

Ministry of the Environment and the Legal Amazon

Brazilian Institute for the Environment and Renewable
Natural Resources

Administrative Decree No. 55-N of 30 April 1998

The Chairman of the Brazilian Institute for the Environment and Renewable Natural Resources (IBAMA), by virtue of the authority vested therein pursuant to Article 24 of the Regulatory Structure attached to Decree No. 78 of 5 April 1991, as well as Article 83, section XIV of the IBAMA Internal Regulation, approved by Ministerial Administrative Decree 445 of 16 August 1989, hereby resolves as follows:

I -- To approve the Internal Regulation of the IBAMA General Counsel's Office, pursuant to the Annex to this Administrative Decree.

II -- This Administrative Decree shall enter into force on the date of its publication.

III -- All provisions to the contrary are hereby revoked.

Eduardo de Souza Martins

Annex

Internal Regulation of the IBAMA General Counsel's Office

Chapter I Purpose

Art. 1 -- The purpose of the IBAMA General Counsel's Office, a department unit associated with the Federal Office of the Attorney General, is to provide legal assistance to the Chairman of IBAMA, to defend the interests of the Institute in court or out of it, to examine and issue opinions on instruments of a legal nature, and such other items as may be submitted for its deliberation.

Chapter II Organization

Art. 2 -- The IBAMA General Counsel's Office, a body that provides direct and immediate assistance to the Chairman of the Autarchy, shall have the following structure:

Central Administration Bodies

I -- General Counsel's Office

1 -- General Sub-Counsel's Office

1.1 -- Administrative Services Secretariat

1.1.1 -- Library Section

1.1.2 -- Information Technology Section

1.1.3 -- Protocol Section

1.2 -- Sub-Counsel's Office for Litigation

1.2.1 -- Expert Witness Calculations Section

1.2.2 -- Active Debt Section

1.2.3 -- Control and Archives Section

1.3 -- Sub-Counsel's Office for International
Environmental Law

1.4 -- Sub-Counsel's Office for Legislation and Case Law

1.5 -- Sub-Counsel's Office for Analysis and Opinions

1.6 -- Sub-Counsel's Office for Contracts and Agreements

1.7 -- Administrative Sub-Counsel's Office for State and
Regional Bodies

1.8 -- State Sub-Counsel's Offices

1.9 -- Regional Sub-Counsel's Offices

II -- Office of the Corregidor General

Art. 3 -- The General Counsel's Office shall be managed by a General Counsel, the General Sub-Counsel's Office by a General Sub-Counsel, the other Sub-Counsel's Offices by Sub-Counsel's, the Administrative Services Secretariat by the Head of the Secretariat, the Sections by Heads and the State and Regional Sub-Counsel's Offices by State and Regional Sub-Counsel's, respectively.

Paragraph 1 -- The Office of the Corregidor General shall be managed by a Corregidor General with authority to act within the scope of the entire General Counsel's Office.

Paragraph 2 -- All positions shall be filled by the IBAMA Chairman in accordance with current law, subject to recommendations from the General Counsel, from among the Counsel's and Legal Assistants forming part of the IBAMA staff.

Paragraph 3 -- Officials shall be replaced in the event of any temporary legal impediment by replacements named by the General Counsel.

Art. 4 -- The State Sub-Counsel's Offices are 27 (twenty-seven) in number, and are located at the head office of the IBAMA Superintendency in the respective States, and the Regional Sub-Counsel's Offices are 5 (five) in number, located at the IBAMA Superintendency head office in the states where the head offices of the Federal Regional Courts in the respective Regions are located.

Chapter III Jurisdiction of the Units

Art. 5 -- The General Counsel's Office shall have the following responsibilities:

- I -- to provide legal assistance to the IBAMA Chairman;
- II -- to defend the interests of the IBAMA in court or out of it;
- III -- to promote the registration and collection of the Autarchy's active debt;
- IV -- to advise the IBAMA units in legal and juridical matters, resulting from the application of laws relating to the environment and renewable natural resources;
- V -- to analyze appeals against violation decrees;
- VI -- to issue opinions on travel abroad;
- VII -- to legally assist the Technical Chambers of the CONAMA;
- VIII -- to examine and issue opinions on legal and other instruments submitted thereto for consideration;
- IX -- to ensure compliance with the Constitution, Environmental Laws, treaties, conventions, contracts, agreements and others decrees issued by the Administration.

