

097-038-ENT-010

**IDENTIFYING
MANAGEMENT
OPTIONS FOR
EXPIRING
TIMBER
LICENSE
AGREEMENT
AREAS**

Prepared for the Office of the United States Agency for International Development (USAID) under Contract Number 492-0444-C-00-5073-00 USAID/ENV/MANILA

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March 31, 1997



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Natural Resources Management Program

PREFACE

This paper responds to two specific current needs of the DENR Community-Based Forest Management Office: for guidance on a strategic approach to potentially open access forest lands under expiring Timber License Agreements (TLAs) and for "market-based" approaches to award and management of CBFMAs and IFMAs. The paper examines these problems with an eye to guiding DENR policy makers in choosing their strategy for TLA areas and for reconsidering some aspects of CBFMA and IFMA policies to make them more responsive to market forces. These thoughts and recommendations are grounded in recent field interviews with TLA holders, local government officials, and DENR field officers. To a considerable extent they reiterate points made in earlier papers by the resident NRMP advisors as well as by several forest policy specialists in analytical work funded by NRMP (in particular Dr. Kjell Christophersen, Dr. Ronald Johnson and Dr. William Hyde).

While several members of the DAI/NRMP Technical Assistance Team contributed heavily to this paper, Mr. Juan Seve of IRG and Attorney Roberto Oliva of OI DCI are principally responsible for the final text. We wish to thank staff of the DENR Forest Management Bureau in Manila as well as DENR field staff in Region XIII for their cooperation and support for the fieldwork for this paper. As always, the opinions expressed in this paper are those of the DAI/NRMP Technical Assistance Team alone.

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March 31, 1997

This Program Document was completed through the assistance of the United States Agency for International Development (USAID). The views expressed and opinions contained in this report are those of the authors' and are not intended as statements of policy of either USAID or the authors' parent company.

EXECUTIVE SUMMARY

A total of eight Timber License Agreements (TLAs) involving more than 200,000 ha will be expiring on June 30, 1997. This represents a considerable increment on the **open access** situation affecting much (if not most) of the forest lands in the Philippines.

In order to identify possible management options for these potentially open access areas, information was gathered regarding four of these TLA areas in the Caraga Region (Region XIII) covering more than 85,000 hectares. This was supplemented by a review of relevant legal texts and recent policy documents. Several issues that are probably best handled via market-based instruments emerge in this analysis:

- Methods and procedures for planning continued management of potentially open access forest lands;
- Mechanisms for allocating award of development rights for areas shifting from TLA to another management method;
- Methods for creating and supporting "divisibility" and "transferability" of tenure instruments and concession areas, subject to the same conditions as in the original tenure instrument;
- Advantages of providing for private sector, corporate involvement in developing and managing forest lands;
- Sources of investment capital for long-term investments in plantation development and management for expiring TLA areas;
- Mechanisms and arrangements for revenue sharing and collection of the market value of "rent" for use of forest lands and development of forest products;
- Methods of monitoring performance of forest lands developers through indicators of environmental impact included in sustainable management guidelines.

Finding solutions to the open access problem is crucial to the future of Philippine forest resources. Action should begin with land use planning for forest lands in order to identify land use options that are technically feasible and ecologically sound. These solutions will be based on a strong and consistent legal and policy framework and should take full advantage of market mechanisms and market incentives.

A number of management arrangements that could be used in reducing the impact of open access were reviewed. In addition to current emphasis on CBFM, the interest of accelerating the establishment of formal management in open access lands, much greater emphasis should be given to potential contributions of private sector, corporate investors. A major step was taken in this direction earlier this year with the issuance of DAO 4/97 that established the conditions for large-scale plantations.

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ACRONYMS

AO	Assisting Organization
CADC	Certificate of Ancestral Domain Claim
CBFM	Community-Based Forest Management
CBFMA	Community-Based Forest Management Agreement
CBFMO	Community-Based Forest Management Office
CENRO	Community Environment and Natural Resources Officer
DAI	Development Alternatives, Inc.
DAO	Department Administrative Order (DENR)
DENR	Department of Environment and Natural Resources
EO	Executive Order (of the President)
FMB	Forest Management Bureau
HR	House of Representatives
IFMA	Industrial Forest Management Agreement
IRG	International Resources Group, Ltd.
LGU	Local Government Unit
MBI	Market-Based Instrument
NGO	Non-Government Organization
NIPAS	National Integrated Protected Areas System
NRMP	Natural Resources Management Program
OIDCI	Orient Integrated Development Consultants, Inc.
PENRO	Provincial Environment and Natural Resources Officer
PO	People's Organization
RA	Republic Act
RED	Regional Executive Director (DENR)
RTD	Regional Technical Director (DENR)
SIFMA	Socialized Industrial Forest Management Agreement
TLA	Timber License Agreement
USAID	United States Agency for International Development

