

**[DENR DEPARTMENT ADMINISTRATIVE ORDER
NO. 96-20, June 21, 1996]**

**IMPLEMENTING RULES AND REGULATIONS ON THE
PROSPECTING OF BIOLOGICAL AND GENETIC RESOURCES**

Pursuant to Section 15 of Executive Order No. 247 dated 18 May 1995 otherwise known as "Prescribing Guidelines and Establishing a Regulatory Framework for the Prospecting of Biological and Genetic Resources, Their By-Products and Derivatives, For Scientific and Commercial Purposes, and for Other Purposes", this Administrative Order setting forth the rules and regulations governing the implementation of the Order is hereby promulgated.

The purpose of this Order is to provide in detail the processes by which the DENR and other concerned institutions and agencies will administer Executive Order No. 247 in order to regulate the research, collection, and use of biological and genetic resources.

SECTION 1

Basic Policy

1.1 Section 2 Article XII of the Philippine Constitution provides that wildlife, flora and fauna, among others, are owned by the State and the disposition, development and utilization thereof are under its full control and supervision. The policy of the State further provides that the management, protection, sustainable development and/or use of biological and genetic resources shall be undertaken primarily to ensure the conservation of the same and that the use of these resources must be consistent with that principle.

1 2 Section 10 Article XIV of the Philippine Constitution provides that the State shall support indigenous, appropriate, and self-reliant scientific and technological capabilities, and their application to the country's productive systems and national life.

1 3 The Preamble of the United Nations Convention on Biological Diversity, of which the Philippines in recognizes the close and traditional dependence of many indigenous and local communities embodying traditional lifestyles on biological resources, and that the desirability of sharing equitably benefits arising from the use of traditional knowledge, innovations and practices relevant to the conservation of biological diversity and the sustainable use of its components.

SECTION 2

Definition of Terms

2.1 For the purpose of these rules and regulations, the following terms shall be defined as follows:

a) **Academic Research Agreement** — refers to the agreement entered into by and between duly recognized Philippine universities and academic institutions, domestic governmental entities or intergovernmental entities and national government agencies concerned for the purpose of undertaking academic and scientific researches relative to bioprospecting;

b) **Affiliate** — refers to a registered student or scientist/ researcher who is formally appointed to a staff or faculty position in a University or other academic institution acting as a Principal, or a representative of a domestic academic or governmental institution or a representative of an intergovernmental institution assisting in the bioprospecting research by virtue of a formal Agreement duly signed by both the Principal and the affiliate or a certified true copy of his enrollment form in the case of a registered student.

c) **Ancestral Domains** — refer to all lands and natural resources occupied or possessed by indigenous cultural communities/indigenous people, by themselves or through their ancestors, communally or individually, in accordance with their customs and traditions since time immemorial, continuously to the present except when prevented or interrupted by war, force majeure, displacement by force, deceit or stealth, and other usurpation, it includes all adjacent areas generally belonging to them and which are necessary to ensure their economic, social and cultural welfare;

d) **Ancestral Land** — refers to land occupied, possessed and utilized by individuals, families or clans who are members of the indigenous cultural communities/indigenous people since time immemorial by themselves or through their predecessors-in-interest, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit or stealth.

e) **Benefit Sharing** — refers to the sharing of results of biosprospecting activity and benefits arising from the utilization or commercialization of the biological or genetic resources fairly and equitably with the indigenous cultural community/local community/protected area/private land Principal/Collector. Among the results and benefits that may be shared are payments for access to specimens, royalties, data, technology, capacity building, training, joint research;

f) **Biological Diversity** — refers to the variability among living organisms from all sources, including inter-alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems;

g) **Biological Resources** — includes genetic resources, organisms or parts thereof, populations or any other biotic components of ecosystems with actual or potential use or value for humanity such as plants, seeds, tissues and other propagation materials, animals, micro-organisms, live or preserved whether whole or in part thereof;

h) **Bioprospecting or Prospecting** — refers to the research, collection and utilization of biological and genetic resources, for purposes of applying the

knowledge derived therefrom for scientific and/or commercial purposes;

i) **Biotechnology** — refers to any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific

j) **By-Product** — refers to any part taken from biological and genetic resources such as hides, antlers, feathers, fur, internal organs, roots, trunks, branches, leaves, stems, flowers and the like, including compounds indirectly produced in a biochemical process or cycle;

k) **Collector** — refers to any person commissioned by the Principal to conduct for him prospecting of biological and genetic resources;

l) **Commercial Research Agreement** — refers to the Research Agreement entered into by and between private persons or corporations, or foreign international entities, and the government agency concerned for the purpose of undertaking bioprospecting intended directly or indirectly for commercial use;

