

**Initial Observations  
On House Bill 743****Introduced by Honorable JUNIE C. CUA**  
House of Representatives, 14<sup>th</sup> Congress

Given the clearly “unfinished” Comprehensive Agrarian Reform Program (CARP) targets and unachieved CARP goals across its specific program components -- land acquisition and distribution (LAD), support services delivery, and the development of agrarian reform beneficiaries (ARBs), in general, there is no question that CARP implementation should continue. And implementation should continue until the CARP is brought to its logical conclusion, even if the same goes beyond 2008, the often cited deadline for the CARP, or at least as far as funding for the program is concerned.<sup>1</sup>

IDEALS submits that CARP’s logical conclusion is reached when the agrarian situation in the country has already come to exhibit the following characteristics: (1) All lands covered by CARP are distributed to qualified farmer-beneficiaries as evidenced by the proper tenorial instruments and these farmer-beneficiaries’ title to the lands awarded are sufficiently protected; (2) All ARBs are in the productive possession of the lands awarded to them and government mechanisms are in place to ensure that this possession is sustainable; (3) Agrarian justice is efficiently delivered; (4) All ARBs are afforded sufficient support services. That these goals would not be achieved, even achievable within the remaining sixteen months to the so-called “deadline” is a certainty. It is a matter as definite as the CARP losing a clear and immediate legal basis for drawing the financial requirement from the state’s resources for its continued implementation – that is, if no law is passed authorizing further funding appropriations for the program beyond the 2008 deadline.

Thus, but without losing sight of all other problems that plague CARP’s implementation, we generally endorse proposals for authorizing further appropriations for the program.

In line with our ongoing advocacy for a responsive and relevant agrarian reform policy and implementation, we submit the following specific comments and/or observations on House Bill No. 743 for the consideration of agrarian reform (AR) stakeholders in coming up with specific positions as regards this legislative proposal for CARP “extension.”

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<sup>1</sup> Pursuant to R.A. 8532

## **Salient Features of the Bill**

1. The bill seeks to supplement the existing funding appropriation for the implementation of the Comprehensive Agrarian Reform Program by authorizing the appropriation of an **“additional initial amount” not to exceed one hundred sixty-two billion Pesos (P 162,000,000,000)**
2. The proposed law sanctions the use of the Agrarian Reform Fund (ARF) — to include the additional appropriation of Php 162 Billion – to implement R.A. 6657, as amended **“until the year 2015”** (which is equivalent to an additional seven (7) years from the year 2008 – the “deadline” under RA 8532)
3. The bill details the provision of RA 6657 on affording farmer beneficiaries “liberalized terms on credit and production loans” [which is listed as one of the support services that must be ensured by the Presidential Agrarian Reform Council (PARC) in favor of farmer-beneficiaries in Sec. 37 of RA 6657]. This provision in the bill is hereinafter referred to as the provision on **“EP, CLOA, and Tenants’ Harvest as Collateral”**

The proposed provision reads:

FOR THE PURPOSE, ALL FINANCING INSTITUTIONS SHALL ACCEPT AS COLLATERAL FOR LOANS ANY DULY REGISTERED EMANCIPATION PATENT (EP) OR CERTIFICATE OF LAND OWNERSHIP AWARD (CLOA) WHETHER INDIVIDUAL OR COLLECTIVE, ISSUED BY THE GOVERNMENT THROUGH THE DEPARTMENT OF AGRARIAN REFORM, TO FARMER BENEFICIARIES OF AGRARIAN REFORM IN AN AMOUNT CONSISTENT WITH EXISTING FINANCING PRACTICES OR, IN LIEU THEREOF, ESPECIALLY WITH RESPECT TO AGRICULTURAL LEASEHOLDHOLDERS, ANY MARKET OR PURCHASE ORDER AND/OR EXPECTED HARVEST, SUPPORTED BY A DULY REGISTERED AGRICULTURAL LEASEHOLD CONTRACT; PROVIDED, THAT THE LOANS OBTAINED SHALL BE USED IN THE IMPROVEMENT OR DEVELOPMENT OF THE FARMHOLDING OF THE FARMER-BENEFICIARY OR THE ESTABLISHMENT OF FACILITIES THAT WILL ENHANCE PRODUCTION OR MARKETING OF AGRICULTURAL PRODUCTS OR INCREASE FARM INCOME THEREFROM.

4. The bill provides for the effectivity of the amendatory law to be “xxx not later than the first day of the **expiration of the extended existence of the CARP.**”

## Initial Comments and Observations

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### A. Provision on additional appropriations for CARP implementation

The proposed additional Php 162 billion (to the initial Php 100 billion) appropriation is clearly substantial, even as it translates to an average of Php 23.143 billion appropriation per year for CARP implementation for the years 2009 to 2015. This presents a considerable increase from a mere Php 5 billion per year average appropriation for CARP implementation for the years 1988 to 2008 (under Republic Acts 6657 and 8532).