IDENTIFYING MANAGEMENT OPTIONS FOR EXPIRING TIMBER LICENSE AGREEMENT AREAS

I. INTRODUCTION

The Forest Resource Management component of the Natural Resources Management Program (NRMP) has been asked to support DENR's efforts to develop market-based instruments (MBIs) as incentives for improved environmental management in the area of forest resources. Specifically, the DAI/NRMP team and the NRMP-CBFMO have been asked to collaborate with the Forest Management Bureau (FMB) in developing an approach that would promote sustainable forest management in areas currently under Timber License Agreements (TLA) which are about to expire. Since eight (8) TLAs covering a total area of 208,686 hectares are due to expire on June 30, 1997, FMB considers it urgent to focus on these areas. Of these eight TLAs, four (4) are located in Region XIII (Caraga), covering an area of 85,370 hectares. Table 1 indicates the location and area of the TLAs expiring on June 30, 1997.

Table 1: TLAs Expiring on June 30, 1997

TLA	Region	Area (hectares)
Aurora Timber Industries	IV	22,931
First Plywood Corporation	IX	27,810
Davao Enterprises Corporation	XI	40,000
Mindanao Lumber Development	XI	32,575
Liberty Forests, Inc.	XIII	30,380
Mainit Lumber & Development	XIII	27,870
JCA Lumber & Plywood	XIII	17,070
Anchorage Wood Industries	XIII	10,050
Total		208,686
Sub-Total, Region XIII		85,370

The TLA system falls under the term "license, concession or lease" provision of the 1935 and 1973 Constitutions. These modes are no longer allowed, as under the 1987 Constitution, "the exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture, or production sharing agreements with Filipino citizens, or corporations or associations at least sixty percent of whose capital is owned by such citizens. Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law."

The present report is based on discussions held in Manila and in the field, and on the review of various policy issuances and recent NRMP studies. Discussions in Manila were held with other members of the NRMP team, with DENR Policy staff, and with FMB officials. Additionally, a three-day trip to Caraga was conducted which included a number of discussions with field NRMP team members; DENR officials at the RED, RTD, PENRO and CENRO levels; LGU officials at the municipal level; and representatives of the forest products industry.

As the eight TLAs will expire in June 1997, the forest areas of the concessions will be under "open access" making them more susceptible to illegal logging and other forms of forest destruction. There is therefore the need to identify forest management activities that will be placed in these **areas**. The purpose of this paper is to explore key considerations in identifying sustainable forest management options for the expiring TLA areas.

II. MOST PRESSING CONCERNS

Methods and procedures for planning continued management of potentially open access forest lands. A long term comprehensive forest land use plan for the areas covered by these expiring TLAs will provide the framework that will guide development efforts toward the attainment of the people's long term vision for their forests. Such a plan is imperative considering the various alternatives and competing uses of forest lands; the long-lasting adverse consequences of improper land uses over large areas; and, the difficulty and high cost of rehabilitating degraded forest lands. It is likewise necessary in order to ensure that efforts in the forest areas are continued and sustained, and not affected by the short tenure of local government and DENR officials.

While the planning exercise should be based on a watershed approach to ensure physical consistency, the focus should be to identify production areas for both plantation and residual forest management with the participation of both communities and corporate groups. Basic information could be obtained from records and maps of former or expiring TLAs along with local physical framework plans.

A forest land use planning team composed of representatives from the DENR, the LGUs, NGOs and other concerned sectors can undertake the exercise. The forest land use plan that will be prepared for the watershed unit should take into account not only the possible uses of the forest areas of the expiring TLAs but likewise its impacts on the immediate environment including downstream areas as well as the social and economic consequences of alternative forest land uses. The participatory cross-sectoral approach adopted under CBFM is expected to result in the best forest land use options that are socially acceptable, technically feasible and ecologically sound.

