

**[JOINT DENR-DA-PCSD-NCIP ADMINISTRATIVE
ORDER NO. 1, S. 2005, January 14, 2005]**

**GUIDELINES FOR BIOPROSPECTING ACTIVITIES IN THE
PHILIPPINES**

Pursuant to the obligations of the Philippines under the Convention on Biological Diversity and other relevant international agreements, the provisions of Executive Order No. 247 (1995) as amended by Section 14 of the Wildlife Act (Republic Act No. 9147) and Section 35 of IPRA (Republic Act No. 8371), in relation to the NIPAS Act (Republic Act No. 7586), the Local Government Code (Republic Act No. 7160), the SEP for Palawan Act (Republic Act No. 7611), the Fisheries Code (Republic Act No. 8550), the Seed Industry Development Act (Republic Act No. 7308), the Traditional and Alternative Medicine Act (Republic Act No. 8423) and other relevant laws, the following guidelines for bioprospecting are hereby promulgated.

CHAPTER I: BASIC PROVISIONS

Section 1. Policy

1.1 The State shall regulate the prospecting of biological resources so that these resources are conserved, developed and used sustainably in accordance with the national interest;

1.2 The State shall ensure that prior informed consent is obtained from resource providers before allowing any bioprospecting activity. The State shall also ensure the fair and equitable sharing with the resource providers of benefits derived from the utilization of biological resources;

1.3 The State shall promote the development of local capability in biotechnology for the optimal utilization of biological resources.

Section 2. Scope

2.1 The Guidelines shall apply to bioprospecting activities conducted by any resource user, including government agencies. Provided, that the Guidelines shall apply to bioprospecting of any biological resource found in the Philippines including wildlife, microorganisms, domesticated or propagated species, exotic species. Provided further, that the Guidelines shall also apply to all ex-situ collections of biological resources sourced from the Philippines, except for collections currently accessed under international agreements where the Philippines is a party. Provided finally, that the Guidelines shall apply to bioprospecting in all areas, including protected areas under NIPAS and on private lands, as well as to ancestral domains and ancestral lands, consistent with IPRA.

2.2 Any bioprospecting activity involving species listed under CITES and the IUCN Red List, whenever allowed by law, shall be governed by the Guidelines in addition to specific regulations on the conservation of these species.

Section 3. Exemptions

3.1 The Guidelines shall not apply to the following uses of biological resources:

- a. Traditional use;
- b. Subsistence consumption;
- c. Conventional commercial consumption for direct use such as logging or fishing;
- d. Scientific researches on wildlife under Section 15 of the Wildlife Act;
- e. Scientific researches on agrobiodiversity;
- f. Existing procedures of collection and transport of wildlife species exclusively for commercial or conservation breeding or propagation under Sections 17 and 24 of the Wildlife Act; and
- g. Ex-situ collections currently accessed under international agreements where the Philippines is a party.

Provided, that all permits, licenses or agreements issued for exempt activities shall include a requirement of an undertaking stating that the collector will comply with the Guidelines should the biological resources collected be subsequently used in bioprospecting.

3.2 Scientific studies, conducted by researchers with no commercial interests and purely for academic purposes, using biological resources for taxonomy or solely for the characterization of biological, chemical or physical properties of the biological resources, shall not be covered by the Guidelines but under Sec. 15 of the Wildlife Act. Provided, that the subsequent transfer of these biological resources and use of research findings for commercial purposes, shall be considered bioprospecting and subject to the requirements of the Guidelines.

3.3 The development of medicinal plants for traditional or alternative medical use shall be primarily governed by the Traditional and Alternative Medicine Act.

Section 4. Objectives

4.1 To streamline the procedure for access to biological resources and to facilitate compliance thereto by legitimate resource users;

4.2 To provide guidelines for obtaining the prior informed consent of resource providers, and in negotiations with these resource providers for fair and equitable sharing of benefits arising from bioprospecting;

4.3 To establish a cost-effective, efficient, transparent and standardized system for monitoring compliance with the provisions on prior informed consent; collection quota; fair and equitable benefit-sharing; transfer of materials to third party recipients and other provisions of the Bioprospecting Undertaking (BU).

Section 5. Use of terms

"**BFAR**" refers to the Bureau of Fisheries and Aquatic Resources, a line agency under the Department of Agriculture;

"**Biological resources**" includes genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity;

"**Bioprospecting**" means the research, collection and utilization of biological and genetic resources for purposes of applying the knowledge derived therefrom solely for commercial purposes;

"**Bioprospecting Undertaking**" or "**BU**" refers to the "undertaking" or "permit" provided in Sec. 14 of the Wildlife Act which allows the resource user access to biological resources for bioprospecting purposes, subject to the conditions stated therein.