Nevertheless, the face amount of the appropriation is a consideration secondary to the matter of sufficiency of funding support for CARP. Thus, we are interested to know of the **basis of the proposal for the additional P 162 billion or how the proponent was able to arrive at the said figure**. Ideally, the amount should be adequate to provide for all the funding requirements to “complete CARP” or that the same should be enough not only for the LAD component of the program but also for the components of program beneficiary development, agrarian justice delivery, and support services to help ensure that program beneficiaries will attain the level of productivity envisioned by the law.

At any rate, compared to the appropriation figures proposed under the “Unity Bill,” the funding amounts in HB 743 are far smaller even as it has been raised in certain civil society organization (CSO) discussion venues that the Cua Bill’s funding proposal would not be enough to cover much of the remaining compensable lands. This concern must be addressed. In this regard, the DAR as well as the PARC should be able to release categorical and updated data on CARP balances and compensation rates (along with reasonable budget estimates for other program components) in order to determine the values that should finally be reflected in the pertinent provision of the proposed law or any other CARP “extension” bill that will be considered by Congress. The bottomline is that the final figure that must be proposed should be sufficient to support CARP implementation, with the LAD component being completed on or before a defined deadline.

On the other hand, even if the amounts stated in HB 743 may not be the desired higher values as expressed in the “Unity Bill,” it is prudent to consider and prepare to debate on the following points:

- (a) HB 743 considers the additional appropriations therein stated as still part of an “initial amount” for CARP implementation. The necessary implication is that this bill does not preclude further augmentation of the ARF for the implementation of the AR program;

- (b) As long as there are provisions in the law allowing Voluntary Land Transfer-Direct Payment Scheme (VLT-DPS) as a mode of acquisition, stakeholders are hard-pressed to acknowledge that certain allowances will be made factoring in the implications of the scheme. These include the lowering of program funding requirements on account of the elimination of government spending for just compensation to the landowner in the VLT-DPS scheme (as, in this case, the compensation will be directly paid by the beneficiaries);
- (c) The existence of other government programs that equally need funding support alongside the general limitation of the state's coffers.

While we support calls for additional funding for CARP, we believe it is not enough that a law is legislated authorizing additional appropriations. The law must also incorporate means that would better ensure that funds would actually be available for the program on a yearly basis. At this stage of CARP implementation, the mechanism for yearly appropriations for government programs through the General Appropriations Act (GAA) must be emphasized and maximized. Accordingly, we propose a greater share for CARP in the general appropriations. The current law (RA 6657, as amended by RA 8532) stands at Php 3 billion per year for the program. If it is not possible to source all required funding for CARP through the GAA, then the proponent must consider increasing the P3 billion share. The increase is justified on the following grounds:

- (1) Funds from the other ARF sources have been depleting over the years;
- (2) The increase in the share in the general appropriations is a logical mechanism to accommodate the economic repercussions of inflation. Stakeholders are reminded, in this regard, that the amount of Php three billion was set by RA No. 8532, a law that took effect in 1998.

## **B. Provision for “extension” of seven years (from 2008)**

Studies have confirmed that the success of a state-led agrarian / land reform program is, to a large extent, dependent on the efficiency of its implementation and completion at the shortest possible time. Thus, for the remaining tracts of land for distribution to farmer-beneficiaries, it is important that the land transfer component of the program be time-bound, using the shortest possible period for LAD process completion but enough to allow efficient program implementation.

IDEALS notes that HB 743 contemplates a funding “extension” of seven (7) years counting from the year 2008 to 2015. In this regard, the statement in the

bill that “an additional period of ten (10) years from the expiration of the period under the amendatory Republic Act No. 8532” is obviously erroneous. At any rate, despite the provision authorizing appropriations until the year 2015, there is really nothing in the bill articulating a vision for the completion of LAD on or before that year. Given the protracted implementation of this component, we believe that any proposal for funding “extension” for the CARP should emphasize completion of LAD, prioritizing the distribution of remaining **private agricultural lands** on or before a set deadline.

### **C. Provision on “EP, CLOA, and Tenants’ Harvest as Collateral”**

This proposal seeks to supplement Item (b) of Section 37 (Support Services to Beneficiaries) of RA 6657. It states to the effect, that to realize the objective of giving beneficiaries “liberalized terms on credit and production loans,” all financial institutions shall ACCEPT AS COLLATERAL FOR LOANS:

- 1) ANY DULY REGISTERED EMANCIPATION PATENT (EP) OR CERTIFICATE OF LAND OWNERSHIP AWARD (CLOA) WHETHER INDIVIDUAL OR COLLECTIVE, ISSUED BY THE GOVERNMENT THROUGH THE DEPARTMENT OF AGRARIAN REFORM, TO FARMER BENEFICIARIES
- 2) In lieu of the EP or CLOA, ESPECIALLY WITH RESPECT TO AGRICULTURAL LEASEHOLDHOLDERS, ANY MARKET OR PURCHASE ORDER AND/OR EXPECTED HARVEST, SUPPORTED BY A DULY REGISTERED AGRICULTURAL LEASEHOLD CONTRACT.