Mechanisms for allocating award of development rights for areas shifting from TLA to another management method. Based on DAO 4/97, which redefines the IFMA program, allocation of areas is made on a "first come-first served" basis. A competitive bidding approach, clearly a **market-based instrument**, should also be considered in the interest of economic efficiency, and practicality in the sense that the Government would get its production share at the beginning of the agreement. Additionally, the possibility of allowing corporate groups in the management of the residual natural forest should be analyzed, with competitive bidding in the best interests of the government and economic efficiency. Finally, the option of allocating land competitively for CBFM could be contemplated, especially in cases where there is interest on the part of several competing communities.

Methods for creating and supporting "divisibility" and "transferability" of tenure instruments and concession areas, subject to the same conditions as in the original tenure instrument. Simplification of transferability would further encourage investment: it is the option of transferring assets that allows the investor to capitalize his inputs. Transferability must be coupled with divisibility, which allows for transferring rights on a part of the area. Over time, these two market-based concepts will lead to a distributed of land users under economically efficient scales of operation.

Advantages of providing for private sector, corporate involvement in developing and managing forest lands. While the present legal and policy framework clearly allows for their involvement in forest plantation development and management, the roles for private sector investors in the sustainable management of the natural residual forest is not clearly defined. Even though the TLA system is disappearing as a legal option, there exist TLA holders who have respected their contractual obligations. It will be unfortunate to lose this wealth of experience for the Philippine forestry sector. Present legality allows for private natural forest management through joint venture, co-production and production sharing options. Further clarification of these options will be needed to make any of them attractive to private sector investors. The question is how can private investors with the capital, technology and managerial experience in the forest sector be attracted to participate further in utilization, development and management of residual forests. The only current regulatory text that leaves room for this possibility is EO 278 (87). As of this date, there are no policy issuances at the DAO level for developing this option, especially now that the IFMA concept as re-defined in DAO 4/97 does not include management of the residual production forest.

Sources of investment capital for long-term investments in plantation development and management for expiring TLA areas. Programs, whether corporate or community-based should be attractive to financial institutions so that holders can obtain adequate funding. Sources of funds for CBFM (and possibly to IFMA holders though it is too early to tell) continue to be a critical issue which must be addressed deliberately. Promising approaches involve incentive structures and market-based instruments making investment in forest land development attractive to private sector investors. It is through these investors that private capital including bank loans will need to be accessed.

Mechanisms and arrangements for revenue sharing and collection of the market value of "rent" for use of forest lands and development of forest products. In the interest of facilitating the economic performance of CBFM operations, a revision of forest charges policies needs to be conducted. Recent studies indicate that excessive regulations combined with forest charges are threatening the economic viability of such operations and encouraging participants to engage in irregularities. POs must be able to turn a profit as early as possible to start building a capital fund to invest in the long-term productivity of their natural resources (i.e., sustainability). Economic failure of CBFM can put the land back into an open access situation. Another issue is the sharing of forest revenue, particularly concerning local government units, several of which complain about not receiving their fair share. Given the forest land management roles devolved to these institutions, these funds could be essential to forest land use planning and other roles the LGUs are required to perform in the forestry sector.

Methods of monitoring performance of forest lands developers through indicators of environmental impact included in sustainable management guidelines. Programs, especially in their initial stages need to be monitored closely so that the adjustments necessary to successful implementation can be made. Deficiencies must be detected in time to make corrections. This involves legal, operational, policy and environmental quality aspects among others. It is especially important that environmental consequences of forest management be assessed. Appropriate indicators would focus on the effects upon the environment and use measures that are easily

understood by the forest communities as well as other lay people from all sectors of society. Simple, transparent, practical indicators, easily used by forest community dwellers themselves will be the most effective tools in monitoring the progress of sustainable management efforts.

Finally, it is important that currently proposed legislation be reviewed to assure that its language will facilitate constructive action on each of the points discussed above. **Forestry sector legislation in the form of** Bill HR 7130 (An Act Providing for Sustainable Management of Forest Resources and for Other Purposes) as recently approved by the House of Representatives provides an opportunity for giving the necessary consistency and stability to forestry sector policies. Since there is a strong possibility for this bill to become law, DENR should seriously examine this text and take the remaining opportunities to propose adjustments that will encourage investment for sustainable forest resources management by incorporating **market-based incentives**. The new forestry act should create the enabling conditions for the forestry sector to join the general policy environment that has been favorable to economic expansion and investment in many other sectors of the Philippine economy.

III. DESCRIPTION OF PROBLEMS OF EXPIRING TLAS

The main problem associated with expiring TLAs is one of **open access**. This problem, which has affected forest land in the Philippines for several years, is already a fact, even in TLA areas that have not yet expired. As an example, the four TLAs that will expire in Caraga on June 30, 1997 are no longer in operation, have dismissed most of their labor force, and are no longer equipped to function.

