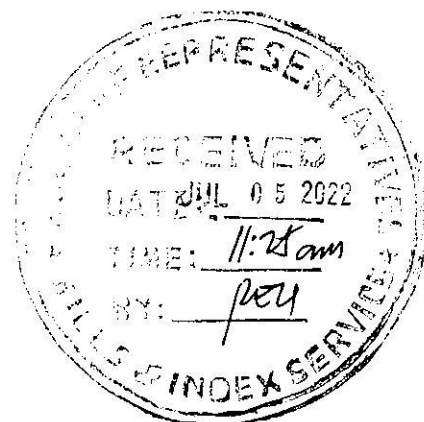


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Nineteenth Congress
First Regular Session

House Bill No. **1163**



Introduced by **Representative JOEY SARTE SALCEDA**

**AN ACT
TO PROMOTE REFORESTATION AND TO INCREASE
WOOD PRODUCTION THROUGH THE ESTABLISHMENT
OF TREE GROWING AGREEMENTS**

EXPLANATORY NOTE

The Philippine forestry sector is in a dire situation. Forest cover is only at 7 million (m) hectares (ha) or 23% of the country's total land area. From 2013-2020, 73% of tree cover loss, at 64,445 ha annual average, is found in natural forests.¹ This is equivalent to 276 metric tons of CO₂e emissions. To worsen things, the country is one of the most vulnerable areas to adverse effects of climate change with an average of 20 typhoons annually, five of which are destructive. In terms of wood supply, the country is unable to meet its national wood requirements since 2006. From 2006-2020, there is an average deficit of 1.77m cubic meters of wood.² This increased to 2m cubic meters of wood in 2010-2019. Of the available wood supply, 83% are imported.³ The sector's contribution to the economy is minimal at an average of Php 2 billion or 0.04% from 2000-2021.⁴ Past and existing government reforestation and tree plantation programs are insufficient to provide for the growing wood demands of the country. Although the government has been encouraging the establishment of tree plantations, private sector is hesitant to go into tree farm and plantation development. A major culprit is the insecure property rights in forest lands (State-owned lands).

A solution is to guarantee the security of property rights in forest lands by:

- (1) establishing a Tree Growing Agreement (TGA) where the right to plant and harvest trees is respected;

¹ Global Forest Watch. "Tree cover loss in Philippines". Accessed on 12/12/ 2021 from www.globalforestwatch.org.

² Forest Management Bureau, "Plans and Programs for the Philippine Wood Industry." Lecture, Philippine Wood Expo 2019, Softel Hotel, Pasay City, October 21, 2019.

³ Department of Natural Resources, "Situationer of Forestry Investment in the Philippines", *Facebook*, November 17, 2021, <https://www.facebook.com/DENROfficial/videos/1154495488408727>.

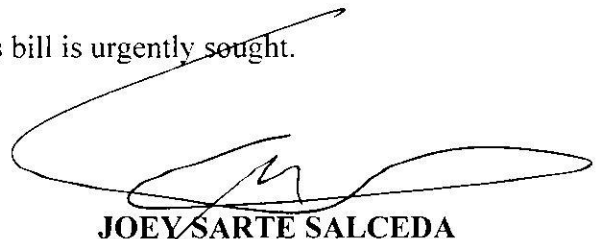
⁴ At constant 2018 prices. Philippine Statistics Authority (2021). National Accounts of the Philippines. Quezon City: Philippines Statistics Authority.

- (2) treating planted trees as personal property where they can be personally owned at the moment they are planted;
- (3) establishing a Tree Plantation Promotion and Policy Board to develop and implement policies that would promote tree farm and plantations;
- (4) appropriating royalties and government share based on stumpage value to relevant stakeholders such as the national government, local government units, the tenure holders, the indigenous peoples, and the Department of Environment and Natural Resources; and
- (5) providing incentives to TGA holders. This bill seeks to encourage tree planting more especially in the countryside.

The proposed measure is expected to contribute to increasing the country's forest cover and mitigating the ill-effects of climate change by preventing severe flooding, landslides, and soil erosion, and enhancing carbon absorption. It would also protect the conservation areas and biodiversity, prevent the emergence of zoonotic diseases such as COVID-19, support energy production & food security, and provide spaces for health, wellness, and recreation. Moreover, the untenured 5.5m ha of production forest lands⁵ will be utilized in part or whole for tree farm/plantation development thereby increasing wood production. This is relevant in meeting the country's wood demand, generating employment especially in the uplands where insurgency is rampant, supporting government infrastructure programs, and developing agroforestry and downstream wood industries such as furniture and housing construction.