Art. 6 -- The Office of the Corregidor General shall be responsible for the following:

- I -- performing official inspections, or inspections at the order of the General Counsel of the IBAMA Chairman, at the local, state and regional bodies comprising the General Counsel's Office;
- II -- inspecting, on a case-by-case basis or by sampling, books, decrees and documents;
- III -- reporting to the General Counsel and/or to the General Sub-Counsel any irregularities found within the scope of the Counsel's Office and the central and decentralized agencies comprising it;
- IV -- monitoring the provision of information to the Federal Public Ministry, the National Congress, the Ministry and other agencies, with a view to clarifying legal situations and fixed terms;
- V -- observing and auditing the progress of litigation and the fulfillment of legal deadlines;
- VI -- guiding and auditing the completion of actions taken in judicial proceedings, in defense of the Autarchy;
- VII -- ensuring the quality of petitions, appeals and other procedural measures prepared by the IBAMA Counsels;
- VIII -- monitoring and auditing the performance of the Disciplinary and Union Administrative Procedures Commissions, notwithstanding any other internal regulatory provisions, with respect to the fulfillment of deadlines,

timeliness of procedures and investigations, and the form and content of procedural actions, with a view to determining the proper application of the corresponding legislation, without, however, interfering in the autonomy and independence of the members of the Commission;

IX -- examining the material facilities and work conditions of the local and decentralized Sub-Counsel's Offices;

X -- issuing an opinion, basically, during the trial period for members of the functional Autarchic Counsel category, when its ruling is requested;

XI -- at its own initiative, adopting the necessary and appropriate measures to eliminate errors or allusive behavior not properly representative of the General Counsels;

XII -- preparing reports on the operation of the legal units, suggesting the adoption of the measures necessary for proper operation;

XIII -- making appointments in areas over which it has jurisdiction;

XIV -- whenever necessary, convoking technical personnel from the Autarchy staff for purposes of advising;

XV -- being familiar with requests for representation;

XVI -- presenting a detailed report upon completion of its work, within a period of 15 (fifteen) days.

Art. 7 -- The General Sub-Counsel's Office shall be responsible for the following:

I -- replacing the Counsel General during any temporary impediments;

II -- advising the General Counsel in decision making;

III -- executing, together with the General Counsel, all activities under the jurisdiction of the General Counsel's Office, as defined in Article 4 of this Internal Regulation;

IV -- advising all Sub-Counsel's Offices on matters inherent to their respective areas of jurisdiction.

Art. 8 -- The Administrative Secretariat shall be responsible for coordinating, executing and controlling the execution of activities involving administrative communications, information technology, documentation, personnel, material and assets management, files and internal organization, which may be indispensable to the proper operation of the General Counsel's Office.

Art. 9 -- The Library Section shall be responsible for the following:

I -- monitoring the volume of legal works from the General Counsel's Office, and registering users;

II -- ensuring the preservation and updating of the aforementioned volume of works;

III -- immediately attending to requests for clarification and loans from users;

IV -- providing reprographic services.

Art. 10 -- The Information Technology Section shall be responsible for undertaking activities in the information technology area in accordance with the interests and needs of the General Counsel's Office, acting in combination with the IBAMA Data Processing Center.

Art. 11 -- The Protocol Section shall be responsible for the following:

I -- executing activities involving the shipment and receipt of documents from the General Counsel's Office;

II -- participating in and controlling the processing of cases generated within the scope of the General Counsel's Office;

III -- controlling the processing of cases of interest to the General Counsel's Office;

IV -- organizing and maintaining control of the case files with dispatches to be filed in the General Counsel's Office.