Other problems that are associated with this central one are **land use conflicts**, the **insufficient development of CBFM** as an alternative forest land management scheme, and the **lack of incentives for attracting capital into forest land management**. These problems are characterized below using information obtained from the Caraga Region.

Open access. Given the extensive timber resources that have existed in eastern Mindanao, a large number of TLAs were operating in Caraga in the recent past. Many of these have either been canceled or have expired in the mid-eighties to mid-nineties period. In other words, a considerable area, apart from the expiring TLAs, is available for new formal management schemes, but is subject to the pressures of a high and expanding rural population where forest land is being used for unauthorized timber cutting and upland agriculture without any measurable effort to maintain the land's productivity.

Land use conflicts. An important area of potential conflict has its roots in the large indigenous population of Caraga which brings along Ancestral Domain Claims affecting all TLAs in the region, although no Certificates of Ancestral Domain Claims (CADCs) have yet been granted. While DENR personnel support the idea that tribal communities should be key actors in the management of ancestral lands, they indicated that serious problems are cropping up. One of these is the manipulation of legitimate tribal populations by opportunists, leading to considerable unauthorized timber harvesting in claimed areas.

Another source of conflict arises between certain LGUs and certain TLA holders. The municipal officials contacted (Mayors and staff of Prosperidad, Agusan del Sur, and Kitcharao, Agusan del Norte) are particularly unfavorable to any continued association with the corporate groups currently holding TLAs in their municipalities. The Mayor of Prosperidad pointed out in no uncertain

terms that the concepts of IFMA and CADC were being manipulated by the TLA holder in order to maintain his control of the area, and while the TLA holder is preparing for both CADC and IFMA, the municipality is not supporting any of the two approaches. The perspective from the Municipality of Kitcharao is similar: a resolution was passed to stop Mainit Lumber's operations in 1995 due to encroachment outside their operating area, within old growth.

These land use conflicts are compounded by the persistent presence of armed insurrection in several areas.

Stage of development of CBFM. While the CBFM concept appears to enjoy the support of all categories of people contacted (DENR officials, LGUs, corporate executives), serious reservations were expressed. Concerns about CBFM financing were expressed everywhere. Other concerns were expressed about the time it takes to develop a CBFM site, the financial viability of the operations and the clarity of CBFM-related policies as to rights and obligations of beneficiaries and other stakeholders.

Insufficient incentives for the corporate groups to invest in the forestry sector. The information gathered reveals that while DENR officials strongly support the participation of corporate groups in the forestry sector, particularly in reforestation, corporate groups do not find the sector attractive due to a policy environment that has been very unstable over recent years and remains too restrictive. Additionally, due to pressures of population and rural poverty, security problems have developed, such as wood poaching in privately-held mature forest plantations.

It is quite apparent that these problems, particularly the one of open access, will not be resolved without making production forest lands attractive to a level of investment that will generate employment and income and ensure the maintenance of land productivity. Despite this complex situation, the amount of land available represents a major opportunity for the development of the production side of the forestry sector on the basis of forest plantations and residual forest management. A solution can be constructed resting upon land use planning, investment incentives for both communities and corporate groups, and evolution of the policy framework to develop market-based incentives. This solution will need to be coordinated with the continued economic development in the lowlands that will bring about growing markets for products and services from the forest.

IV. PRESENT POLICY ENVIRONMENT IN THE FORESTRY SECTOR

The forestry sector remains as the centerpiece of the country's natural resource base. It is an important pillar supporting the country's development efforts. The decline of the forestry sector in the mid 80's brought about by massive forest destruction, deforestation, population pressure and continued poverty in the uplands have brought to fore the need for major policy and program shifts in the sector.

Policy and Program Shifts. Among the major policy and program changes made to accelerate forest development and the sector's contribution to national development include:

- 1) *Adoption of the new system in the grant of rights in the exploration, development and utilization of the country's natural resources. (1987)*

As already mentioned, the mode now is no longer through license, concession or lease, but rather either by the State directly undertaking such activities or through co-production, joint venture or production sharing agreements as provided for under the 1987 Constitution.