m) **Derivative** — refers to something extracted from biological and genetic resources such as blood, oils, resin, genes, seeds, spores, pollen and the like, taken from or modified from a product;

n) **Equitable Sharing** — refers to the benefit sharing mutually agreed upon by the parties to the Research Agreement;

o) **Genetic Material** — refers to any material of plant, animal, microbic, or other origin containing functional units of heredity;

p) **Genetic Resources** — refers to genetic materials of actual or potential value;

q) **Holotype** — refers to either the sole specimen or element used by the author of scientific name or the one specimen or element designated by such author as the type;

r) **Indigenous Cultural Communities or Indigenous Peoples (IPs)** — refers to a homogenous society identified by self-ascription and ascription by others, who have continuously lived as community on communally bounded and defined territory, sharing common bonds of language, customs, traditions and other distinctive cultural traits, and who, through resistance to the political, social and cultural inroads of colonization, became historically differentiated from the majority of Filipinos;

s) **IACBGR** — refers to the inter-Agency Committee on Biological and Genetic Resources created to ensure the enforcement and implementation of the provisions of this Order;

t) **Intergovernmental Entity** — refers to academic and/ or scientific organization and institution, whether global or regional created by an agreement among different States and with the Republic of the Philippines as a party thereof;

u) **Local Community** — refers to the basic political unit wherein the biological and

genetic resources are located;

v) **Principal** — refers to any person or institution, corporation, domestic governmental entity, intergovernmental entity, or foreign international entity, represented by its President, Head, or duly designated official who enters into a Research Agreement with the Philippine Government for the prospecting of biological and genetic resources;

w) **Prior Informed Consent** — refers to the consent obtained by the applicant from the Local Community, IP, 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 bioprospecting activity is undertaken;

x) **Protected Area** — refers to a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives. It refers to identified portions of land and water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation;

y) **Protected Area Management Board (PAMB)** — refers to the decision-making body created by R.A. 7586 which exercises jurisdiction over a protected area within its areas of responsibility;

z) **Public Domain** — refers to water and lands owned by the State that have not been declared alienable and disposable;

aa) **Sustainable Use** — refers to 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 and genetic resources, thereby maintaining its potential to meet the needs and aspirations of present and future generations;

bb) **Traditional Use** — refers to the customary utilization of biological and genetic resources by the local community and indigenous people in accordance with written or unwritten rules, usages, customs and practices traditionally observed, accepted and recognized by them.

SECTION 3

Scope and Coverage

3.1 This order shall govern the following:

a) Prospecting of all biological and genetic resources in public domain, including natural growths in private lands, intended to be utilized by both foreign and local individuals, entities, organizations, whether government or private;

b) Except traditional use, all bioprospecting activities aimed at discovering, exploring, or using these resources for pharmaceutical development, agricultural and commercial applications.

SECTION 4

Bioprospecting Within Protected Areas

4.1 Prospecting of biological and genetic resources shall be allowed in all categories of protected areas (PAs), in conformity with RA 7586 and its implementing rules and regulations.

4.2 All Research Agreements entered into by any person, entity or corporation, foreign or domestic, with the Philippine government upon recommendation of the IACBGR, shall be reviewed and approved first by the concerned PAMB of the protected area as stipulated under DENR Administrative Order No. 42, as amended by DAONo. 95-10, series of 1995.

SECTION 5

Bioprospecting within Ancestral Land, Domain and Local Communities

5.1 Prospecting of biological and genetic resources within areas of local communities, including ancestral lands and domains of Indigenous Cultural Communities/ Indigenous Peoples (IPs) shall be allowed only with the prior informed consent of such communities obtained through the procedures prescribed under Section 7 hereof;

5.2 The government agency concerned in the areas, including the PAMBs in Protected Areas (PAs), shall see to it that the consent required is obtained in accordance with the customary traditions practices and mores of the concerned communities and, where appropriate, concurrence of the Council of the Elders in a public consultation/meeting in the site concerned.

SECTION 6

Requirements and Procedures for Application and Processing of Research Agreements

6.1 Requirements:

The Principal/Collector shall be required to submit the following:

6.1.1 Letter of Intent addressed to the IACBGR and three (3) copies of Research Proposal following the attached format (Annex A^{*});

6.1.2 Duly accomplished application form (Annex B^{*}) accompanied by the following supporting documents:

a) Letter of acceptance from Filipino counterpart(s) authorized by or representing the host institutions, to cooperate in the activities in the Philippines, where applicable;

b) Letter of endorsement from Head of Institution where applicant is affiliated or reputable Institution, Museum or University as may be required;