as dictated by the funding or grant-giving agency. Although there are various implementation approaches or intervention activities, there must be a strong partnership among the different stakeholders. There should likewise be real community participation in all phases of the project.

The findings of the study further show that, in general, co-management arrangements have proved to be an effective strategy in managing forest and natural resources that were formerly centrally managed by the government. Several factors contribute to the success or failure of co-management:

At the community level: 1) Co-management can be an effective partner in resource management, protection and conservation if it is clear to the community that it will benefit from the project; 2) the involvement of the community in the planning activities builds confidence and creates ownership of the work and its outputs, thus enhancing participation; 3) the livelihood component must be an integral part of the project so as to sustain the people's participation; 4) social preparation should always precede technical intervention; and, 5) the commitment and people's positive perception of the project must prevail.

At the LGU level, the factors that affect a project's success or failure are as follows: 1) the allocation of human resources and funds for the project; 2) the enactment of local policies and ordinances to support the project; and, 4) a strong Environment and Natural Resources office that is a regular division of the LGU and enjoys staffing support and an annual budget allocation.

At the DENR level these are: 1) the dedication of the DENR personnel; 2) a regular review and update of policy issuances so as to harmonize existing laws with the long-tem needs of the people and the environment; 3) finding ways and means to raise and allocate funds for the project; and, 4) updating and retooling field personnel on the new policies and implementation guidelines for them to be effective partners.

From the case analysis of co-management as practiced in Nueva Vizcaya, the following lessons were drawn: 1) the identification of projects should be demand-driven and based on the felt needs

of the community; 2) the project should address the basic needs of the stakeholders; 3) usufruct and tenurial rights should be recognized; 4) there should be easy and simple to follow guidelines that are transparent and ensure accountability; 5) there should be a clear delineation of the roles and responsibilities of the different stakeholders and a well-defined incentives system; 6) a strong leadership can motivate the various stakeholders and harmonize different and conflicting interests; 7) A social infrastructure and corresponding budgets attuned to the operationalization of plans should be installed; and, 8) capacity-building should be instituted for public officials, as well as networking with potential donors and investors, research institutions and natural resource management practitioners.

The study also analyzed the issues and concerns arising from the practice of co-management in Nueva Vizcaya:

1. JMC No. 2003-01, enjoining LGUs to provide funds to make devolution, partnership and co-management effective, is ambiguous on the mechanisms to implement this since, at present, the funds of the LGUs are severely limited or unavailable at present. Technical training aimed at capacitating the LGUs are constrained by a lack of budget.

2. The implementation of devolved forestry functions as provided by the Local Government Code is still subject to DENR's supervision, control and review, thereby limiting the powers of the LGUs to exercise devolved functions, one of which is the issuance of permits. This is tantamount to limiting the powers of the LGUs to exercise devolved functions.

3. Insufficient IEC to enhance to enhance the awareness and understanding of POs/ communities on the merits of co-management and community-based forest management program. The POs/communities still prefer to be under the old ISF program. Although they expressed interest in joining the CBFM program so that other community members can avail of land to farm, they feel constrained to do so because of the requirements.

The following are the recommendations of the study:

1. Harmonize the laws on devolution with rules and procedures governing devolved functions.

2. Build up the capability of LGUs to deal with the management of natural resources within their territorial jurisdiction. Although there are success stories about the LGUs' ability to manage devolved forest management functions, many LGUs have limited capabilities due to low budget appropriations for staff development.

3. Create enabling policies for the accessing funds and other forms of assistance by LGUs from the DENR and other government agencies. LGUs should also seek alternative sources of investments to sustain co-management efforts such as the users' fee and trust funds.

4.4 FOREST LAW ENFORCEMENT AND DUE DILIGENCE

Following are the issues/problems addressed by the Manual on Forest Law Enforcement and Due Diligence:

1. Incomplete procedure from apprehension up to the disposition of forest products

To complete the forestry law enforcement procedure, the proposed manual incorporated the rules on criminal procedure.