As explained by the Supreme Court in the case of *Miners Association of the Philippines, Inc. vs. Factoran, Jr. (1995)*, "the adoption of the concept of *jura regalia* that all natural resources are owned by the State embodied in the 1935, 1973 and 1987 Constitutions as well as the recognition of the importance of the country's natural resources ... ushered in the adoption of the constitutional policy of "full control and supervision by the State" in the exploration, development and utilization of the country's natural resources."

2) *Issuance of Executive Order No. 278 (Interim Guidelines in the Development or Utilization of Forestlands and/or Forest Resources, 1987)*

To implement the new system, EO 278 entitled "Prescribing the Interim Procedures in the Processing and Approval of Application for the Development or Utilization of Forestlands and/or Forest Resources" was issued on July 25, 1987. Among others, EO 278 prescribes the minimum terms and conditions that should be incorporated in the co-production, joint venture, or production-sharing agreement, and can serve as a basis for collaboration between the State and the private sector in the management and utilization of forest resources.

3) *Adoption of **sustainable development** as the main goal of forest policies and programs*

Present forest policies and programs no longer look at the forests as only a main producer of timber, but at all the resources inside the forests. "Sustainable development" is defined as meeting the needs and aspirations of the people without compromising the ability of future generations to meet theirs. On the other hand, "sustainable forest management and development" is the process of managing, developing, and utilizing forest land and resources therein to achieve the production of desired products or services without impairing the inherent productivity of the forest thereby ensuring a continuous flow of these products or services and without undesirable effects on the physical and social environment.

The 25 Year Philippine Forestry Master Plan (1990) and subsequent policies and programs have made sustainable development the main theme in forestry programs.

4) *Passage of RA 7160 (Local Government Code of 1991)*

RA 7160 provides that the Local Government Units (LGUs) shall share with the DENR the responsibility in the sustainable management and development of the forest resources within their territorial jurisdiction. The law also devolved certain forest management projects and functions to the LGUs.

Consistent with the above law, the DENR, in 1992 issued Administrative Order No. 30 providing for the procedures in the devolution of environment and other natural resources functions to the LGUs. The AO is now being reviewed by the NRMP to make the devolution more effective and the DENR-LGU partnership stronger.

5) *Passage of RA 7161 (Forest Charges Law, 1991)*

This was to address the very low forest charges that were identified as a major factor for the TLAs poor performance and corruption in the government service.

6) *Passage of RA 7586 (NIPAS Law, 1992)*

RA 7586 established a National Integrated Protected Areas System and placed under protected area status within the classification of national park remarkable areas and biologically important public lands. To implement this law, DENR passed Administrative Order No. 25, Series of 1992.

The same law and implementing regulations provide for management zones where limited and compatible livelihood activities may be undertaken.

7) *Issuance of Executive Order No. 263 (CBFM Proclamation, 1995)*

EO 263 issued by President Fidel V. Ramos on July 19, 1995 is one of the most important recent policy and program shifts. EO 263 adopted Community Based Forest Management as the national strategy to ensure the sustainable development of the country's forest lands resources. DENR Administrative Order No. 96-29 was later issued to implement this program.

CBFM is anchored on the participation of organized local communities in the identified forest areas. The government provides qualified local communities security of tenure and gives them access to and responsibility in the utilization, management, protection and rehabilitation of the forest resources. The CBFM Program is a consolidation of a number of previously existing people oriented forestry programs.

8) *Issuance of SIFMA, IFMA Regulations (DAOs 24, 04, 1996, 1997)*

To further implement the "equitable access" policy shift with respect to the use of forest resources and the policy to promote rehabilitation and restoration of forest lands vis-a-vis the establishment of plantations for wood supply, the DENR recently issued said Orders. The Socialized Industrial Management Program allows individuals / families and associations / cooperatives to participate in forest plantation development from forest areas ranging from 1-10 ha and from 10-500 ha by providing them security of tenure through the issuance of a Socialized Industrial Forest Management Agreement (SIFMA).

DAO 04 provides for the regulations in the development of forest plantations for industrial purposes from 500 - 20,000 ha. While IFMA areas cover brush land and/or open and denuded forest lands, it may also cover patches of residual natural forests. These residual forests however shall be maintained and enhanced as protection forests and that no cutting of natural trees shall be allowed unless absolutely necessary. DAO 04 likewise provides that CBFM projects shall have priority over IFMA.

Continuing Policy Advocacy. Be that as it may, the DENR continues to advocate for the passage of a new Forestry Code. This advocacy dates back since 1992. Unfortunately, the proposed Code was not passed during the last two Congresses as the Senate and the Lower House were deadlocked over the issue of the total commercial logging ban.