"**Biotechnology**" means any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use;

"**CITES**" refers to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, a treaty regulating international trade of fauna and flora listed in its Appendices;

"**Collection site**" refers to an area not exceeding 500 hectares of contiguous or adjacent land or waters where biological resources are collected for bioprospecting purposes;

"**Conventional commercial consumption**" refers to the common use of biological resources for direct consumption, such as fishing or logging, that does not involve biotechnological processes to develop new commercial products;

"**DA**" refers to the Department of Agriculture;

"**DENR**" refers to the Department of Environment and Natural Resources;

"**Disclosure of country of origin**" refers to the requirement in the Bioprospecting Undertaking that the resource user declares, in all relevant applications for intellectual property rights or for product development or marketing, the country from which the biological resources used for developing the product came from, as evidenced by the BU;

"**Final evaluation**" refers to the process by which the individual or joint agency Technical Committee determines whether the requirements of the Guidelines have been met in substance - i.e., whether the PIC process was complied with in good faith and the benefits agreed upon are fair and equitable;

"**Free and Prior Informed Consent**" or "**FPIC**" refers to the consensus of all members of the ICC/IPs which is determined in accordance with their respective customary laws and practices that is free from any external manipulation, interference and coercion and obtained after fully disclosing the intent and scope of the program/project/activity, in a language and process understandable to the community. The Free and Prior Informed Consent is given by the concerned

ICCs/IPs upon the signing of the Memorandum of Agreement containing the conditions/requirements, benefits as well as penalties of agreeing parties as basis for the consent;

"Genetic material" means any material of plant, animal, microbial or other origin containing functional units of heredity;

"Genetic resources" means genetic material of actual or potential value;

"IACBGR" refers to the Inter-Agency Committee on Biological and Genetic Resources or Inter-Agency Committee, the regulatory body that was tasked with the enforcement of Executive Order 247;

"Indigenous knowledge systems", "IKS", "traditional knowledge" or "TK" refers to knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity;

"Indigenous peoples" or "indigenous cultural communities" refer to groups of people or homogenous societies identified by self-ascription and ascription by other, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed customs, tradition and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and culture, became historically differentiated from the majority of Filipinos. ICCs/IPs shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains;

"Initial evaluation" refers to the prompt determination by the appropriate implementing agency whether the application for collection of biological resources, as stated in the research proposal, falls under the meaning of bioprospecting and required to undergo the procedures under these Guidelines;

"IPRA" refers to the Indigenous People's Rights Act of 1997 or Republic Act No. 8371;

"IUCN" refers to the World Conservation Union;

"Local community" refers to the residents living within or immediately adjacent to the collection site. For purposes of prior informed consent and negotiations for benefit-sharing, the local community shall be represented by the Barangay Assembly whose decisions on PIC and benefit-sharing shall be embodied in appropriate Barangay Resolutions before the Punong Barangay attests to such decisions or signs the PIC certificate;

"NCIP" refers to the National Commission on Indigenous Peoples;

"NIPAS" refers to the National Integrated Protected Areas System or Republic Act No. 7586 which established the system;

"No commercial interests", when used to describe a researcher or collector of biological resources exempted from these Guidelines, shall mean that the researcher or collector has no track record of involvement in commercial product development or application for intellectual property rights over inventions using or derived from biological resources. Furthermore, the researcher or collector must not have any local or foreign collaborator, partner, donor or investor involved directly or indirectly in bioprospecting;

"No foreign collaborators or investors", when used to describe a Filipino resource user, shall mean that the Filipino resource user does not derive assistance or participation of any kind from a foreign collaborator, partner, donor or investor involved directly or indirectly in bioprospecting;

"PAMB" refers to the Protected Area Management Board created for each protected area pursuant to the NIPAS Act and the special law establishing the specific protected area;

"PAWB" refers to the Protected Areas and Wildlife Bureau of the DENR;

"PCSD" refers to the Palawan Council for Sustainable Development;

"PITAHC" refers to the Philippine Institute for Traditional and Alternative Health Care created under the Traditional and Alternative Medicine Act (TAMA) of 1997 or Republic Act No. 8423;

"Prior Informed Consent" or PIC refers to the consent obtained by the applicant from the Local Community, PAMB, or Private Land Owner concerned, after disclosing fully the intent and scope of the bioprospecting activity, in a language and process understandable to the community, and before any wildlife collection activity is undertaken.

"Resource Provider" refers to the local community, indigenous peoples, PAMB, private land owner from where the biological resources were collected;

"Resource User" refers to the local or foreign individual, company, organization, institution, or entity, either public or private that will utilize biological resources in a given area in the Philippines for bioprospecting purposes on the basis of a Bioprospecting Undertaking it entered into with the appropriate agencies;

"Scientific research" refers to the systematic collection, study, and discovery of potential use/s of biological resources to generate basic scientific knowledge as governed by Section 15 of the Wildlife Act and its implementing rules;

"Secretary" refers to the Secretary of the DA or DENR;

"Subsistence consumption" refers to the collection and utilization of biological resources for household consumption;

"Sustainable use" means the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations;

"Technical Committee" refers to the group of experts, convened by the implementing agencies separately or jointly as appropriate, which is primarily