With the country's natural endowments, a tropical climate with rainfall distributed evenly, and with rich soil condition favorable for forests to flourish, and a young population, with majority or 70.62m people belonging to the working ages of 15 to 64⁶, that could serve as labor pool for tree planting maintenance, the Philippines possesses the capacity to become a booming forest superpower as it used to be in the 1950s-60s. The State recognizes the crucial role of the private sector as its partner in revitalizing the forestry sector following sustainable forest management principles.

In view of the foregoing, the approval of this bill is urgently sought.



JOEY SARTE SALCEDA

⁵ Philippine Forestry Statistics 2020," Forest Management Bureau, <https://drive.google.com/file/d/1zOIM24aUeBNV-qH8XNpo1qiNt8g7NZ19/view>.

⁶ Ben O. de Vera, "World Bank: Young population to boost PH economic development" *Philippine Daily Inquirer*, May 20, 2021, <https://business.inquirer.net/323229/world-bank-young-population-to-boost-ph-economic-development#:~:text=%E2%80%9CThe%20Philippines%20represents%20a%20young,million%20aged%2065%20and%20above>.

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**AN ACT
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OF TREE GROWING AGREEMENTS**

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.* – This Act shall be known as the “Tree Growing Agreement Act.”

SEC. 2. *Declaration of Policy.* – It is the policy of the State to promote tree farm and tree plantation development to restore denuded forests of the public domain, mitigate the effects of climate change, increase wood supply, encourage green investments to increase livelihood opportunities in the countryside, and contribute to the overall socio-economic development and growth of the national economy.

SEC. 3. *Definition of Terms.* –

(a) *Crop* – is a plant or plant product that can be grown and harvested for profit or subsistence.

(b) *Forest block* – is an area of contiguous forest land measuring fifteen (15) seconds of latitude and fifteen (15) seconds of longitude at approximately 20.7 hectares per block.

(c) *Forest land* – includes the public forest, the permanent forest or forest reserves, forest reservations, and all other lands not classified as agricultural lands, mineral lands, and national parks.

(d) *Planted Tree* – a tree planted and raised by man.

(e) *Tree Farm* – refers to any small forest land or tract of land purposely planted to tree crops.

(f) *Tree Growing Agreement* – refers to an agreement entered into by and between a natural or juridical person and the DENR wherein the latter grants to the former the right to plant and harvest trees in a tract of forest land.

(g) *Tree Plantation* – any tract of forest land purposely and extensively planted to timber crops primarily to supply the raw material requirements of existing or proposed processing plants and related industries.

SEC. 4. *Establishment of Tree Farms and Tree Plantations.* – The Department of Environment and Natural Resources (DENR) shall identify, survey and map areas suitable for the establishment of tree farms and tree plantations in forest lands. Such areas shall be called Tree Growing Agreement Areas or TGA areas. TGA areas for establishment shall be denuded and/or underutilized areas within forestlands, whether tenured or not, including ancestral lands/domains, identified as suitable for tree farming, tree plantation development, agroforestry, and other forestry and agroforestry-related economic activities. TGA establishment may be initiated by the DENR or through a request of interested parties.

SEC. 5. *Criteria for the Determination of Tree Growing Agreement Areas.* – The minimum requirements for suitability of the area for the TGA are:

(a) Soil quality should be suitable for tree plantation/tree farming, and agroforestry farming;

(b) Slope gradient should be below 50 percent, and elevation should be below 1000m above sea level (asl);

(c) Should not be prone to landslides or severe soil erosion; and

(d) Should not be identified as protected area.

SEC. 6. *Identification and Delineation of Tree Growing Agreement Areas.* – For purposes of identification and delineation of area for TGA, the DENR shall identify denuded, idle, and/or underutilized public forest that are either tenured or untenured. These identified areas of public forest shall be divided into meridional forest blocks of fifteen (15) seconds of latitude and fifteen (15) seconds of longitude at approximately 20.7 hectares per block. Such forest blocks shall be indicated in the maps publicly available in the Tree Growing Agreement Registry.

SEC. 7. *Tree Growing Agreement Registry.* – Forest lands that had been established by the DENR as TGA area shall be recorded and made available in a public registry to be maintained at the Provincial Environment and Natural Resources Office (PENRO) and supervised by the Forest Management Bureau (FMB). Such registry shall be accessible to the public through the internet and shall contain maps showing the location of all forest lands under TGA and shall also indicate forest lands that are already under an agreement as well as those still available for application of investors.

SEC. 8. *Allowable Activities for the Tree Growing Agreement.* – Allowable activities within the Tree Growing Agreement area shall be limited to:

(a) Tree Plantation/Farming

(b) Wood Processing/Establishment of Wood Processing Plants

(c) Agroforestry

(d) Forestry/Agroforestry-Based Ecotourism

SEC. 9. *Tree Growing Agreement*. – Interested parties whether natural or juridical, may enter into a Tree Growing Agreement for the development, sustainable utilization, and management of TGA areas and forest resources within the allotted TGA area.