With the issuance of EO 263 declaring Community Based Forest Management as the national strategy in the sustainable development of the forest lands resources however, a compromise might yet be in coming. Already, the Lower House has, on third reading, passed House Bill No. 7130

entitled "An Act Providing for Sustainable Management of Forest Resources and for other Purposes." The bill does away with the granting of license, concession or lease as a mode in the grant of rights in forest lands. This in effect abolishes the TLA system. The bill reiterates community based forest management as a principal strategy to promote the management and development of forest resources on sustainable basis. It declares that CBFM shall have precedence over other strategies.

With the end of the TLA system, and with the limitation of the SIFMA and IFMA to plantations, it will appear that the only way by which forest products utilization can be conducted in the residual natural forests is through the CBFM, unless specific programs are developed pursuant to EO 278.

If passed into law, the new Forestry Code or the Sustainable Forest Management Act will institutionalize the major policy and program reforms mentioned above. It will also put into motion other policy reforms long wanting to be enacted such as the establishment of the specific limits of forest lands and national parks.

V. POINTS OF VIEW FROM DIFFERENT PARTICIPANTS IN THE SECTOR

Since material changes cannot take place before the TLAs expire, a more effective way of defining the problem would be to identify: the areas of forest land within these TLAs that can be candidates for sustainable production forest management, and the possible schemes that could be applied to formalize such management. In parallel, the necessary actions to be taken by the various authorities (DENR, LGUs) and stakeholders (upland communities, tribal groups, corporate groups) in order to operationalize formal management of these lands as expediently as possible should be determined.

Discussions held in Caraga revealed that sustainable forest management is favored by all parties encountered, although approaches and perspectives differ. DENR Regional staff are very clear about two main points: a) the strategic direction in Caraga should be to move away from natural forest harvesting and concentrate on forest plantations; and b) Corporate groups should continue to play a major role in Caraga's forestry sector.

Regarding the role of corporate groups, members of the DENR regional staff mentioned that the forest products industry has historically been a major component of the Region's economy, that it should remain in that role, and that it should be encouraged to become a key factor in forest plantation establishment and management. It was also mentioned that corporations have the capital to invest and the enthusiasm to continue operating. DENR personnel are also interested in joint corporate/ community management schemes, although with some reservations, e.g., corporations might not be interested in forming partnerships with too many groups and normally prefer to have rights as exclusive as possible over the land they manage.

Concerning CBFM as a management scheme, DENR personnel also expressed interest and are committed to the idea. However, it was also mentioned that it should not be the forest land management strategy to the exclusion of other approaches. The problem of CBFM financing was frequently brought up as a major concern, as well as the time necessary to organize and set up the POs. Additionally, IEC campaigns need to be more thorough and focus on present and upcoming problems (land use, financing, marketing, management, internal cohesiveness) and how the community can get organized to solve these problems.

Opinions coming from **LGUs** strongly favor CBFM over any other forest land management approach. In both municipalities contacted, the thrust is to concentrate land use programs on the people through collaboration of the LGUs with competent NGOs, but without the participation of the present TLA holders. The expectation is that people will put the land to work and protect it if they believe it is theirs.

Information obtained from the **corporate sector** reveals a keen interest in high yield plantations, based on more than a decade of experience in this field, and a very credible degree of competence in both plantation management and in wood products manufacturing (lumber, plywood composite panels). Corporate groups appear interested in large areas of reforestable land to produce raw material and remain competitive for the long run in wood products markets, both domestic and international. There have also been interesting experiences of collaboration between the corporate sector and DENR, particularly in the area of silvicultural research. Corporate groups are interested in continuing this collaboration, not only in research, but also in land use planning. Senior personnel of the corporate group contacted also pointed out their history of good understanding with tribal populations that has allowed them to develop plantations on tribal lands.

Regarding CBFM, the opinion of the Casilayan corporate group is that this program can only succeed under enough organizing and training for the communities to grasp its meaning. Many things are unclear at the moment, and no CBFM organizing effort is being carried out in Casilayan's area of operation. This corporate group, however, is willing to assist DENR in CBFM development, particularly in training for reforestation and managerial skills, and would also consider joint ventures with POs either under CBFM and/or CADC.