In the past, proposals for farmland collateralization have been met with serious dissension from many farmer and farmer support organizations and coalitions. But the proposal that records the greatest opposition would be that reflected in the erstwhile Senate Bill No. 2553 (authored by Sen. Serge Osmeña) which carries the so-called onerous provisions accompanying the section plainly reaffirming the value of awarded lands as collateral for loans. Basically, S.B. 2553 was opposed on the grounds that: (a) the same will not really improve access to rural credit; and (b) the same presents real dangers of land reconsolidation and, in general, the reversal of the gains of the agrarian reform program on account of the “onerous provisions” of the legislative proposal. In particular, these onerous provisions refer to the following:

- (a) Lifting of the ten-year prohibition period on the sale, transfer, lease, usufruct or conveyance of awarded lands (and the necessary removal of the restriction on the modes of transfer of the awarded lands – which is limited to transfer through hereditary succession, to the DAR, Landbank, or government);

- (b) Lifting of the five-hectare landholding ceiling or limit in the acquisition and ownership of private agricultural lands by any person;
- (c) Allowing the mortgage of awarded lands to any person with a 2-year redemption period;
- (d) Allowing the sale, transfer, conveyance of ownership of distributed and retained lands to any person without limit size;
- (e) Introduction of a new tenure system of selling and mortgaging cultivation rights;
- (f) Removal of the notice of availability of lands by the LBP to the BARC; and
- (g) Doing away with the approving authority of the DAR on the sale, transfer and conveyance of agricultural lands.

The Cua Bill does not feature any of the changes / proposals listed above, making HB 743 relatively “harmless” compared to SB 2553 (or any of its precursor bills), which reveals the intention of liberalizing agricultural land market in the country even if the same would jeopardize whatever agrarian reform gains have been achieved.

Even so, the challenge for peasant organizations and agrarian advocates is to present a position on the FAC proposal in the Cua Bill. As far as IDEALS is concerned, there is nothing in the proposal that would significantly alter the existing policy landscape. In the first place, the provisions found to be “onerous” or detrimental to the farmer/ farmworker sector and to agrarian reform, in general, are not being proposed alongside the provision affirming the collateral value of awarded lands as evidenced by EPs and CLOAs. In the second place, arguably, RA 6657, as amended, already recognizes or allows the mortgage of awarded lands to government financing institutions.

If any, the objection against the farmland collateralization provision of HB 743 lies in its lack of promise to introduce any real improvement in the access to credit of beneficiaries<sup>2</sup> and the lack of complimentary provisions setting up additional safeguards – such as guarantee arrangements -- to protect the interest of beneficiaries, even while they choose to take on loans backed up by their EP or CLOA as collateral.

The Arroyo administration is clear on its policy pronouncement for the enactment of a law making farmlands acceptable as loan collateral. Viewed as a means to reduce deterrents to investments in agriculture, the President’s pro-FAC policy was enunciated during her 2001 State-of-the-Nation Address

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<sup>2</sup> Given the general reluctance of financing institutions to lend to farmers / beneficiaries because of their low absorptive capacity, high default rate experienced by institutions lending to the agricultural sector, among others.

(SONA) and reiterated to Congress in her succeeding SONAs. In fact, the MTPDP specifically states that:

*“The Department of Agrarian Reform (DAR) as lead CARP Implementing agency shall pursue the following:*

- a) *Follow-up on the passage of the Farmland as Collateral (FAC) Bill in close coordination with the POs and NGOs, and civil society. The proposed legislation seeks to provide proper environment for the flow of credit to the agricultural sector, and better access of agrarian reform beneficiaries and other small farmers to formal credit and/or financing for their agribusiness endeavors. This also proposes safeguards to prevent landownership reconsolidation and prevent diminution of gains achieved under the CARP.*

*xxx.” (MTPDP – 2004 to 2010, Chapter 12.II.B.1, p. 158)*

On the assumption that the administration will again actively pursue the enactment of a FAC law – and all indications point to that direction, peasant organizations and agrarian reform advocates are urged to identify all possible scenarios, aided by our common experience in confronting the FAC question. Indeed, one of the scenarios still feature a legislator or a group of legislators introducing a more dangerous FAC proposal – one that carries provisions for farmland market liberalization that would endanger the gains and advances in agrarian reform. And in a situation where the administration is so eager to have a FAC law, the FAC proposal under HB 743 may even present a fallback position. //

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