

**AGREEMENT  
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE  
PHILIPPINES AND THE PARTNERSHIPS IN ENVIRONMENTAL  
MANAGEMENT FOR THE SEAS OF EAST ASIA (PEMSEA)  
ESTABLISHING THE PEMSEA RESOURCE FACILITY  
CENTER**

The Agreement Recognizing the International Legal Personality (Legal Personality Agreement) of the Partnerships in Environmental Management for the Seas of East Asia or PEMSEA was signed on 26 November 2009 and thereby allowing PEMSEA to enter into contracts and/or agreements;

The Philippines has hosted PEMSEA since 1993 by providing the use of land, equipment as well as other services and facilities to PEMSEA as the Philippines' contribution to the enhancement of sustainable coastal development in the region;

Pursuant to the Legal Personality Agreement, which provides that the seat of PEMSEA shall be in Metro Manila, Philippines;

PEMSEA and the Government of the Republic of the Philippines (the Government), collectively called "the Parties", desire to formalize the existing arrangement with an agreement establishing the principal office of PEMSEA in the Philippines and providing the grant of privileges, immunities and facilities by the Government to PEMSEA and its officials, staff and consultants to ensure its full functions and operations to achieve its goals and objectives;

**NOW THEREFORE**, for and in consideration of the above premises, the Parties have agreed as follows:

**ARTICLE I  
DEFINITIONS**

Section 1. For the purpose of this Agreement, the following words, unless otherwise specifically provided, shall mean:

- a) Archives of PEMSEA - Records, correspondence, documents, manuscripts, still and moving pictures, and films and sound recordings, belonging to, or held by PEMSEA;
- b) Consultants - Policy, legal and technical experts contracted by PEMSEA for its projects;
- c) Dependents - Spouse and children of a person entitled to benefits under this Agreement and primarily dependent on such person for financial support, and who are members of his household;

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*for:* LORRAINE M. ESPIRITU  
ACTING DIRECTOR

- d) EAS - East Asian Seas;
- e) EAS Partnership Council - Policy-making body of PEMSEA composed of the Partner Countries and Non-Country Partners;
- f) Executive Committee of the EAS Partnership Council - composed of the Chairperson of the EAS Partnership Council, the Chairperson of the Intergovernmental Session, the Chairperson of the Technical Session, and the Executive Director of PEMSEA;
- g) Executive Director - the Executive Director of PEMSEA and, during his absence or incapacity, the officer duly authorized to act on his behalf;
- h) Government - the Government of the Republic of the Philippines;
- i) Headquarters Seat - (i) the land together with the buildings erected thereon; (ii) any land or building which may be added by supplementary agreement; and (iii) any temporary offices as may be agreed upon between the Government and PEMSEA;
- j) Laws of the Republic of the Philippines - the Constitution of the Philippines, legislative acts, municipal ordinances, judicial and quasi-judicial decisions and administrative regulations and orders;
- k) Meetings of PEMSEA - Meetings of the EAS Partnership Council, Executive Committee, or any other meeting convened by PEMSEA;
- l) Officers - PEMSEA staff with the rank of officer;
- m) Officials - the Representatives of Partners, Members of the Executive Committee, PEMSEA Co-chairs, and the Executive Director;
- n) Partners - the Partner Countries and Non-Country Partners of PEMSEA;
- o) PEMSEA - the Partnerships in Environmental Management for the Seas of East Asia;
- p) Property - Assets, funds, income and rights belonging to or held or administered by PEMSEA;
- q) Representatives of Partners - All accredited officials of delegations of Partners; and
- r) Staff - All duly appointed administrative and technical personnel of PEMSEA.

## ARTICLE II INTERNATIONAL JURIDICAL PERSONALITY

Section 1. PEMSEA possesses full international juridical personality and capacity by virtue of the Agreement Recognizing the International Legal Personality of PEMSEA signed on 26 November 2009 and other relevant laws and other agreements between the Government and PEMSEA.

