FOUNDATION FOR
ECONOMIC FREEDOM, INC.

FEF Statement of Support for DOJ Opinion No. 16, s. 2026 and Its Implementation

The Foundation for Economic Freedom (FEF) supports the implementation of the Department of Justice (DOJ) Legal Opinion No. 16, s. 2026, which concluded that the five-hectare retention limit under the Comprehensive Agrarian Reform Program (CARP) no longer provides a legal basis for requiring a Land Transfer Clearance (LTC) of the Department of Agrarian Reform (DAR) for agricultural land transactions covered by the Opinion.

In its consultation with FEF, DAR noted the growing clamor from farmers and agricultural cooperatives seeking to expand their agricultural operations beyond five hectares. DAR likewise expressed support for addressing these restrictions consistent with the Opinion.

This is an important development. The demand for change is not simply coming from investors or large landowners. Farmers and agricultural cooperatives themselves are encountering the five-hectare limit as a constraint on their ability to expand successful agricultural operations and use economies of scale to reduce costs and increase productivity.

The five-hectare ceiling was established in the context of CARP's acquisition and redistribution of agricultural land. As the DOJ observed, the statutory period for land acquisition and distribution ended on June 30, 2014. Where agricultural land is no longer subject to acquisition and distribution under CARP, continuing to use the five-hectare limit as a basis for requiring an LTC unnecessarily restricts legitimate transactions and agricultural expansion.

Philippine agriculture now faces a challenge: how to raise productivity and attract investment in a sector characterized by increasingly small and fragmented farms. The latest 2022 Census of Agriculture and Fisheries places the average farm size at only 0.82 hectare, down from 1.31 hectares in 2012. Farmers and cooperatives that have demonstrated the capacity to operate productively should not be prevented from expanding simply because their operations would exceed five hectares. Giving them greater room to grow can support mechanization, investment, economies of scale, access to financing, and stronger participation in agricultural value chains.

FEF, therefore, supports DAR's efforts to implement the Opinion and encourages DAR to work closely with the Land Registration Authority (LRA) and the Registers of Deeds (RODs) to establish clear and uniform procedures for its implementation. The objective should be to avoid replacing the existing clearance requirement with another layer of certification or administrative approval that produces substantially the same burden for the transacting public.

Restrictions that remain independently required by law should, of course, continue to be observed. These protections, however, should be enforced according to their specific legal bases rather than through a general clearance requirement that the Opinion has found unnecessary.

Removing said restrictions can create benefits beyond individual farmers. It can make it easier for them to expand, consolidate, lease, or transact land as needed. It will reduce transaction costs, bureaucratic delays, and opportunities for corruption. For the government, clearer rules can reduce administrative processing, improve land records, and help keep transactions within the formal system. For the public, more productive and better-capitalized farms can support a more efficient agricultural sector, stronger food supply chains, and greater investment in rural areas. It will create more jobs in the countryside as farmers and agribusiness enterprises expand and shift to higher-value products.

In sum, FEF supports coordinated action by the DAR, LRA, and RODs in implementing the Opinion in a manner that preserves protections still required by law while giving capable farmers and agricultural cooperatives greater room to expand, invest, consolidate operations, and increase production. A farmer's ability to grow should not be limited by a five-hectare ceiling that no longer reflects the realities of Philippine agriculture.

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