VL. MANAGEMENT OPTIONS THAT APPEAR FEASIBLE

From the information obtained, three management options appear feasible, at least technically and economically, provided that the policy framework is present to support them. These are: a) Primary emphasis on CBFM; b) coexistence of corporate and community-based forest management as separate approaches, allowing each approach to be applied where it can best serve the long term interest of society; and c) the possibility of community-corporate arrangements, as a complement to options (a) or (b). The merits of each of these options must be evaluated on the basis of conditions for success of CBFM, the interests of corporate groups, the practical feasibility of community-corporate partnerships.

Community-based Forest Management – conditions for success. Although CBFM has strong official support and is being tested in a large number of sites, there is nothing yet definitive as to the success of the approach. **Conditions for success of CBFM** have been often analyzed in many ways in recent years, particularly as information from developed sites has begun to accumulate. These can be summarized according to their policy, economic, manageability and administrative aspects.

From a *policy* standpoint, government support for the approach has become clear through Executive Order (EO) 263 (95) and DENR Administrative Order (DAO) 29/96. However, these texts must be communicated effectively to all players involved. This means not only the communities benefiting from CBFM, but also the LGUs and the field offices of DENR at different levels. All stakeholders and participants must be totally aware of the purpose and content of the program, and of the rights and obligations of each.

Economic aspects are another essential consideration, in that a CBFM approach cannot succeed, or even become credible, unless the beneficiaries can expect an improved standard of living as compared to present conditions. Important elements to watch as the approach is being tested are: a sufficient resource base that can begin to generate income in the very short run, the continuing commercial feasibility of activities to be undertaken, **initial capital sourcing**, access to markets, **time required to get the PO and its members active in new enterprises**, and incentives for the PO and individual members to commit to **investing in sustainable management**.

From a *manageability* standpoint, a basic consideration is the existence of legitimate communities (i.e., must be cohesive and not manipulated by special interests) which show authentic interest in managing the land. Additionally, while a CBFM area must be large enough to be economically efficient, the establishment of POs under too many barangays should be avoided to ensure effective decision-making. The PO should have the highest possible degree of autonomy. The supporting roles of DENR officers and LGU staff must also be clearly defined, not only to reduce regulatory pressure to a minimum, but to enable those officers to perform their functions optimally as well.

Finally, regarding *administrative aspects*, it is essential for DENR and other public authorities to be aware that it takes considerable work over more than one year to get a PO established; that the program now covers only a fraction of the open access areas that could benefit from it; and that considerable staffing and funding will be needed to expand the program to the point that open access is under control. This expansion could benefit considerably from a detailed plan with specific targets over time at the regional level, with deliberate IEC efforts associated with such targets. Authorities must assess how rapidly the program can possibly expand and determine if it is practically feasible to control open access over a reasonable period of time by using CBFM as the most favored forestry sector strategy.

Interest of corporate groups. The information obtained suggests that some corporate groups are willing and able to play a role in the future of the Philippine forestry sector. However, although it may seem obvious, it must always be borne in mind that the main interest of corporations is financial, (i.e., making a profit from operating in a business they know well and in which they believe, with wood harvesting, reforestation, and wood products being particular areas of interest).

It is apparent that corporations currently operating in the forestry sector remain interested in pursuing sustainable management in the natural forest and would like to get into large-scale forest plantations. However they would like to see consistent policies regarding their role on forest lands that would make them comfortable in undertaking long-term investments. Clarification of the policy framework, to reduce risks and costs of investment in forest enterprises, could also motivate corporations to establish arrangements with other entities claiming or holding rights to forest land (IPs, POs) provided that such arrangements are favorable to their business interests.

Exploring community-corporate partnerships. The possibility of **community-corporate** partnerships was examined mostly with DENR personnel, and to some extent with corporate executives. While corporate officials expressed concerns about the lack of clarity of the CBFM concept in terms of rights and obligations, DENR officials, although favorable to arrangements of this kind, seem to worry about corporations having to deal with large numbers of POs.

Technically, contracts for reforestation could be established between a PO, which would hold usage rights to the land and a corporation which would provide the funding and technical supervision. The funding and other services furnished by the corporation would be reimbursed upon harvest. Services furnished could also include training of PO members in technical and managerial skills. The raw material produced from the harvest would be included in the contract under rights of first refusal. The harvest could be performed either by the PO or the corporation.

Although it may be delicate under current DENR policy directions, there could also be contracts between a PO and a corporation for the harvest of the residual natural forests. If the PO is not equipped for efficient logging, it could sell harvestable wood on the stump to the highest bidder, subject to proper logging standards established by DENR.