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**ARTICLE III  
HOST GOVERNMENT OBLIGATIONS**

Section 1. The Government shall provide PEMSEA free and exclusive use of adequate premises and such facilities necessary for the effective operations of PEMSEA.

Section 2. The Government shall grant to PEMSEA Officials, Officers and Staff such privileges and immunities as may be necessary for the performance of their duties and functions.

**ARTICLE IV  
THE HEADQUARTERS SEAT OF PEMSEA**

Section 1. The principal office of PEMSEA shall be in the Headquarters Seat and shall not be removed therefrom unless the Parties should so decide.

Section 2. The Government grants and PEMSEA accepts the use and sole occupancy of the Headquarters Seat inside the Department of Environment and Natural Resources (DENR) Compound as defined and described in Annex A. The Government shall not dispose of all or any part of the Headquarters Seat without the consent of PEMSEA.

Section 3. PEMSEA shall be responsible for the operation, maintenance and support of the Headquarters Seat in accordance with the agreement between DENR and PEMSEA.

Section 4. The Laws of the Republic of the Philippines shall apply within the Headquarters Seat, and its courts shall have jurisdiction over acts done in the Headquarters Seat except as otherwise provided in this Agreement.

**ARTICLE V  
IMMUNITIES AND PRIVILEGES OF PEMSEA**

**A. Grant and Purpose of Immunities and Privileges**

Section 1. PEMSEA shall enjoy the immunities and privileges provided under this Agreement.

Section 2. The privileges and immunities provided for in this Agreement are accorded to ensure in all circumstances the effective operation of PEMSEA and the discharge of functions of its officers, staff and consultants pursuant to its mandate and functions.

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## B. Immunity from Legal Processes

Section 1. PEMSEA shall enjoy immunity from any penal, civil and administrative proceedings, except insofar as that immunity has been expressly waived by the Executive Director or his authorized representative.

Section 2. No action shall be brought against PEMSEA by the Government, or by any of its agencies or instrumentalities or by any entity or person, directly or indirectly, acting for or deriving claims from the Government or from any of its agencies or instrumentalities.

## C. Property of PEMSEA

Section 1. The archives of PEMSEA shall be inviolable.

Section 2. The property of PEMSEA, wherever located and however held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, taking or foreclosure by executive or legislative action.

## D. Taxation

Section 1. The provisions of existing laws or ordinances to the contrary notwithstanding, PEMSEA shall be exempt from the payment of all direct taxes and from value-added taxes on its purchase of goods, materials, equipment, vehicles and services for its official use.

Section 2. PEMSEA shall be exempt from the duty to collect or withhold taxes on its payments to other entities including payments to its Officers and Staff.

Section 3. All gifts, bequests, donations and contributions which may be received by PEMSEA from any source whatsoever, or which may be granted by PEMSEA to any individual or non-profit organization for educational or scientific purposes, shall be exempt from taxation and considered allowable deductions for purposes of determining the income tax of the donor.

## E. Customs Duties, Restrictions and Prohibitions

Section 1. PEMSEA shall be exempt from the payment of all customs duties and related levies of any kind, including value-added tax and excise tax on importation of goods except charges for storage, transport and services supplied and shall be processed in the same manner and under existing procedures being applied by the Department of Finance in similarly situated cases.

Section 2. PEMSEA shall be exempt from restrictions on the export and import of articles intended for its official use.

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Section 3. Goods released tax-free and duty-free under this Agreement shall be subject to duties and taxes if sold, transferred or exchanged in the Philippines to non-exempt persons or entities, computed based on the value of the goods at the time of the importation pursuant to existing Government rules and regulations.

#### F. Free Disposal of Funds

Section 1. For the purpose of achieving its aims, PEMSEA may hold funds, or currency of any kind and operate accounts in any currency.