2. Too wordy and confusing provisions on administrative apprehension and seizure procedure

These provisions were simplified, re-arranged and consolidated into one procedure for easy understanding. A provision on the preliminary description, number, weight, volume, measurement and estimated value of items being apprehended is also added. Likewise, the provision on the issuance of a provisional apprehension receipt has been deleted because according to the officers interviewed, this only causes delay in the inventory and documentation proceedings, sometimes resulting in the loss of some items not yet inventoried. The proposed manual recommended that such activity be immediately conducted. If such cannot be completed at the close of regular office hours, however, assistance should be secured from the local DENR offices for a sufficient number of scalers to finish the work. Upon completion of the foregoing procedure, a seizure receipt shall be issued which shall be acknowledged and received by the owner/shipper of the forest products or by his representative. In case of refusal, the fact shall be reflected thereon in their presence as proof of such action.

3. Circuitous procedure in summary administrative confiscation

Since the existing procedure (DAO 97-32) in summary administrative confiscation is too circuitous, the proposed manual simplified this procedure as follows:

- Immediately after seizure, a notice of hearing shall be signed by the PENRO which is to be served by the apprehending officer to the parties concerned. Included therein is an order to parties to submit a written explanation within 3 days from receipt thereof.

- The concerned parties shall submit their written explanation under oath as to why the forest product/conveyance should not be confiscated.

- The PENRO or, in his absence, any Senior Forest Management specialist (SFMS) or Senior Environmental Management Specialist (SEMS) shall preside as hearing officer under the guidance of a DENR lawyer.

- The procedure shall be summary in nature, where the parties are required to submit the necessary documents, affidavits and evidence. However, the hearing officer may ask clarificatory questions if need be.

- The hearing officer shall render his decision within a period of 15 days from receipt of the documents, affidavits and evidence. If evidence is not sufficient to sustain an administrative decision adverse to interested parties, a ruling shall be issued dismissing the case and ordering the seized items to be returned to the owner. When evidence so warrants, a ruling shall be issued declaring that the seized items be confiscated in favor of the government, together with recommendations for further prosecution of the persons involved.

- The decision shall become final and executory after 15 days, unless a motion for reconsideration is filed.

- A party aggrieved by the decision may file only one motion for reconsideration within a non-extendible period of 15 days from receipt of the decision.

- A party may file an appeal within a non-extendible period of 15 days from receipt of the denial of the motion for reconsideration or receipt of the decision.

- The appeal should be filed with the Office of the RED if the volume of forest products confiscated is less than 1,000 cu.m, and with the Office of the Secretary if more than

1,000 cu.m, only upon payment of the corresponding appeal fee. The appeal shall contain a concise statement of all the issues of fact and law raised on appeal.

The proposed manual also added a provision on grounds for appeal since these are not provided for under the existing policy. This proposal was made because the appeal should be meritorious. Further, not all appeals should be entertained to avoid dilatory tactics which only prolong the proceedings. These ground for appeal are the following: If there is prima facie evidence of abuse of discretion on the part of the PENRO; if the decision, resolution or order was secured through fraud or coercion, including graft and corruption; and if serious errors in the findings of facts are raised which, if not corrected, will cause grave or irreparable damage or injury to the appellant.

4. Need to have a check and balance between apprehension, seizure and hearing procedures

In this case, it is proposed that the set of officer(s) authorized to conduct apprehensions and seizures, and to preside over a hearing during confiscation proceedings be different from each other. Under the existing policy,(DAO 97-32), the seizing officer also presides as hearing officer at the confiscation proceedings. For instance, if the RED can also be the seizing officer, he shall preside as hearing officer at confiscation proceedings. As hearing officer, his decision will be forwarded to the RED whose decision will be subject to a motion for reconsideration and appeal. It is proposed that the RED be excluded as hearing officer because he cannot be presumed to reverse his own decision. In this case, it is proposed that the PENRO or, in his absence, any SFMS or SEMS presides as hearing officers with the guidance of a DENR lawyer if the hearing officer happens to be a non-lawyer or lacks legal training. This is because the respondents always have lawyers at their side to defend them. If the hearing officers lack knowledge of legal proceedings, they will have difficulty establishing whether or not parties are able to dispute presumptions of legalities, which sometimes result in the dismissal of cases.