The Agreement shall be for a minimum of two production cycles depending on the project as proposed in the development plan to be submitted to the DENR upon application for a TGA. The duration of the production cycle shall depend on the species intended to be planted as a main crop. Each cycle shall not exceed twenty-five years.

The Agreement may be renewed automatically at the option of the TGA holder for another minimum of two production cycles if the TGA holder has complied with the terms and conditions of the Agreement and with existing laws.

The TGA is transferrable to qualified transferees for value. The Agreement may not be cancelled except for cause and with due process by the DENR. The Agreement holder shall develop at least 30% of the area applied for in the first three (3) years and utilize seventy-five (75%) of the area within five (5) years upon issuance of the TGA. Ninety percent (90%) of the TGA area must be devoted to the primary timber or tree crop compatible to the ecological and biophysical characteristics of the area.

Processing of applications and awarding and issuance of TGA shall be accomplished at the Provincial Environment and Natural Resources Office (PENRO) of the DENR and completed within 120 days from the time the complete application is submitted.

Tree Growing Agreements shall be limited to a maximum of 25 forest blocks for individuals/families, 50 forest blocks, for partnerships and cooperatives, and 250 forest blocks for private and public corporations including local government units (LGUs) and government owned and controlled corporations (GOCCs).

SEC. 10. *Tenured Lands*. – Forest lands covered by existing tenurial instruments may be amended to be covered by the Tree Growing Agreement. Such amendment shall be applied for at the DENR.

Tenure holders who are no longer interested in their tenure may surrender their tenure to the DENR. They may also transfer such tenurial instrument to an interested party for conversion to TGA. Tenure holders who refuse to utilize or abandon their tenurial area may be subjected to compulsory inclusion after being notified.

A Notice of Inclusion under the TGA shall be issued by DENR to inform tenure holders of compulsory coverage of the whole or portion of their unutilized or abandoned tenured areas.

SEC. 11. *Qualifications of Applicants*. – Any natural or juridical person may apply for a Tree Growing Agreement. LGUs and GOCCs may also apply for the said Agreement.

Likewise, Agreement shall be awarded transparently and equitably to both foreign and domestic investors.

SEC. 12. *Certifications, Permits and Licenses.* – The DENR PENRO shall also coordinate with the Environmental Management Bureau (EMB), National Commission on Indigenous Peoples (NCIP), LGUs, and other government agencies for assistance in the expedited issuance of environmental permits, local permits, Certification Precondition (CP), and other permits.

SEC. 13. *Property Rights of TGA Holders.* – All planted trees, and other non-timber forestry and agroforestry products produced within TGA areas shall be considered as personal property even if they are still attached to the soil. They shall also be considered as personal property of the holder within the purview of Republic Act No. 11057, otherwise known as the Personal Property Security Act, and thus may be traded or may be a subject to commodity contract, mortgage contract, and other security arrangement.

All planted trees and other non-timber forestry and agroforestry products produced within the TGA areas shall be considered as crops.

SEC. 14. *Relaxation of Restrictions and Regulations.* – In order to promote investments and generate interest in forest related activities within the TGA areas, existing laws, executive issuances, local ordinances, rules and regulations are hereby repealed, amended, and modified accordingly for holders in order to:

(a) Exempt from the payment of forest charges and other fees for taxes that local government units may impose;

(b) Provide access to development loans from public financial institutions for farm and plantation developers;

(c) Provide insurance coverage of plantations and plantation development equipment by the Philippine Crop Insurance Corporation (PCIC);

(d) Provide tax free importation of plantation development equipment, including tree nursery facilities, pursuant to Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA);

(e) Allow the expenses incurred for plantation operations to be as deductible expenses for income tax purposes, subject to the provisions of the National Internal Revenue Code of 1997, as amended: Provided, that the deduction shall only apply to the Taxable Period when the expenses were incurred;

(f) Allow the expenses incurred in the development and operation of a tree plantation prior to the commercial harvest to be regarded as ordinary and necessary expenses or as capital expenditure;

(g) Prioritize access for tree farm and plantation developers to credit assistance from government owned, controlled and/or supported financial institutions;

(h) No inspection of harvested trees and other crops from TGA areas at check points;

(i) Allow acceptance of planted trees and crops as collateral for loans in government owned or controlled banks and other financial institutions;

(j) Allow only a one-time inspection by the DENR PENRO prior to harvest of planted trees leading to a single clearance for harvest, processing, transport and sale both local and international;