Art. 12 -- The Sub-Counsel's Office for Litigation shall:

I -- defend the interests of IBAMA in court;

II -- file legal actions relating to national environmental policy;

III -- comply with the deadlines to be met and procedures to be fulfilled, in strict compliance with procedural standards;

IV -- maintaining files relating to the monitoring of legal actions in organized fashion;

V -- keeping the court case law data base organized;

VI -- judging all judicial actions, in accordance with the recommendations of the Federal Attorney General;

VII -- maintaining the court rogatory letters in organized and chronological form;

VIII -- reporting the list of rogatory letters to the Budget Coordination Office, on a timely basis, with a view to their inclusion in the Federal Budget Proposal;

IX -- monitoring, by reading of the *Diário da Justiça* [Justice Department Daily], the progress of expropriation proceedings of interest to the IBAMA.

Art. 13 -- The Expert Witness Calculation Section shall be responsible for the following:

- I -- executing decisions by the General Counsel;
- II -- providing technical support to the Litigation Counsels;
- III -- undertaking a preparation of the Budget Proposal to address the demand for Judicial Rulings;
- IV -- distributing budget and financial debits in accordance with the Schedule for the Fiscal Year;
- V -- undertaking a comparison of, and preparing calculations for the execution of rulings;
- VI -- performing quantitative updates;
- VII -- issuing technical and expert witness opinions;
- VIII -- providing advisory services to the State and Regional Sub-General Counsel's Offices.

Art. 14 -- The Active Debt Section shall be responsible for the following:

- I -- Registering unpaid debt owed to the Autarchy as Active Debt;
- II -- Proposing and monitoring collection proceedings;
- III -- Proposing in court the transfer of funds collected in court proceedings to the sole IBAMA account;
- IV -- Proposing the procedures for the opening and assumption of special accounts.

Art. 15 -- The Control and Filing Section shall be responsible for the following:

- I -- Receiving, recording and monitoring the processing of Legal Proceedings;
- II -- Instructing and maintaining control over rogatory letters;
- III -- Keeping documents, instruments and models of procedural exhibits of interest to the Autarchy on file;
- IV -- Fulfilling each and every support task relating to the jurisdiction of the Litigation Sub-Counsel's Office.

Art. 16 -- The Sub-Counsel's Office for International Environmental Law shall be responsible for the following:

- I -- advising the General Counsel on all legal and administrative matters of an international scope;
- II -- participating at the international level in initiatives of a world, regional or bilateral scope, with a view to perfecting legal systems for environmental protection and promoting sustainable development;
- III -- organizing and keeping up to date a record of all institutional legal instruments of which Brazil is a signatory, as well as their breakdowns and applications;

IV -- promoting dissemination of the International Environmental Law (DIA) to all IBAMA Counsels acting at the level of the State or Regional Central Administration.

V -- contributing to the professional development of IBAMA Counsels at the DIA level, carrying out training and research programs based on publications, invitations to bid for information services and other available instruments.

Art. 17 -- The Sub-Counsel's Office for Legislation and Jurisprudence shall be responsible for the following:

I -- organizing and keeping up to date the body of laws, doctrine and jurisprudence necessary for the activities of the General Counsel's Office;

II -- offering on-line querying and searches of laws and case law;

III -- offering to the other Sub-Counsel's Offices, by request, the legal, doctrinal and case law assistance necessary for establishing proceedings, studies and opinions;

IV -- promoting acquisition of collections of legislative, judicial and administrative acts and decisions;

V -- performing research on issues of a legal nature.

Art. 18 -- The Sub-Counsel's Office for Studies and Opinions shall be responsible for the following:

I -- examining and issuing opinions concerning the environment and renewable natural resources;

II -- examining and issuing opinions in the process of appeal to the IBAMA Chairman, on proceedings relating to violation decrees;

III -- examining and issuing opinions on matters of interest to the Executive Secretariat and the CONAMA Technical Chambers;

IV -- examining and issuing opinions relating to the preservation units, as well as other protected areas;

V -- examining draft administrative decrees and other orders to be signed by the IBAMA Chairman concerning the environment and renewable natural resources;

Art. 19 -- The Sub-Counsel's Office for Contracts and Agreements shall be responsible for the following:

I -- examining and issuing opinions on the legality of administrative orders referring to contracts, agreements, permits and authorizations granted within the scope of the Autarchy;

II -- examining and issuing opinions on draft invitations to bid, contracts, agreements and similar instruments;

III -- participating in the preparation of instruments to

regulate, instruct and standardize the preparation of contracts, agreements and similar instruments in strict compliance with current law;

IV -- examining and issuing opinions in proceedings for the approval of exemptions and disqualification's for bids.