5. Inadequate legal support to field forest officers.

The proposed manual recommends the assignment of DENR lawyers to assist field officers.

6. Problem on temporary release of conveyances

The provision on the temporary release of conveyance is re-arranged and simplified because the existing provision has many requirements which are vague and inconsistent. A provision on the replacement of the original copies of registration papers and supporting documents of the conveyance as a condition for its temporary release has also been added. But, with the succeeding consultations with DENR officers, it was agreed that such provision be deleted because there already exist decided cases regarding this matter, i.e., in Paat, et.al., vs. CA, et al.

5.0 RECOMMENDATIONS

The analysis of forestry regulatory procedures is limited to a content analysis of the major policy issuances and those items identified by respondents (both DENR and other sectors) to be riddled with issues and problems that have not been addressed by changes made through amendments and related laws (Local Government Code and IPRA Law). The proposed revisions, items for further study, simplification and harmonization are guided by the ecogovernance principles of transparency, accountability and participatory decision-making.

1. Transparency

In order for the forest regulatory procedures to be transparent, there is a need for the active participation of multisectors (LGUs, local communities, private industry sector, NGOs, etc.) in the various deliberations prior to decision-making, especially with land allocation activities. In particular, composite teams are needed in the evaluation of the following: open access areas available for various uses and tenurial instruments, applications for FMAs and ECCs, plans and agreements for the suspension/cancellation and renewal. Consultations with as many concerned sectors as possible are also needed when policy amendments, revisions or repeals are to be made.

The DENR has to reduce the uncertainty brought about by unclear policy statements or procedures and an unstable policy environment. Simplified, harmonized and standardized policies and procedures have to be made accessible to the public to ensure transparent transactions between the DENR and its clientele.

2. Accountability

Accountability in decision-making and in the implementation of forestry and related policies and programs can be achieved in several ways. One is through the decentralization of decision-making in terms of the approval and issuance of tenurial instruments, permits, ECC, etc. Another is through the deregulation of related policies, particularly through an integration of common requirements for development plans, the ECC and related permits. The decentralization of the issuance of instruments, the establishment and enforcement of checks and balance mechanisms, clear mechanisms for law enforcement, and enhancement or building up of the capabilities of action officers are other ways of inculcating accountability among the DENR rank and file.

3. Participatory decision-making

Social equity and justice in public forest land allocation can be achieved by defining the roles and mechanisms for the participation of all interested stakeholders. Forest policies have to define the role of the local communities—both the migrants and the indigenous people—as well as the local government units and related local industries. Consultations, dialogues and their inclusion in deliberations are ways of ensuring that concerned stakeholders are involved in decision-making, particularly in the policymaking process.

Prepared by:

	Name	Assignment
Project Leader	Eleno O. Peralta	
Assistant Project Leader	Leonida A. Bugayong	

Forest Land Use Management Agreement

Team Leader	Ma. Magdalena B. Villanueva	Special Forest land Use Management Agreement
Team Members	Leonida A. Bugayong	Integrated Forest Management Agreement
	Sofronio C. Camacho	Socialized Industrial Forest Management Agreement
	Dina J. Quimbo	Forest Land Grazing Management Agreement
	Renato A. Folledo	Private Land Forest Development Agreement

Forest Land Use Management Agreement - Community-Based Forest Management

Team Leader	Fe K. Mallion	
Team Members	Eumelia B. Corpuz	
	Leonito A. Donoso	
	Aresna B. Palacpac	

Forest Resources Utilization Permits

Team Leader	Priscilla C. Dolom	Wood Processing Plant Permit, Wood Recovery Permit
Team Members	Florencia B. Pulhin	Rattan Cutting Contract
	Bernardino C. Aguilon	Integrated Annual Operations Plan
	Benita A. Punzalan	Private Land Timber Permit / Special Private Land Timber Permit

Co-Management Schemes for Forest Resources

Team Leader	Nena O. Espiritu
Team Members	Ma. Cynthia S. Casin

Forest Law Enforcement and Due Diligence

Team Leader	Eleno O. Peralta
Team Members	Leni N. Garcia
	Dante N. Pecson