(k) Exempt established tree farms and plantations from logging bans for the duration of the Agreement;

(l) Allow logs, lumber and other finished wood products from TGA area to be exported without restrictions in volume;

(m) Allow exemption from payment of Advanced Value Added Tax (VAT). The VAT shall be paid only after logs have been delivered and payment received by plantation owners;

(n) Include tree farming and plantation development as pioneer areas of investment under the Strategic Investments Priority Plan of the government;

(o) Include tree farming and plantation development in tax incentives as may be provided by existing rules and regulations of different government agencies including but not limited the Department of Finance and Department of Trade and Industry; and

(p) Include tree farming and plantation development in other investment incentive packages available for agriculture and agroforestry-related industries.

Provided that, relevant incentives shall also apply to private tree plantations registered with the DENR.

SEC. 15. *Royalties and Government Share*. – Royalties and government share shall be based on the stumpage value of planted trees. Stumpage value shall be computed by the DENR using a formula developed with the approval of the Tree Plantation Promotion and Policy Board.

Royalties and government share shall be based on the 70% of gross revenues of the Agreement holder. The government shall get five percent (5%) royalty, the tenure holder for tenured lands shall get one percent (1%), the concerned LGU where the TGA area is located shall get five percent (5%), if there are indigenous peoples in the area, two percent (2%) shall be allotted to them, and the remaining two percent (2%) shall go to DENR's tree farm and plantation development programs and projects and carbon trading activities.

SEC. 16. *Dispute Resolution Mechanism*. – Disputes arising from conflicting claims and other controversies related to the issuance and the implementation of the TGA shall be resolved administratively in the first instance at the DENR.

Any and all disputes arising from the implementation of TGA may be submitted to arbitration in the Philippines in accordance with the relevant laws and policies. The process of arbitration shall be incorporated as a provision in the TGA that will be executed pursuant to

the provisions of this Act: Provided, that by mutual agreement, the parties may agree in writing to resort to alternative modes of dispute resolution.

SEC. 17. *Premature termination of the agreement.* – Upon the premature termination of the agreement at no fault of the holder, all depreciable permanent and semi-permanent improvements such as roads, buildings, and nurseries including the planted and standing trees and other forest crops, introduced and to be retained in the area, shall be properly evaluated and the holder shall be entitled to a fair compensation thereof, the amount of which shall be mutually agreed upon by both the DENR and the agreement holder, and in case of disagreement between them, by arbitration through a mutually acceptable and impartial third-party adjudicator.

SEC. 18. *Tree Plantation Promotion and Policy Board.* – The Tree Planation Promotion and Policy Board, referred to as the Board, is hereby created which shall be the overall policy-development body for all forest lands identified for TGA. It shall be responsible for setting the strategic direction of programs and projects and in creating an enabling policy and institutional environment TGA areas.

The Board shall be composed of the following:

- (a) Secretary of Environment and Natural Resources as Chairperson;
- (b) Secretary of Trade and Industry as Co-Chairperson;
- (c) One representative from the wood producers;
- (d) One representative from the tree farmers;
- (e) One representative from the wood processors;
- (f) One representative from the furniture industry;
- (g) One representative from the construction industry; and
- (h) One representative from the professional organization of foresters.

The principal members of the Board may designate their respective alternates, who shall be the officials next-in-rank to them, and whose acts shall be considered the acts of their principals.

The presence of the Chairperson with four (4) other members of the Board shall constitute a quorum and a majority vote of the members present shall be necessary for the adoption of any issuance, order, resolution, decision or other act of the Board in the exercise of its functions. The Board shall act as a collegial body. In the conduct of meetings, the Chairperson shall not vote except to break a tie.

The Board shall act on any matter for its consideration not later than thirty (30) days from the date of submission thereof.

The members of the Board shall be entitled to honoraria based on existing government accounting and auditing rules and regulations. The DENR shall act as Secretariat to the Board.

SEC. 19. *Implementing Rules and Regulations.* – The FMB of DENR shall promulgate rules and regulations to carry out the provisions of this Act within 120 days from approval hereof.

SEC. 20. *Repealing Clause.* – All laws, decrees, executive order, executive issuances or letters of instruction, rules and regulations or any part thereof inconsistent with or contrary to the provisions of this Act are hereby deemed repealed, amended or modified accordingly.

SEC. 21. *Separability Clause.* – If, for any reason or reasons, any part or parts of this Act shall be declared unconstitutional or invalid by any competent court, other parts of this Act not so declared shall continue to be in full force and effect.

SEC. 22. *Effectivity Clause.* – This Act shall take effect fifteen days (15) after its publication in two (2) newspapers of general education.

Approved,