Art. 20 -- The Administrative Sub-Counsel's Office shall be responsible for the following:

I -- examining and issuing opinions in Disciplinary and Union Administrative Proceedings;

II -- examining and issuing opinions in proceedings relating to personnel legislation;

III -- examining the legality of administrative actions corresponding to matters of personnel, material, assets and other segments of the administrative area to be issued by the IBAMA, and issuing a competent ruling thereon.

Art. 21 -- The State Counsel's Offices shall be responsible for the following:

I -- defending the interests of the Autarchy within the scope of their jurisdiction, in court or out of it;

II -- providing legal assistance to the Superintendent;

III -- complying or ensuring compliance with guidelines issued by the General Counsel's Office;

IV -- complying with the deadlines and procedures to be fulfilled, in strict compliance with procedural standards;

V -- maintaining files relating to the monitoring of court actions in organized fashion;

VI -- keeping a data base of Court jurisprudence;

VII -- judging all court proceedings, pursuant to the recommendations of the federal Attorney General's Office;

VIII -- immediately forwarding the rogatory letters received by the Superintendency to the General Counsel's Office for recording, in chronological order of their submission;

IX -- reporting the list of rogatory letters on a timely basis to the Budget Coordination Office, with a view to including them in the IBAMA proposed budget;

X -- monitoring, by reading in the Diario da Justica, the progress of proceedings in progress which are of interest to the Autarchy;

XI -- recording unpaid debt owed to the Autarchy as active debt;

XII -- proposing and monitoring active debt collection proceedings;

XIII -- examining and issuing opinions on the minutes,

invitations to bids, contracts, agreements and similar instruments;

XIV -- examining and issuing opinions on the proceedings relating to violation orders in the degree of defense;

XV -- examining and issuing opinions relating to fauna and flora;

XVI -- examining and issuing opinions relating to conservation units, as well as other protected areas;

XVII -- examining and issuing opinions with respect to conformance of the documents contained in management plans and other similar processes;

XVIII -- noting the deadlines and proceedings to be satisfied, in strict compliance with the procedural standards.

Art. 22 -- The Regional Sub-Counsel's Offices shall be responsible for the following:

I -- defending, in court, the interests of the Autarchy within the scope of the Region, with respect to its area of activity;

II -- monitoring actions of interest to IBAMA which are processed in the Region's courts with respect to its area of jurisdiction;

III -- filing appeals in cases under way in its region;

IV -- complying with the deadlines and proceedings to be satisfied, in strict compliance with the procedural standards;

V -- maintaining the legal data base organized;

VI -- maintaining an updated record of cases of interest to the Autarchy in its specific area;

VII -- satisfying rules and guidelines originating from the General Counsel's Office, associated with its area of activity.

Chapter IV Responsibilities of Managers and Public Servants

Art. 23 -- The General Counsel shall be responsible for the following:

I -- standardizing the understandings within the scope of the IBAMA on legal matters, by means of a regulatory opinion;

II -- coordinating and supervising the activities carried out by the General Counsel's Office;

III -- promoting the defense of the Institute's interests in legal and administrative matters;

IV -- representing the Autarchy in court, and by express

appointment of the Chairman, out of it;

V -- providing legal advice to the Chairman, and by his appointment, any unit of the Institute, responding to the questions posed;

VI -- proposing the opening of an administrative proceeding when requested by the Chairman;

VII -- engaging in other actions corresponding to the exercise of his responsibilities.

Art. 24 -- The Corregidor General shall be responsible for the following:

I -- guiding and coordinating the activities of the Office of the Corregidor General;

II -- assuming responsibility for and monitoring the execution of activities of his area of jurisdiction;

III -- proposing the performance of inspections in IBAMA agencies, when so deemed necessary;

IV -- engaging in other actions, jointly or separately, relating to matters under the jurisdiction of the Office of the General Corregidor;

Art. 25 -- The General Sub-Counsel shall be responsible for the following:

I -- assisting the General Counsel in the performance of his duties;

II -- engaging in all acts inherent to the performance of the duties in accordance with the jurisdiction of the General Sub-Counsel's Office.

