

**[DAR ADMINISTRATIVE ORDER NO. 02, S. 1999,
October 01, 1999]**

**RULES AND REGULATIONS GOVERNING JOINT ECONOMIC
ENTERPRISES IN AGRARIAN REFORM AREAS**

Pursuant to Republic Act (RA) No. 6657, the "Comprehensive Agrarian Reform Law of 1988", as amended, and Executive Order (EO) No. 129-A, the "Reorganization Act of the Department of Agrarian Reform", the following rules and regulations are hereby promulgated:

**ARTICLE I
PRELIMINARY PROVISIONS**

SECTION 1. Framework for Joint Economic Enterprises. — Agrarian reform means not just the redistribution of lands to farmers and farmworkers who are landless, but includes the totality of factors and support services designed to lift the economic status of the beneficiaries.

The State is primarily mandated and hereby reaffirms its commitment to provide support services to agrarian reform beneficiaries.

Nonetheless, to ensure adequate support services, there is a need for greater private sector participation, both civil society and business, in the development of agrarian reform areas. This shall be facilitated through agribusiness partnerships or arrangements, otherwise known as Joint Economic Enterprises, between beneficiaries and investors.

These partnerships or arrangements, which will involve distributed lands, shall be at the option of beneficiaries. Their availability does not mean government will cease to provide agrarian support services. They are merely alternatives that beneficiaries may consider to sustain the operations of distributed farms, or to make their lands productive, thus, enable them to enjoy the full benefits of agrarian reform.

SECTION 2. Objectives. — The objectives of joint economic enterprises are as follows:

- (a) Mobilize private sector investments in agrarian reform areas;
- (b) Provide adequate support services and facilities to beneficiaries;
- (c) Optimize the operating size of distributed lands for agricultural production;
- (d) Ensure security of tenure and security of income of participating beneficiaries;

- (e) Enhance or sustain the productivity and profitability of commercial farms;
- (f) Hasten the transformation of agrarian reform beneficiaries into farmer-entrepreneurs; and
- (g) Promote food security and enable local agriculture to be globally competitive.

SECTION 3. Legal Bases. — The authority of the DAR to provide for, and regulate, agribusiness partnerships or arrangements between agrarian reform beneficiaries and investors is derived, among others, from the following constitutional and statutory provisions:

- (a) Section 4, Article XIII of the Constitution which provides that "x x x The State shall further provide incentives for voluntary land-sharing." (also Sec. 2, par. 3, RA 6657);
- (b) Section 5, Article XIII of the Constitution, which declares: "The State x x x shall provide support to agriculture through appropriate technology and research, and adequate financial, production, marketing, and other support services"(also Sec. 2, par. 4, RA 6657);
- (c) Section 35, RA 6657, as amended by RA 7905, which states: "There is hereby created the Office of Support Services under the DAR to be headed by an Undersecretary. x x x. The Office shall provide general support and coordinative services in the implementation of the program, particularly in carrying out the provisions of the following services to farmer beneficiaries and affected landowners: x x x (2) Infrastructure development and public works projects in areas and settlements that come under agrarian reform x x x. For the purpose of providing the aforecited infrastructure and facilities, the DAR is authorized to enter into contracts with interested private parties on long term basis or through joint venture agreements or build-operate-transfer schemes; x x x (10) Assistance in the identification of ready markets for agricultural produce and training in other various aspects of marketing; x x x and (13) Administration, operation, management and funding of support services programs and projects including pilot projects and models related to agrarian reform as developed by the DAR";
- (d) Section 44, RA 6657, as amended by RA 7905, which provides "x x x The PARCCOM shall coordinate and monitor the implementation of the CARP in the province. x x x, in addition, it shall: a) recommend to the PARC the following: x x x 3) continuous processing of applications for lease back agreements, joint venture agreements and other schemes that will optimize the operating size for agricultural production and also promote both security of tenure and security of income to farmer beneficiaries: Provided, that lease back arrangements should be the last resort;"
- (e) Section 38, RA 6657, which directs the PARC to provide "x x x Investment information, financial and counseling assistance x x x" to affected landowners;

- (f) Section 3, EO 129-A, which declares that "the State shall: (a) establish owner-cultivated, economic, family-size farms and collectively-owned/cooperatively-cultivated farms as the foundation of Philippine agriculture; x x x (c) rechannel and divert landlord capital in agriculture to industrial development; x x x (f) create just and viable socio-economic structures in agriculture conducive to greater productivity and higher incomes through the cooperative system of production, processing, marketing, distribution and credit services; x x x (i) provide specific investment opportunities, alternative employment, and other incentives for landowners affected by agrarian reform; x x x;"
- (g) Section 4 (h), EO 129-A, which authorizes the DAR to "develop and implement alternative land tenure systems such as cooperative farming and agro-industrial estates, among others"; and
- (h) Section 49, RA 6657, which provides that "The PARC and the DAR shall have the power to issue rules and regulations, whether substantive or procedural, to carry out the objects and purposes of this Act." x x x;

SECTION 4. Who May Avail of Joint Economic Enterprises. — Beneficiaries of agricultural lands distributed under the agrarian reform program may engage in any of the joint economic enterprises provided herein. These include holders of Emancipation Patents (EPs) or Certificates of Land Ownership Awards (CLOAs).