Section 2. PEMSEA may also freely receive and transfer its funds, securities or currency from one country to another or within the Philippines and to convert into any other currency, provided that such cross-border transfer of currencies and purchase with pesos of foreign currency from authorized agent banks (AABs) and other AAB subsidiary/affiliate foreign exchange corporations in the Philippines shall comply with existing rules of the Bangko Sentral ng Pilipinas and relevant laws of the Republic.

#### G. Communications

Section 1. PEMSEA shall enjoy, for its official communications, treatment no less favourable than that accorded to other comparable international organizations with headquarters in the Philippines.

Section 2. The import and export of PEMSEA's publications and those intended for it shall not be subject to restrictions.

Section 3. Correspondence and other official communication of PEMSEA shall be immune from censorship.

Section 4. PEMSEA shall have the right to use codes for its official communication. It shall also have the right to dispatch and receive correspondence by duly identified couriers or bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

### ARTICLE VI

#### PRIVILEGES AND IMMUNITIES OF REPRESENTATIVES OF PEMSEA PARTNERS, MEMBERS OF THE EXECUTIVE COMMITTEE, EXECUTIVE DIRECTOR, CONSULTANTS, AND PEMSEA STAFF

##### A. Grant and Purpose of Immunity

Section 1. Non-Filipino Officials, Officers and Staff of PEMSEA shall enjoy the privileges and immunities provided under this Agreement. Immunity for Filipino

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Officials, Officers and Staff shall be limited to those relative to the performance of their functions and/or duties.

Section 2. The privileges and immunities provided for in this Agreement are not intended for the personal benefit of the Officials, Officers and Staff of PEMSEA. These are accorded to ensure the effective operation of PEMSEA and the discharge of functions of its Officers, Staff and recruited Consultants.

Section 3. The Executive Director of PEMSEA, or his authorized representative, shall waive the immunity of any PEMSEA Officer whenever, in his opinion, the immunity would impede the normal course of justice and can be waived without prejudice to the purpose for which the immunities have been granted.

Section 4. PEMSEA and all persons entitled to the immunities, privileges, exemptions and facilities under this Agreement shall co-operate at all times with the appropriate authorities of the Government to facilitate the proper administration of justice and secure the observance of the laws of the Republic of the Philippines.

#### **B. Immunities and Facilities**

Section 1. Representatives of Partners and Members of the Executive Committee, Executive Director, Staff and Consultants of PEMSEA shall enjoy immunity from legal process, including arrest and detention, in respect of acts performed by them in their official capacity, except where such immunity is waived by the Executive Director of PEMSEA or his authorized representative. This provision will not relieve any person from liability for any damage arising from any criminal act, gross negligence or fraudulent act.

Section 2. The Executive Director and Officers of PEMSEA who are non-Filipino citizens shall enjoy in the Philippines the privileges, immunities, exemptions and facilities accorded to diplomatic agents. He shall designate, for approval of the Government, the Officers and Staff who, by reason of their responsibilities or their functions, shall enjoy in the Philippines the same privileges and immunities, exemptions and facilities as are accorded to members of the administrative and technical staff of diplomatic missions.

#### **C. Freedom of Entry and Sojourn**

Section 1. The Government shall take appropriate measures to facilitate the entry into, sojourn in, freedom of movement in, and departure from the territory of the Republic of the Philippines of the following:

- a) Representatives of PEMSEA Partners,
- b) Members of the Executive Committee,
- c) Executive Director, PEMSEA Officers and Staff,
- d) PEMSEA consultants, scholars and visiting scientists and experts,

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ACTING DIRECTOR

- e) Dependents of the persons enumerated above and are members of the household,
- f) Any other persons who, by reason of their functions, must have access to PEMSEA in an official capacity, and
- g) Any other persons invited by PEMSEA and in possession of written evidence of such invitation.

Section 2. Visas which may be required from persons referred to in Article VI (C) Section 1 above shall enjoy the privileges granted under Section 47-A-2 of the Philippine Immigration Act of 1940, as amended, provided they are not gainfully employed in the Philippines in any other capacity.