Art. 26 -- The Sub-Counsels of the Central Administration bodies and the State and Regional bodies, the Head of the Secretariat and the other Heads shall have the following responsibilities:

I -- guiding and immediately coordinating the scheduling of work in the respective units;

II -- proposing to the immediate superior the scheduling of work in the respective units;

III -- providing an opinion on matters relating to the activities of the units under their management, subject to a decision from the superior authorities;

IV -- assuming responsibility for and addressing the execution of work in their area;

V -- distributing, monitoring and evaluating the activities of the services subordinate thereto;

VI -- taking all administrative measures necessary for executing the activities of the units under their direction, in accordance with current law.

Art. 27 -- The Autarchic Counsels and Legal Assistants, as well as other civil servants, shall have technical, administrative, qualitative and quantitative authority before the superior authority for the labor activities assigned thereto, pursuant to the law and the current regulations, as well as to fulfill such orders as have been received.

Chapter V Duties, Prohibitions and Impediments and Prerogatives of the Counsels and Legal Assistants.

Art. 28 -- The duties and prohibitions of the IBAMA Autarchic Counsels and Legal Assistants are as stipulated in law 8.112 of 1 December 1990, and shall also be subject to the prohibitions and impediments provided for in Law No. 8906/94, Article 28, item II, and article 29 of complementary Law No. 73 of February 10, 1993, where applicable.

Art. 29 -- The IBAMA Counsels and Legal Assistants, in the defense of the interests of the Autarchy, may request from the other sectors of the Administration such items of fact, law and any other items as may be necessary for the proceeding and full defense of the cause, assigning a deadline for attending to it.

Paragraph 1 -- The requests mentioned in the main body of this article must receive priority treatment from the Administration.

Paragraph 2 -- Liability for failure to comply with the provisions of the above paragraph shall be set forth in the form of Law No. 8.112/90.

Chapter VI Budget Implementation

Art. 30 -- The General Counsel's Office and the State and Regional Sub-Counsel's Offices constitute executing units, and shall be responsible for managing such funds as are assigned thereto in the budget.

Art. 31 -- The Administration shall include in the Annual Autarchy Budget the funds provided for in the Annual Operating Plan (POA) of the General Counsel's Office, with a view to attending to the needs of the Head Office and its decentralized units.

Chapter VII General and Final Provisions

Art. 32 -- The State and Regional Sub-Counsel's Offices may organize and institute their own Internal Regulations, in compliance with this regulation, which must be approved by the General Counsel.

Art. 33 -- The General Counsel's Office shall have

jurisdiction to institute legal courses with a view to training the Counsels and Legal Assistants in the area of environmental law and similar areas.

Art. 34 -- The General Counsel's Office shall offer incentive for and shall provide for, whenever possible, the participation of the Counsels and Legal Assistants in legal courses and seminars, promoted by other regional and national institutions.

Art. 35 -- A group shall be organized within the scope of the General Counsel's Office, comprising Counsels and Legal Assistants, with responsibility for settling and clarifying any legal questions as may exist with respect to Environmental Law and its correct application.

Art. 36 -- The members of the Office of the Corregidor, upon completion of their work, shall submit a detailed report to the General Counsel within a period of 15 (fifteen) days.

Art. 37 -- In the event of the occurrence of irregularities, the legal unit that was monitored shall have a period of 15 (fifteen) days to submit a justification or clarification on the matter, which shall be evaluated and decided upon by the General Counsel.

Art. 38 -- The Autarchic Counsels and Legal Assistants shall be administratively and technically subordinate to the General Counsel.

Art. 39 -- Any questions or cases of omission arising from the application of this Internal Regulation shall be settled by the IBAMA Chairman "ad referendum" of the Minister of the Environment and Renewable Natural Resources.

(Of. No. 492/98)

EFFECTIVE-DATE: 04/30/1998