With all the uncertainties involved in the present state of affairs (TLAs expiring and abandoned, CBFM approach not totally established, IFMA policies not yet tested), at this time, the option of specific contracts appears more attractive than full partnerships between corporate groups and POs. Contractual arrangements are included under DAO 96-29. Since certain prerogatives on the management of forest lands have been devolved to LGUs, their acceptance of these arrangements and of the specific parties involved is essential. A fact that must not be overlooked is that tensions exist between certain LGUs and certain corporate groups.

Preliminary conclusions. In sum, the three options examined above have merits and appear technically and economically feasible. Key questions are, however, whether or not the present legal and policy framework allows for any of these schemes to develop, and to what extent such framework can be adjusted to accommodate the schemes.

CBFM, which is clearly supported by the legal and policy framework, should continue to be actively pursued, so long as the conditions necessary for its success converge. However, it cannot be expected that CBFM approaches will be able to cover all production forest land in the country, at least not in the short-run. Corporate groups should be encouraged to get involved in long-term forest ventures where important amounts of capital are needed. Such ventures should include large scale forest plantations and management of residual forests where large scale opportunities exist, and where not enough of the conditions for successful CBFM are present. This would be another way of moving large areas away from open access and into sustainable management. Additionally, coexistence of corporate and community-based forest management as separate approaches should be allowed. Finally, community-corporate approaches should be pursued, first on the basis of specific contracts and eventually as full partnerships as experience is gained on various management approaches.

VLL. LEGAL AND REGULATORY CONSIDERATIONS

Management options for areas inside the concessions can be subdivided into **protected areas** and **production forest land**. In light of the NIPAS law and AO 24/91, the following areas inside forest concessions are classified as protected forest areas:

- old growth or virgin forests;
- those above 50% in slope;
- those with elevation above 1000 meters above sea level mossy forests;
- areas within 20 m of either side of stream banks; and
- other areas proclaimed for environmental protection.

All these lands should be excluded from forest production and may be managed under management schemes provided for in the NIPAS Act.

As for production forest land, various management options are allowed based on existing laws and regulations, namely:

- Community-based Forest Management Program (EO 263 and DAO 29/96);
- Ancestral Domain Management Program (provisions in Articles I and XII, of the Constitution, DAO 02/93 and DAO 34/96);
- Socialized Industrial Forest Management Program (DAO 24/96);
- Industrial Forest Management Program (DAO 04/97); and
- Other programs that the DENR may decide upon pursuant to the Constitution, including grazing lands.

It is important to point out that the specific programs mentioned above place a high emphasis on communities (whether indigenous or not), and small land holders. Additionally, they allow for forest plantation development under various types of land holding schemes, including individuals, communities and corporations. **However, under these programs, management of the residual forests is only allowed through CBFM schemes.**

In developing all these options, collaboration between DENR and local governments is legally required by the Local Government Code (RA 7160), which devolved certain forest land management functions to LGUs at various levels. Provincial functions now include law enforcement in community-based forest projects, while municipal functions include the implementation of CBFM efforts. As a result, LGUs should be key participants in any land use planning effort involving their areas.

VLLL.RECOMMENDATIONS

1. In efforts to identify management options for areas under expiring TLAs, and to overcome the open access situation affecting much (if not most) of the forest lands in the Philippines, a number of programs and strategies must be clearly established with specific targets to be attained over time. These programs must include CBFM, but not to the exclusion of other options. Both upland communities and the private sector should be key players.
2. Given the fact that there are 8 TLAs expiring on June 30, 1997, land use planning teams should be established immediately by DENR regional offices in the regions where these areas are located. These teams must include LGUs as key participants committing both human and financial resources. The work of these teams should provide concrete recommendations for developing specific parcels within TLA areas, with due consideration for outstanding issues and necessary conditions for the success of the various forest land use programs.
3. The role of private concerns in the forestry sector must be enhanced, especially in attracting investors for reforestation, but also in the sustainable management of natural residual forests. A program dealing with the potential participation of the private sector in the management of natural forests should be developed.
4. Since CBFM is a key program for the development of the forestry sector, a thorough review of the conditions for success of CBFM operations, particularly market-based approaches to financing production activities, along with a constant monitoring of program performance must be conducted, and policies adjusted accordingly.
5. DENR should actively participate in the finalization of the new forestry law (currently Bill HR 7130) so that it will embody the enabling conditions for establishing sustainable forest management schemes involving government structures, LGUs, communities, the private sector and other stakeholders.