Section 3. No laws of the Republic of the Philippines restricting the entry of aliens or regulating the conditions of their stay shall apply to the persons provided for in the above Article VI (C) Section 1 of this Agreement, except for reason of health and national security.

Section 4. Persons identified in Article VI (C), Section 1 above shall be exempt from immigration restrictions and alien registration and national service. They shall also enjoy repatriation facilities in time of international crisis.

#### **D. Taxation and Customs**

Section 1. The non-Filipino PEMSEA Officials, Officers and Staff, shall be exempt from taxation in respect of the salaries, emoluments and indemnities paid to them in US Dollars or other foreign currency by PEMSEA. Benefits in US dollars or other foreign currency in any circumstances by a pension fund or provident scheme shall likewise be exempt from taxation in the Philippines at the time of their payment as well as all benefits paid in US dollars or other foreign currency for sickness, accidents and so forth.

Section 2. The non-Filipino Officials, Officers, Staff and Consultants of PEMSEA and their dependents shall enjoy in the Philippines customs facilities in respect of their personal effects and exemption from baggage inspection levies on the importation of furniture and other personal effects within six (6) months after taking up their posts in PEMSEA, in accordance with the laws and regulations of the Government.

#### **E. Free Disposal of Funds**

Section 1. In accordance with the existing rules of the Bangko Sentral Pilipinas and relevant laws, PEMSEA Officials, Staff, and Consultants may:

- a) Hold funds or currency of any kind;
- b) Transfer funds, securities or currency from one country to another or within the Philippines; and

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c) Convert any currency held into another currency.

#### F. Communication

Section 1. The Representatives of Partners, PEMSEA Officials, Officers, Staff and Consultants shall enjoy the right to use codes in official communications and to receive and dispatch papers and official correspondence by diplomatic courier or in sealed bags.

#### ARTICLE VII INTERPRETATION AND APPLICATION

Section 1. This Agreement shall be interpreted in the light of its fundamental objective to enable PEMSEA to fully and effectively perform its responsibilities and fulfill its purposes.

Section 2. Any dispute between the Parties arising out of the interpretation or implementation of this Agreement shall be settled amicably by consultations or negotiations, through diplomatic channels.

#### ARTICLE VIII FINAL PROVISIONS

Section 1. This Agreement may be amended or revised at the request of either Party. In this event, the two Parties shall consult with each other concerning the amendments or revisions to be made in its provisions. Such amendments or revisions shall enter into force in accordance with the provision on entry into force.

Section 2. The Government and PEMSEA may enter into such supplementary agreements as may be necessary within the scope of this Agreement.

Section 3. This Agreement shall enter into force on the date of the written notification by the Government, through diplomatic channels, indicating that all the domestic requirements for its entry into force shall have been complied with.

Section 4. This Agreement shall remain in force for an indefinite period, but may be terminated by either Party through written notice given one (1) year in advance.

**IN WITNESS WHEREOF**, the respective representatives, duly authorized thereto, have signed this Agreement.

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for LORRAINE M. ESPERITU  
ACTING DIRECTOR



IN WITNESS WHEREOF, the respective representatives, duly authorized thereto, have signed this Agreement.

Done at Manila, Philippines, this 31<sup>st</sup> day of July 2012 in two copies in the English language.


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*FDI* LORRAINE M. DESPIRITU  
ACTING DIRECTOR

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FOR THE  
GOVERNMENT OF THE  
REPUBLIC OF THE  
PHILIPPINES

  
ALBERT F. DEL ROSARIO  
Secretary  
Department of Foreign Affairs

FOR THE  
PARTNERSHIPS IN  
ENVIRONMENTAL  
MANAGEMENT  
FOR THE SEAS OF EAST ASIA

  
RAPHAEL P.M. LOTILLA  
Executive Director  
PEMSEA

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