Qualified beneficiaries of agricultural lands for distribution under the agrarian reform program may also avail thereof: Provided, That the land is distributed to beneficiaries before an agribusiness agreement is executed.

Small landowners may engage in joint economic enterprises involving their retained areas.

SECTION 5. Definition of Terms. — The terms and concepts used in this Order shall mean as follows:

- (a) Agrarian Reform Beneficiaries (ARBs) or Beneficiaries refer to individual beneficiaries under PD 27 or RA 6657, or their cooperative, association, or federation, duly registered with the Securities and Exchange Commission (SEC) or the Cooperative Development Authority (CDA);
- (b) Equity is the value of the shares subscribed and paid for by each party in relation to the authorized capital stock of a joint venture corporation;
- (c) Joint Economic Enterprises generally refer to partnerships or arrangements between beneficiaries and investors to implement an agribusiness enterprise in agrarian reform areas. It may take any of the following forms:
 - (i) Joint Venture whereby the beneficiaries contribute use of the land held individually or in common and the facilities and improvements if any. On the other hand, the investor furnishes capital and technology for production, processing and marketing of agricultural goods, or construction, rehabilitation, upgrading and operation of agricultural

capital assets, infrastructure, and facilities. It has a personality separate and distinct from its components;

(ii) Production, Processing and Marketing Agreement whereby the beneficiaries engage in the production and processing of agricultural products and directly sell the same to the investor who provides loans and technology;

(iii) Build-Operate-Transfer Scheme whereby the investor introduces, rehabilitates or upgrades, at his own cost, capital assets, infrastructure, services and facilities applied to the production, processing and marketing of agricultural products at his own cost, and operates the same for an agreed period, upon expiration of which, collective ownership thereof is consolidated with the beneficiaries who own the land where the improvements and facilities are located;

(iv) Management Contract whereby the beneficiaries hire the services of a contractor who may be an individual, partnership or corporation to assist in the management and operation of the farm in exchange for a fixed wage and/or commission;

(v) Service Contract whereby the beneficiaries engage for a fee the services of a contractor for mechanized land preparation, cultivation, harvesting, processing, post-harvest operations, and other farm activities;

(vi) Lease Contract whereby the beneficiaries bind themselves to give to the investor the enjoyment or use of their land for a price certain and for a definite period;

(vii) Any combination of the preceding schemes; or

(viii) Such other schemes that will promote the productivity of agrarian reform areas consistent with existing laws;

(d) Investors refer to either former landowners, private individuals, corporations or partnerships, non-government organizations, ARB cooperatives or associations, government owned or controlled corporations or entities duly authorized by law, who are willing and able to contribute their capital, equipment and facilities, technology, and management services, with proven organizational, financial, and technical capability to meet their obligations under the agreement, as evidenced by their track record, financial statements, and other relevant proofs;

(e) Mediation or Conciliation is a mode of resolving disputes whereby the contending parties negotiate towards a mutually acceptable and beneficial solution of their dispute with a third party acting as facilitator;

(f) Usufruct is a right to enjoy the property of another with the obligation of preserving its form and substance (Art. 562, Civil Code). The usufructuary or person in whose favor a usufruct over distributed land is constituted cannot assign his right to another person or entity without the consent of the beneficiaries; and

- (g) Voluntary Arbitration is a mode of resolving disputes whereby the contending parties mutually agree to refer the same to a third party. The latter renders a decision based on the results of investigation.

ARTICLE II FEATURES OF JOINT ECONOMIC ENTERPRISES

SECTION 6. General Features. — The parties in a joint economic enterprise are the beneficiaries and investors. It is formed for the following purposes:

- (a) Production, processing and marketing of agricultural products; or
- (b) Introduction, maintenance, rehabilitation or upgrading of agricultural capital assets, infrastructure, facilities or services; or
- (c) Provision of expertise, technology, equipment and other services that will make distributed lands productive.

The beneficiaries remain as owners of the land. Only the use of the land may be conveyed where necessary to the enterprise. The consideration and other economic benefits of the parties will depend on the nature of the agribusiness enterprise and the relative value of their participation.

The parties shall agree on the period and cause the annotation of the agreement on the titles of the properties (EP/CLOA) as appropriate.

SECTION 7. Types and Basic Features. — The various types of joint economic enterprises and their basic features are as follows:

(a) Joint Venture

(i) A joint venture seeks to implement agri-related projects and activities over distributed lands. It shall have a personality separate and distinct from that of the contracting parties in accordance with the Corporation Code of the Philippines;

(ii) The joint venture shall acquire merely usufructuary, but not ownership, rights over the land for an agreed period, subject to the limitations provided for under Art. 605 of the Civil Code, and subject, further, to the condition that it shall preserve the form and substance thereof. Ownership of the land remains with the beneficiaries and the property can not be used to settle obligations of the joint venture corporation (JVC) in the event of insolvency or bankruptcy;

(iii) The JVC or entity shall be liable for taxes due on the improvements, while the ARBs are accountable for taxes due on the land pursuant to Art. 596 and 597 of the Civil Code;

(iv) The equity participation of the beneficiaries shall be determined based on the value of the use of the land, its improvements and facilities, if any, and such other applicable factors consistent with standard valuation practices. It shall be, at the minimum, equivalent to the lease rental thereof as determined in accordance with existing laws. It shall be,